



## **C O U N C I L   S U M M O N S**

**To all Members of Council**

**You are hereby summoned to attend a**

**MEETING OF THE COUNCIL**

**to be held at 2.00 pm on**

**2 December 2020**

**REMOTELY VIA MICROSOFT TEAMS**

**ALL MOBILE TELEPHONES TO BE SWITCHED TO SILENT FOR THE  
DURATION OF THE MEETING**

**--- A G E N D A ---**

### **PART A**

1. Mayor's Announcements
2. Declarations of Interest
3. Minutes of the Previous Meeting/s of Council (Civic Year 2019/20)  
(Pages 3 - 8) - 14<sup>th</sup> October 2020

### **PART B**

4. Licensing Act 2003 - Review of Licensing Act 2003 Policy  
(Pages 9 - 94)
5. Biodiversity Duty Plan Implementation Report - Commended to  
Council by Cabinet (Pages 95 - 148)

6. Review of the Neath Port Talbot County Borough Council Constitution (Pages 149 - 154)

#### **PART D**

7. Notice of Motion under Section 10 of Part 4 (Rules of Procedure) the Council's Constitution
  8. Questions from Members, with Notice, under Rule 9.2 of the Council's Procedure Rules
  9. Urgent Items  
*Any urgent items (whether public or exempt) at the discretion of the Mayor pursuant to Section 100B (4) (b) of the Local Government Act 1972.*
- (a) Covid 19 - Verbal Update



**Chief Executive**

**Civic Centre  
Port Talbot**

**Thursday, 26 November 2020**

## COUNCIL

(Remotely, via Microsoft Teams)

**Members Present:**

**14 October 2020**

**The Mayor:** Councillor S.Jones

**The Deputy Mayor:** Councillor J.Warman

**Councillors:** A.R.Aubrey, S.Bamsey, H.C.Clarke, C.Clement-Williams, M.Crowley, A.P.H.Davies, N.J.E.Davies, O.S.Davies, R.Davies, C.Edwards, J.Evans, S.E.Freeguard, C.Galsworthy, W.F.Griffiths, J.Hale, S.Harris, M.Harvey, N.T.Hunt, S.K.Hunt, J.Hurley, H.N.James, C.J.Jones, D.Jones, J.Jones, L.Jones, R.G.Jones, D.Keogh, S.A.Knoyle, E.V.Latham, A.Llewelyn, A.R.Lockyer, A.McGrath, J.Miller, S.Miller, R.Mizen, J.D.Morgan, S.Paddison, S.M.Penry, D.M.Peters, R.Phillips, M.Protheroe, L.M.Purcell, S.Pursey, S.Rahaman, P.A.Rees, S.Renkes, S.H.Reynolds, A.J.Richards, P.D.Richards, M.Spooner, A.J.Taylor, R.L.Taylor, D.Whitelock, C.Williams, R.W.Wood and A.N.Woolcock

**Officers in Attendance:** S.Phillips, A.Evans, A.Jarrett, H.Jenkins, N.Pearce, K.Jones, S.Rees, C.Griffiths, S.Curran and J.Woodman-Ralph.

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### 1. **Mayor's Announcements**

It was with deep regret that the Mayor advised Council of the recent death of former Mayor and Councillor Val Kingdom of Port Talbot Borough Council.

As a mark of respect Council observed a minute's silence

It was with great pleasure that the Mayor announced the following recipients of honours in the Queen's Birthday Honours List 2020:

Joy Smith, Road Safety and Business Performance Manager, NPTCBC, was made a Member of the Order of the British Empire for services towards road safety.

Hilary Dover, Service Director of Primary and Community Services, Swansea Bay University Health Board received a Medal of Order of the British Empire for services to the NHS during Covid 19.

Other recipients receiving the Medal of Order of the British Empire were:

Julie Simonson, Community Branch Director, Santander for services to the financial sector and the community of Neath.

Christopher Singletary, for services to veterans, their families and armed forces Port Talbot.

2. **Declarations of Interest**

No declarations of interest received.

3. **Minutes of the Previous Meeting/s of Council (Civic Year 2019/20)**

**RESOLVED:** That the minutes of the meeting of Council held on the 23 September 2020 be confirmed as an accurate record of the meeting.

4. **Corporate Plan 2019/2020 Annual Report - Commended to Council for Approval**

The Leader of Neath Port Talbot County Borough Council introduced the above report, which had been commended to Council by Cabinet held on the 30 September 2020.

- RESOLVED:**
1. That the following documents be approved:
    - Corporate Plan 2019-22 Annual Report (full progress report);
    - Corporate Plan 2019-22 Annual Report (summary report)
    - Corporate Plan Key Performance Indicators 2019 – 20.
  2. That the three well-being objectives set out in the current Corporate Plan remain relevant as the objectives were agreed in September 2017 and reviewed in March 2020.

5. **Voting Arrangements for Officer Appointments determined by Virtual Meetings of Council**

Council received information on the proposal to introduce a digital process to enable each member to vote for their preferred candidate in the appointment processes that are determined by a meeting of full Council and, in circumstances where the Council meet virtually as detailed in the circulated report.

- RESOLVED:**
1. That approval be granted to introduce a digital process to enable each member to vote for their preferred candidate in appointment processes that are determined by a meeting of full Council and in circumstances where the Council meet virtually on-line to do so.
  2. That the Head of Legal Services be authorised to amend the Council Procedure Rules set out in the Constitution of Neath Port Talbot County Borough Council by the deletion of clause 14.7 and replacing it with the following (the amendment being underlined):

“If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the

person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

Where meetings are to take place remotely, the process shall be conducted via a poll function adopted by the Council to enable Members to register their preferred candidate. The results of the questionnaire will be collated in a database which can be accessed by a Democratic Services Officer, the Head of HR and the Head of Legal Services.

In circumstances where technical issues mean a Member is unable to access the link to the questionnaire, the Member will be asked to email the Democratic Services Officer to confirm this and to confirm their vote. The email will be retained confidentially along with the database information for governance purposes only.

6. **Changes to Member Representation**

**RESOLVED:** That Cllr.S.Pursey fills the vacancy on the Voluntary Sector Liaison Forum.

7. **Appointment of Director of Education, Leisure and Lifelong Learning**

**RESOLVED:** That the arrangements to recruit the Director of Education, Leisure and Lifelong Learning as detailed in the circulated report be approved.

8. **Urgent Items**

Because of the need to deal now with the matter contained in Minute Number 9 below, the Mayor agreed that this could be raised at today's meeting as an Urgent Item pursuant to Section 100B (4) of the Local Government Act 1972.

**Reason:**

Due to the time element

9. **COVID 19 - Verbal Update from the Leader of Neath Port Talbot County Borough Council**

The Leader of Council gave Members an update on the escalating number of Covid 19 cases in the area. As a result local restrictions had been placed on Neath Port Talbot by the Welsh Government to try to suppress the numbers of infections. It was noted that if the infection numbers continued to increase Welsh Government were considering additional restrictions. It was highlighted the importance of Members continuing to re-inforce the guidance, handwashing, social distancing, wearing masks when required and self-isolating when experiencing symptoms within their communities.

Following on, Members asked if they could be kept updated on any clusters of Covid 19 cases that develop in their wards and whether any data or maps could be shared with Members. It was explained that the data used was produced by Swansea Bay University Health Board and was changing so quickly that by the time data was shared it would be out of date. Officers would where possible try to update Members.

**CHAIRPERSON**

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## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

### Council

2nd December 2020

### Report of the Head of Legal Services – Craig Griffiths

#### Matter for Decision

Wards Affected: All

### Licensing Act 2003 - Review of Licensing Act 2003 Policy

#### Purpose of the Report

1. To consider the adoption of a revised Licensing Act 2003 Policy following the end of the consultation period.

#### Executive Summary

2. The Council, as the Licensing Authority under the provisions of the Licensing Act 2003, are required to review its Licensing Policy every 5 years.
3. Prior to adopting a revised Licensing Policy, the Licensing Authority must undertake a mandatory consultation exercise.
4. Following approval by Council on the 9th September 2020, a consultation exercise was carried out between September and November 2020, which resulted in one response.
5. Council is now being asked to adopt a revised Licensing Policy and authorise the Head of Legal Services to advertise and publish the Policy in the prescribed manner.

## Background

6. The objective of the Licensing Act 2003 is to provide a clear, transparent framework for making decisions about applications by individuals or businesses wishing to sell or supply alcohol, or provide certain types of regulated entertainment and late night refreshment.
7. The Council, as the Licensing Authority under the provisions of the Licensing Act 2003 is required to prepare a Licensing Policy which sets out how licensable activities will be regulated and how licensing functions will be exercised in their areas, as well as expectations of licence holders and operators.
8. The Licensing Policy sets out how licensees can contribute to creating the evening and night-time economy that the Council envisages, offering vibrant and varied town centres, which are safe, attractive places for all to enjoy. The Policy covers areas such as
  - a. Application processes
  - b. The types of regulated entertainment
  - c. The licensing objectives
    - i. Prevention of crime and disorder
    - ii. Public safety
    - iii. Prevention of public nuisance
    - iv. Protection of children from harm
  - d. Operating schedules and expectations of licence holders
  - e. Licence reviews, enforcement and the role of the responsible authorities.
9. The Council is required to review its Licensing Policy at least every 5 years. The existing Policy was published on the 31st January 2016 and therefore a revised Policy must be in place by the 31st January 2021.
10. Prior to publishing a revised Licensing Policy, the Council must undertake a mandatory consultation exercise before formal approval by Council.

11. The Policy must be published at least 4 weeks before it comes into effect.

## **Officer Report**

12. A copy of the revised Licensing Policy is attached at Appendix 1 to this report.
13. The structure of the Policy has been amended significantly to reflect a template policy which has been shared across Wales, however fundamentally, the content has mainly been updated to reflect changes to guidance and various references to other policies and legislation that has come into force since 2015, the most significant being the Wellbeing of Future Generations (Wales) Act 2015.
14. At the Council meeting on the 9th September 2020, members approved a period of consultation for the aforementioned Policy and a consultation exercise was subsequently carried out between September and November 2020.
15. The consultation included the statutory responsible authorities, premises licence holders, club premises certificate holders, trade bodies, alcohol harm groups and other various interested parties. The consultation was also publicly available on the Council's consultation portal. Despite the consultation exercise being wide reaching, only one response from the Health and Safety Executive was received, who had no comments to make.
16. Council is now being asked to adopt the revised Licensing Policy and authorise the Head of Legal Services to advertise and publish the Policy in the prescribed manner.

## **Financial Impact**

17. Not applicable

## **Integrated Impact Assessment**

18. A first stage impact assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016

The first stage assessment has indicated that a more in-depth assessment is not required.

### **Legal Impacts**

19. The Council, as the Licensing Authority under the provisions of the Licensing Act 2003 are required to review its Licensing Policy every 5 years.

### **Risk Management**

20. Not applicable

### **Consultation**

21. Consultation has been carried out in accordance with statutory requirements

### **Recommendation**

22. It is recommended that Council approve the revised Licensing Act 2003 Policy and authorise the Head of Legal Services to advertise and publish the Policy in the prescribed manner

### **Reasons for Proposed Decision**

23. In order to comply with the legal requirements as set out in the Licensing Act 2003

### **Implementation of Decision**

24. The decision is for immediate implementation.

### **Appendices**

25. Appendix 1 - Revised Draft Licensing Act Policy 2021.

### **List of Background Papers**

26. Section 182 Licensing Act 2003 guidance

27. Neath Port Talbot Licensing Policy 2016
28. Integrated Impact Assessment - First Stage Assessment

### **Officer Contact**

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# **Licensing Act 2003**

## **Draft Licensing Policy 2021**

**Further information can be obtained from:**

**Licensing Section**

**Civic Centre**

**Port Talbot**

**SA13 1PJ**

**Tel: 01639 763050**

**Email: [licensing@npt.gov.uk](mailto:licensing@npt.gov.uk)**

**Website: [www.npt.gov.uk/licensing](http://www.npt.gov.uk/licensing)**

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## **1. Introduction**

- 1.1 The Licensing Act 2003 (“the 2003 Act”) 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 2003 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 2003 Act
- 1.2 Neath Port Talbot Council (“the Council”) is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, 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.
- 1.3 This policy sets out how applications for licences, which are required by the 2003 Act, will be considered by the Licensing Authority.
- 1.4 In developing this licensing policy, the advice of bodies such as Local Government (LG), the Welsh Local Government Association (WLGGA) and various trade associations have been taken into account wherever possible. Where appropriate, the Licensing Policies of other Welsh 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.
- 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 where supported by legislation and accepted good practice.
- 1.6 Neath Port Talbot 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 Planning and Public Protection Service 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.

- 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 right. The 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.
- 1.8 Each application will be considered on its individual merits, and in the light of this Policy
- 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.
- 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.
- 1.11 The Licensing Authority wishes to encourage licensees to provide a wide range of entertainment activities in Neath Port Talbot throughout their opening hours and to promote live music, dance, theatre, etc. for the wider cultural benefit of the community.
- 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 residents groups as appropriate at that time, any representations received will be considered at that time. 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.
- 1.13 This policy revision will take into account the following matters in its re-drafting.
  - The amendment's to the Licensing Act 2003 made by:
    - ❖ The Police Reform and Social Responsibility Act 2011
    - ❖ The Live Music Act 2012

- ❖ The Deregulation Act 2015
- ❖ Statutory instruments laid
- ❖ Revised Guidance issued under S182 of the Licensing Act 2003
- ❖ Immigration

## **2. Profile of Neath Port Talbot**

- 2.1 Neath Port Talbot Council has a geographical area of 442km and is the eleventh largest council in Wales with a population of 139,880 (the 8th highest population density)

The Council has adopted a Corporate Plan (2019-2022) and the Neath Port Talbot Public Services Board Well-being Plan (2018-2023).

The Council's Corporate Plan sets out the Council's well-being objectives which have been set so as to maximise the Council's contribution to the seven national well-being goals whilst also discharging its duty to improve the economic environmental, social and cultural well-being of people in Neath, Port Talbot and Pontardawe and to carry out sustainable development. The plan also sets priorities for improvement and describes how the Council is changing the way it does things to meet the needs of its communities.

The Neath Port Talbot Public Services Board Well-being Plan sets out the Public Services Board's long term vision for the area as well as priorities for action over the next 5 years. The Plan contains well-being objectives identified by the Public Services Board and describes the practical steps that the Board will take to deliver objectives.

The Licensing Authority expects that those who operate or wish to operate licensed premises within Neath Port Talbot are familiar with both the Council's Corporate Plan and the Public Services Board Well-being Plan and have regard to the well-being objectives that the Council and the Board are trying to achieve.

## **3. Licensing Committee**

- 3.1 The Council will appoint a Licensing Committee in accordance with its constitution.
- 3.2 A Licensing Committee shall establish a Sub-Committee consisting of three Members of the Committee, to consider applications where representations have been received from any person and/or Responsible Authorities (see Section 15).

- 3.3 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 (as considered in their Code of Conduct) 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'.
- 3.4 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.
- 3.5 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.
- 3.6 Every determination of a licensing decision by the Licensing Committee or Licensing Sub-Committee shall be accompanied with reasons for the decision. A summary of the decision is notified to the parties to the hearing, a target time of three days, to be displayed on the Council's website, or as soon as possible thereafter, where it will form part of the statutory licensing register.
- 3.7 The Council's Licensing Officers will deal with all licence applications where no relevant representations have been received. Where representations are received and amendments are made to the application and/or conditions added, to the satisfaction of all parties, final determination of the application must be made by the Licensing Sub-Committee; it is not usually necessary for any parties to attend this hearing.
- 3.8 The Council will ensure that members and relevant officers are appropriately trained to carry out their duties under the Act.
- 3.9 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 [www.npt.gov.uk/1129](http://www.npt.gov.uk/1129).

## **4. Fundamental principles**

- 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.
- 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.
- 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 Neath Port Talbot 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.

## **5. Zoning and licensing hours**

- 5.1 Paragraph 10.13 of the Government's current Section 182 Guidance states that: *"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 Paragraph 13.41 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 measures such as fixed closing times and zoning within its area, providing such mechanisms are justified on the basis of the licensing objectives and are only presumptive, with final decisions continuing to be made in relation to the individual premises on a case by case basis in accordance with what is appropriate to promote the licensing objectives. The Licensing Authority would be expected to include its intention to use such measures in its statement of licensing policy and justify doing so in order to orchestrate closing times so as to manage problems in the night-time economy based on the promotion of the licensing objectives. As with the creation of a cumulative impact policies, the use of such mechanisms would create a rebuttable presumption and would apply in the event of representation being received”*
- 5.3 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 and night time local economy, 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. 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.
- 5.4 The Licensing Authority notes that the Government’s Section 182 Guidance states “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”. However, because of the problems experienced in some local communities in Neath Port Talbot arising from the availability of alcohol for sale at local shops for consumption off the premises this Licensing Authority has decided that it will not adopt this general position but instead will expect applicants and licence-holders to trade alcohol at hours which are appropriate to their particular local environment. Therefore 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.

- 5.5 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. This will delay the determination of the application and result in it being referred to a Licensing Sub-Committee for determination.
- 5.6 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. Appropriate hours will be considered to promote the licensing objectives and may even result in the refusal of the application or the revocation of a licence.
- 5.7 For example, in local areas where there may be a concentration of problematic drinkers or where it is known that groups of people congregated and have caused anti-social behaviour. Applicants should very carefully consider the appropriateness of selling alcohol during early morning or late evening hours.

**5.8 Drinking up time / cooling down time**

Even though the traditional drinking up time was not carried over into the 2003 Act, the Council recommends that applicants of premises licensed for the on-sale of alcohol should consider a drinking up / cooling down period. During this time music volume may be reduced, customers may finish their drinks and make arrangements for transportation from the premises. The Council considers that a 30-minute drinking up time will assist in the gradual dispersal of customers and consequently reduce any potential negative impact on the area.

**6. Commercial demand**

- 6.1 The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for the Licensing Authority. These matters would be a specific consideration for the Local Planning Authority taking into account the demands of the licensed trade and market demands.

## 7. Alcohol Harm

- 7.1 The evidence base for the impact of alcohol use on health and well-being is strong. Alcohol use contributes to over 60 different health conditions including liver disease, foetal alcohol syndrome and several cancers. Research shows that as well as being a contributor to a wide range of diseases and conditions, alcohol use can result in injuries and can contribute to, trigger and/or exacerbate mental health conditions. In addition, alcohol is a major cause of death and illness in Wales with around 1,500 deaths attribute to alcohol each year, (1 in 20 of all deaths).
- 7.2 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. Research and real-life experiments have 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.
- 7.3 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 and Public Health Wales have identified reducing the availability of and access to alcohol as key to reducing alcohol related health harms.
- 7.4 The intent of the 2003 Act 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.
- 7.5 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. For examples of licensing conditions that can promote health and wellbeing reference can be made to Neath Port Talbot Council's 'Model Pool of Conditions'.

7.6 In addition, the Licensing Authority expects applicants to consider the impact their premises may have on people vulnerable to alcohol misuse, in particular children and young people and problematic drinkers. 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. The Licensing Authority expects applicants to consider and mitigate the harm by including licensing conditions when their premises is close to the location of treatment services, and areas where children and young people may congregate, such as schools, youth clubs and parks.

## **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 2018-19 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.

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.

8.3 Where there are issues of concern the Licensing Authority will expect to see evidence that the drug policy has been implemented and reviewed.

8.4 Within the context of promoting the licensing objectives for preventing crime and disorder and ensuring 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 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

- 8.5 At the request of South Wales Police, licensed premises would be required to seize, retain and document any drugs found, with a clear audit trail and a process for surrender in compliance with South Wales Police written policy. Furthermore, in the interest of Crime and Disorder, South Wales Police would also require licensed premises to allow the use of the ION Track machine on their premises to assist with identifying the areas where illegal drugs may be used at the venue.
- 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.
- 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.
- 8.8 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

## **9. Licensing Objectives**

- 9.1 The Licensing Authority has a duty under the 2003 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.
- 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, Safer Neath Port Talbot, local businesses, licensees and local people towards the promotion of the objectives.

## **10. Prevention of crime and disorder**

- 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.
- 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.
- 10.3 Applicants are recommended to seek advice from the Licensing Authority's licensing officers 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.
- 10.4 The Licensee/applicant should also 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 are the areas covered, does it 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 it to access, produce copies or download images if requested by Police and Licensing?
  - 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 toughened 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? Do the premises have a challenge 25 policy? Are staff trained regularly on this policy and is it documented?
- 10.5 The Licensing Authority acknowledges that although South Wales Police and other criminal justice services suffer the greatest resource burden from preventable alcohol related crime and disorder; the health system is also impacted. Preventable alcohol-related attendances and admissions have a negative impact on limited NHS resources, staff and other patients. Physical injury and the psychological impacts from violent incidents directly affect the health and well-being of individuals, their family, friends and work colleagues, our public service staff and licensed premises staff who deal with these incidents, and the local community. Responsible Authorities will work together, sharing all available local data, and will use NHS sources of data to promote this licensing objective.
- 10.6 The Council, in general, will endeavour to reduce crime and disorder throughout the County in accordance with its statutory duty under s.17 of the Crime and Disorder Act 1998.
- 10.7 The 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 licences or other licensed premises. Licence holders, and staff employed in licensed premises, are in an ideal position to help protect people.
- 10.8 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 look for and ask themselves the following;
- Has the person got any physical signs of abuse or neglect? Deprived of food, water, sleep, medical care or other life necessities?
  - You see worrying behaviour towards someone.
  - Is the victim in possession of a passport, identification or travel documents? Are these documents in possession of someone else?
  - Does the victim act as if they were 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, 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, the licence holder are to report the matter to Modern Day Slavery helpline on 08000 121 700 or visit the website

<https://www.modernslaveryhelpline.org/report>. 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 illegally without carrying out the prescribed checks can lead to robust sanctions against the licence holder.

## **11. Prevention of public nuisance**

- 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 the licensable activities at the specific premises on these parties which may be disproportionate and unreasonable
- 11.2 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 licenced premises.

- 11.3 The Licensing Authority recognise that limiting the public nuisance that may be associated with licensed premises and their operation is an important factor for health and well-being.
- 11.4 The Licensing Authority acknowledges the key links to health and well-being from public nuisance in terms of disturbed sleep, stress caused by nuisance and pollution. Disturbed sleep and stress can add to residents' mental and physical health issues, and their wider wellbeing. Lack of sleep can have an impact on the immune system and can contribute to heart disease and diabetes. Lack of sleep can also contribute to anxiety and depression. Stress can contribute to anxiety and depression, and cardio-vascular diseases. Applicants should consider the potential impact their premises may have on public nuisance particularly from noise and put in place mitigating measures.
- 11.5 The Licensing Authority expects applicants for premises licences and club premises certificates to have made relevant enquiries and considerations 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 activity are not contained within 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.
- 11.6 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.
- 11.7 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.



- 11.8 The Licensing Authority recognises that beyond the immediate area surrounding the licensed 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.
- 11.9 Applicants are encouraged to engage with the Licensing Authority and other relevant Responsible Authorities (such as Environmental Health) at an early stage and prior to the submission of an application, wherever reasonably practicable. These Authorities will be able to provide advice in respect of appropriate control measures that may be put in place, and included in the operating schedule, to mitigate the potential risks of public nuisance occurring.

11.10 **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.

- 11.11 The Statutory Licensing guidance issued under Section 182 of the 2003 Act 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. The action plan is available on the Welsh Government website at <https://gov.wales/sites/default/files/publications/2019-04/noise-and-soundscape-action-plan.pdf>.

## **12. Public safety**

- 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. Applicants are advised to seek advice from various organisations, such as the Neath Port Talbot health and safety enforcement officers, South Wales Fire and Rescue Service etc., before preparing their plans and schedules, particularly where regulated entertainment is to be provided.

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, which 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.

12.3 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 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.
- Electrics and heating as part of the risk assessment.

12.4 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;
- Provision 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 guidance (Assistance can be obtained by contacting such Environmental Health, Fire Safety and HSE).
- Provision of effective CCTV in and around 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.

- 12.5 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).
- 12.6 South Wales Police promotes the use of polycarbonate drinking vessels to reduce injuries caused either deliberately or accidentally from glass drinking vessels. The Licensing Authority 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.
- 12.7 The Licensing Authority acknowledges that there are links between public safety and health, for example injuries suffered in licensed premises that need medical treatment. Falls are a contributor to alcohol related hospital attendances and admissions.
- 12.8 Considering and noting issues relating to public safety in responses to a licensing application can be an effective way of addressing these issues through conditions being placed on a licence, or, in more extreme cases a licence not being granted. The Health Board, as a Responsible Authority, may be able to provide evidence of prevalence, costs and impacts of public safety issues as appropriate.

### **13. Protection of children from harm**

- 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.
- 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.
- 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.
- 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 to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 13.5 The Director Social Services Health and Housing for the authority will be consulted on issues relating to protecting children from harm.
- 13.6 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 network.
- 13.7 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 look for and ask themselves the following -
- 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 they are with a young 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 rooms number without knowing the name of the person the room is booked under.
- 13.8 For safeguarding children, the Council do not support contactless check in systems (virtual reception) whereby no members of staff will have interaction with the customers at a hotel.
- 13.9 If there are concerns, the licence holder and staff are to report the matter to either Neath Port Talbot Safeguarding on 01639 686868 or Police Safeguarding on 101. If someone is in immediate danger to call the Police on 999.
- 13.10 The Licensing Authority acknowledges that compared to adults, children and young people are at higher risk of harm in relation to alcohol use and consumption, and the health impacts can be higher where they happen. Children and young people are also more vulnerable to certain harms in licensed settings. Furthermore, earlier take up of regular drinking increases lifetime risks of alcohol-related harms.
- 13.11 Children and young people have multiple vulnerabilities related to the impact that alcohol can have on their health and development. They have higher levels of vulnerability and risk associated with being on licensed premises that need to be considered and appropriately addressed in licensing policies, practices and processes. A significant impact from a child or young person suffering illness, injury or dependence as a result of access to alcohol and licensed premises is likely to fall to the Health Board.
- The Licensing Authority also acknowledges the serious impact of parental alcohol misuse on children at every age, and the long-term consequences (i.e. adverse childhood experiences). There is potential for lower levels of harmful parental alcohol consumption having a beneficial impact on reducing childhood adversity in the home environment (e.g. reductions in violence, in particular domestic abuse).
- 13.12 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.

- 13.13 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 recommended 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 established. 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 18. Records of such training shall be retained on the premises and made available for inspection by authorised officers.
  - That an incident log be maintained, and details of all age-related refusals recorded. This book shall be reviewed monthly by the DPS and 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 licence holder shall be on the premises at all times that alcohol is supplied.
  - That the DPS shall ensure that, as far as is reasonably practical, 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 18.

## **14. Rights of representations**

- 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 this way, those with a right to make representations or objections are able to fully assess the factors that may affect them.
- 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.
- 14.3 Amendments to the 2003 Act have 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.

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.

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.

14.6 Petitions may be accepted if the Licensing Authority believes all those that signed the petition understood the implications of what they were signing. Please refer to 29.24 below for further guidance.

## **15. Responsible authorities**

15.1 The Licensing Act 2003 as amended specifies who is 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
- Western Bay Children Safeguarding Board
- In relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board
- The Local Health Board
- The Licensing Authority
- Immigration (Home Office Immigration Enforcement)

## **16. Other persons**

- 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 consequently, the categories of “interested party” no longer exist.
- 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.

## **17. 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 its 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 influence directly or indirectly on the licensing regime. The Licensing Authority must have regard to the following when it discharges its responsibilities under the 2003 Act an in relation to the promotion of the four licensing objectives:



## 17.2 Crime and Disorder Act 1998

The Crime and Disorder Act 1998 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.

## 17.3 The Anti-Social Behaviour, Crime and Policing Act 2014

The Anti-Social Behaviour, Crime and Policing Act 2014 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. This 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 2003 Act.

## 17.4 Immigration Act 2016

Section 36 and Schedule 4 of the Immigration Act 2016 amended the 2003 Act 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 South Wales Police to enforce this.

#### 17.5 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.

#### 17.6 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.

#### 17.7 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. The Licensing Authority will consider the five ways of working contained under this Act namely:

Long Term (how we support the long term well-being of people) – The Licensing Authority recognises the need for people to be able to enjoy their leisure time and socialise with friends and family in a diverse and vibrant environment. This has to be balanced however against the need to ensure that the daytime and night-time economy is safe with low levels of anti-social behaviour and crime and disorder.

Integration (impacts upon our wellbeing objectives) – The Licensing Authority will ensure that children and young people are protected, particularly in the night-time economy. Premises that offer alcohol for sale and / or provide entertainment will be expected to have given proper consideration in operating schedules as to how they will protect children on their premises. Likewise, operating schedules will be expected to have given consideration to ensuring

that their business does not impact negatively on those that live in the vicinity of the premises.

Involvement (how people have been involved) – The Licensing Authority has undertaken an extensive, far reaching consultation exercise in developing this policy.

Collaboration (Working with other services / organisations) – The Licensing Authority works with other Local Authorities and partner agencies across Wales to develop consistent policies and processes. Membership of the Institute of Licensing and representation on the All Wales Licensing Expert Panel enables the Licensing Authority to work with other local authorities, partner agencies and trade bodies across Wales to develop consistent policies and processes in order to achieve its objectives.

Prevention (how problems will be prevented from occurring or getting worse) – The Licensing Authority will carefully consider all applications to ensure the licensing objectives set-out in the Act are promoted at all times. Where premises are found to not be operating in a safe and responsible manner, the Licensing Authority will work with its partners to take remedial action, including formal enforcement to swiftly resolve any issues.

- 17.8 The Licensing Authority will also have cognisance to the following legislation when it decides to discharge its responsibilities under the 2003 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.
- 17.9 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.
- 17.10 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.

- 17.11 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.
- 17.12 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.

### **Relationship with Planning Process**

- 17.13 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.
- 17.14 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.
- 17.15 The Licensing Authority wishes to emphasise that the granting by the Licensing & Regulatory 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.
- 17.16 The Council 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.
- 17.17 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.

17.18 The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa.

17.19 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).

## **18. Personal alcohol licence**

18.1 The Licensing Authority 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 5 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.

18.2 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 the carrying on of a licensable activity.

18.3 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.

18.4 If an applicant declares that they have been issued with an immigration penalty or convicted of an immigration offence or 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).

- 18.5 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 2017, the Home Office may object to the application. When an objection is lodged a hearing must be held.
- 18.6 Applicants with unspent convictions for relevant offence 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.
- 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.
- 18.8 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.
- 18.9 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.

## **19. Premises licence**

- 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.
- 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.

- 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.
- 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.
- 19.5 A licence may be issued subject to conditions, which must be complied with at all times whilst the premises 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 a fine, which is unlimited or a term of imprisonment of up to 6 months, or both.
- 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.
- 19.7 It is an expectation that the premises licence holder and designated premises supervisor will be aware of their permitted licensable activity types, permitted hours and conditions of licence. Failure to demonstrate or have a lack of regard could result in a lack of confidence in management by a Responsible Authority.

## **20. Club premises certificate**

- 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 authorised by a club premises certificate (CPC).
- 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).

- 20.3 A premises operating under the authorisation of a CPC enjoy special privileges. If a club premises operate 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.
- 20.4 It is an expectation that the CPC holder will be aware of their permitted licensable activity types, permitted hours and conditions of licence. Failure to demonstrate or have a lack of regard could result in a lack of confidence in management by a Responsible Authority

## **21. Temporary Event Notices**

- 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.
- 21.2 Unless sent electronically, a TEN must be sent to 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.
- 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 TEN user. When giving a TEN, the premises user should consider the promotion of the four licensing objectives.
- 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 their control.



- 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 on any of the four licensing objectives.
- 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.
- 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.
- 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.
- 21.9 The Licensing Authority recommends that anyone wishing to submit a TEN, 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 or a late notice in 5 working days prior to the event taking place, a period of 12 weeks is recommended for larger events.
- 21.10 The Licensing Authority may notify the Council's Safety Advisory Group (SAG) of any TEN involving the provision of regulated entertainment. This group 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.
- 21.11 External areas and outdoor events will normally be restricted to 08.00 – 22.00hrs unless the applicant can demonstrate the comprehensive control measures have been implemented that ensure the promotion of the licensable objectives, in particular the public nuisance objective.

## **22. Sale and supply of alcohol**

- 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.

- 22.2 Licensed premises authorised under the 2003 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
- 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.
- 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. Records should be kept of all training provided and any incidents e.g. a refusal to sell and reasons.

## **23. Regulated entertainment**

- 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).
- 23.2 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.

### 23.3 **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.

### 23.4 **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 Act 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)

### 23.5 **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 where 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 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.

## 23.6 **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.

The 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.

### 23.7 **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.

### 23.8 **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.

### 23.9 **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.

### 23.10 **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.

### 23.11 **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.

#### 23.12 **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.

### 23.13 **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).

### 23.14 **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**

23.15 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.

### 23.16 **Licence Conditions**

### 23.17 **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.

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.

## 23.18 **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.

## 23.19 **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
- Relevant 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.

#### 23.20 **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.

## 23.21 **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.

## 23.22 **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.

### **23.23 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.



## 23.24 **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.

## 23.25 **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 that 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?

### **23.26 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.

### **23.27 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. For further information on the licence for Child Performers contact the Education Welfare Officer of the Council.

## 24. Administration

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 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:-

Licensing Section  
Neath Port Talbot Council  
Civic Centre  
Port Talbot  
SA13 1PJ  
E-mail: [licensing@npt.gov.uk](mailto:licensing@npt.gov.uk)  
Tel: 01639 763050  
Web: [www.npt.gov.uk/licensing](http://www.npt.gov.uk/licensing)

## 25. Application procedures

- 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 information on all of the services it offers for licensees, applicants, complainants and all other enquiries. In addition the website contains the public register of all existing licences to view activities, times and conditions and is available at [www.npt.gov.uk/licensing](http://www.npt.gov.uk/licensing)
- 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.npt.gov.uk/licensing](http://www.npt.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.
- 25.3 Details of applications are available via the Neath Port Talbot Council website at [www.npt.gov.uk/licensing](http://www.npt.gov.uk/licensing)

- 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.
- 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.
- 25.6 The contact details of all the Responsible Authorities under the Licensing Act 2003 are available on the Neath Port Talbot Council website at [www.npt.gov.uk/licensing](http://www.npt.gov.uk/licensing)
- 25.7 The steps for consideration of a licensing application, a licensing variation and a club premises certificate are:
- a) If no representations are made to an application, the Licensing Authority must grant it in full.-
  - b) When an application is made, and relevant representations are made to the Authority (and not withdrawn) it must hold a hearing of the Licensing Sub-Committee (Where an application has been amended or conditions agreed to the satisfaction of all parties, final determination of the application must be made by the Licensing Sub-Committee; it is not usually necessary for any parties to attend the hearing).
  - c) The Licensing Sub-Committee will 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.
  - d) The Licensing Sub-Committee will determine the application and will take any steps it considers appropriate for the promotion of the licensing objectives.
  - e) 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.

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.

25.9 Individuals applying for a personal licence must be entitled to work in the UK. The Immigration Act 2016 amended the 2003 Act 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.

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.

## **26. Operating schedule**

- 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.
- 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.
- 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.
- 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
- 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.

26.6 For some premises, it is possible that no measures will be 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.

## **27. Conditions**

27.1 The 2003 Act, 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.

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.

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.

27.4 The Council recognise that they can only impose conditions where 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.

- 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.

## **28. Applications where representations are received**

- 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.
- 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.
- 28.3 Representations can be made either 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
- 28.4 An example of a representation that would not be relevant would be a representation from a local business person about the commercial damage that competition from a new licensed premises would do to their own business. On the other hand, a representation by a business person 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.
- 28.5 In other words, representations should relate to the impact of licensable activities carried on from premises on the Licensing Objectives (See Section 9)
- 28.6 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.



- 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.
- 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 Neath Port Talbot Council's website at [www.npt.gov.uk/licensing](http://www.npt.gov.uk/licensing).
- 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.
- 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.
- 28.11 The Licensing Authority acknowledges 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.
- 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.
- 28.13 The Licensing Authority recognises the Western Bay Safeguarding Children Board as being the body that is competent to advise it on the licensing objective of the protection of children from harm.

- 28.14 The Licensing Authority acknowledges that, although public health is not a licensing objective, health bodies may hold information which other responsible authorities do not, but which would assist the Licensing Authority in exercising its functions.
- 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 objective.
- 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.
- 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.
- 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.
- 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.
- 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 role of responsibility authority to the Senior Licensing Officer to ensure a proper separation of responsibilities.
- 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.

- 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.
- 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.
- 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.

- 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.

- 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.
- 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.
- 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.
- 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.
- 28.30 Further guidance on making representations is provided on the Licensing Authority's website.

## **29. Exercise and delegation of functions**

- 29.1 The 2003 Act 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 2003 Act. The Licensing Committee further delegate to the Licensing Sub-Committee, or by one or more officers acting under delegated authority.
- 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. The Licensing Authority, when acting as a Responsible Authority commenting on Licence applications, will have separate roles for officers. The Senior Licensing Officer will act as the Responsible Authority, whilst the remaining team will administer the application.
- 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.

**Schedule of delegation of licensing functions and decisions**

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
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 or where an agreement has been reached following mediation.	If no relevant representation made
Application for provisional statement		If a relevant representation made and not withdrawn or where an agreement has been reached following mediation	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made and not withdrawn or where an agreement has been reached following mediation	If no relevant representation made

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

## **30. Reviews of licences**

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.

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.

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.

- 30.4 In cases where a licensing objective is seriously undermined, the revocation of the licence, even in the first instance, will be seriously considered where appropriate to ensure the licensing objectives are promoted.

## **31. Cumulative Impact Assessment**

- 31.1 Under the 2003 Act, 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
- 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 -
- a) Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm
  - b) 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.
  - c) 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.
  - d) Identify the boundaries of the area where problems are occurring
  - e) 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.
- 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 The Licensing Authority acknowledges there are a number of existing measures available that are relevant to tackling unlawful and anti-social 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.
- Regular monthly Responsible Authority meetings, for interested parties to comment on, and providing an action plan, when dealing with problematic premises and areas.

## **32. Early morning restriction orders (“EMRO”)**

- 32.1 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;
- 32.2 The Licensing Authority has not and is not currently considering the introduction of an EMRO.

## **33. Hearings**

- 33.1 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 for determination.

- 33.2 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 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.
- 33.3 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.

## **34. Appeals**

- 34.1 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.
- 34.2 An appeal has to be instigated by giving notice of the appeal by the appellant to  
The Clerk to the Justices,  
Swansea Magistrates' Court  
Grove Place  
Swansea  
SA1 5DB

Within a period of 21 days beginning with the day on which the appellant was notified by the Council of the decision appealed against.

- 34.3 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.

- 34.4 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

- 34.5 Where appropriate, the Licensing Authority will provide applicants and objectors etc. with information concerning their rights of appeal.

### **35. Implementing the determination of the Magistrates' Court**

- 35.1 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.

### **36. Enforcement**

- 36.1 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.
- 36.2 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.
- 36.3 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.

## **37. Fees Generally**

- 37.1 All fees are currently set by statute and the council is obliged to charge the fees as detailed in the Fees Regulations.
- 37.2 The Police Reform and Social Responsibility Act 2010 have provisions to give councils to set their fees locally, however at this time the relevant sections have not been commenced. When commenced the councils will calculate fees to recover the costs of the service and then consult on their implementation before asking the Licensing Committee to approve any change.

## **38. Annual Fees for Premises Licences and Club Premises Certificates**

- 38.1 The 2003 Act and regulations made under the 2003 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.

## **39. Licence suspension for non-payment of annual fee**

- 39.1 Amendments made to the 2003 Act 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.
- 39.2 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:-
- 39.3 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 14 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 14 day notice, whichever is later.

- A copy of the notice will also be served on the designated premises supervisor/premises manager if they are not the premises licence holder.

39.4 If the fee is not paid by the date specified on the notice the licence/certificate will be deemed suspended. The licence/certificate holder and DPS/Manager 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.

39.5 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 2003 Act.

## **41. Late night levies**

40.1 A Late Night Levy (LNL) is an optional power, introduced by the Police Reform and Social Responsibility Act 2010 which allows Licensing Authorities 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.

40.2 The Licensing Authority has not and is currently not considering the introduction of a late night levy.

## **41. Further Information**

Further information about the Licensing Act 2003 and the Council's licensing policy can be obtained from:

The Licensing Section  
Neath Port Talbot Council  
Civic Centre  
Port Talbot  
SA13 1PJ  
Tel: 01639 763050  
E-mail : [licensing@npt.gov.uk](mailto:licensing@npt.gov.uk)  
Website: [www.npt.gov.uk](http://www.npt.gov.uk)

## 42. Glossary

Club Premises Certificate	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
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
Designated Premises Supervisor (DPS)	The person specified on a licence, who has day-to-day responsibility for the running of the business
Early Morning Restriction Orders (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.
Late Night Levy (LNL) –	An optional power, which allows Licensing Authorities 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.
Late Night Refreshment	The sale of hot food or drink to the public to consume off or on the premises between 11pm and 5am

## Licensing Objectives

The Licensing Authority has a duty under the 2003 Act to carry out its functions with a view to promoting the licensing objectives:

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

## Operating Schedule

The operating schedule is part of the information you must include which accompanies your application. The operating schedule sets out how the premises are proposed to operate when licensable activities are being conducted

## Personal Licence

Authorises a person to sell alcohol

## Premises Licence

Authorises the use of any premises for licensable activities

## Regulated Entertainment

Entertainment activities that are licensable under the Act.

## Relevant Representations

A representation that is about the likely effect of the application on the promotion of the licensing objectives

## Responsible Authorities

A statutory body that is able to comment on applications under the act

## Temporary Event Notice

Authorisation for small-scale one off events at which it is intended to:

- Sell or supply alcohol
- Provide regulated entertainment
- Sell hot food/drink between 11pm and 5am.





## Impact Assessment - First Stage

### 1. Details of the initiative

<b>Initiative description and summary: Draft Revised Licensing Policy</b>
<b>Service Area: Legal Regulatory Services</b>
<b>Directorate: Finance and Corporate Services</b>

### 2. Does the initiative affect:

	Yes	No
Service users	✓	
Staff		✓
Wider community	✓	
Internal administrative process only		✓

### 3. Does the initiative impact on people because of their:

	Yes	No	None/ Negligible	Don't Know	Impact H/M/L	Reasons for your decision (including evidence)/How might it impact?
Age			✓			The Licensing Policy has only been amended to reflect changes in guidance and to update references to other documents.
Disability			✓			
Gender Reassignment			✓			
Marriage/Civil Partnership			✓			
Pregnancy/Maternity			✓			
Race			✓			
Religion/Belief			✓			

Sex			✓			
Sexual orientation			✓			

**4. Does the initiative impact on:**

	Yes	No	None/ Negligible		Impact H/M/L	Reasons for your decision (including evidence used) / How might it impact?
People's opportunities to use the Welsh language		✓				The Licensing Policy has only been amended to reflect changes in guidance and to update references to other documents.
Treating the Welsh language no less favourably than English		✓				The Licensing Policy has only been amended to reflect changes in guidance and to update references to other documents.

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**5. Does the initiative impact on biodiversity:**

	Yes	No	None/ Negligible	Don't know	Impact H/M/L	Reasons for your decision (including evidence) / How might it impact?
To maintain and enhance biodiversity		✓				The Licensing Policy has only been amended to reflect changes in guidance and to update references to other documents.
To promote the resilience of ecosystems, i.e. supporting protection of		✓				The Licensing Policy has only been amended to reflect changes in guidance and to update references to other documents.

the wider environment, such as air quality, flood alleviation, etc.						
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**6. Does the initiative embrace the sustainable development principle (5 ways of working):**

	Yes	No	Details
<b>Long term</b> - how the initiative supports the long term well-being of people	✓		The Licensing Authority recognises the need for people to be able to enjoy their leisure time and socialise with friends and family in a diverse and vibrant environment. This has to be balanced however against the need to ensure that the daytime and night-time economy is safe with low levels of anti-social behaviour and crime and disorder.
<b>Integration</b> - how the initiative impacts upon our wellbeing objectives	✓		The Licensing Authority will ensure that children and young people are protected, particularly in the night-time economy. Premises that offer alcohol for sale and / or provide entertainment will be expected to have given proper consideration in operating schedules as to how they will protect children on their premises. Likewise, operating schedules will be expected to have given consideration to ensuring that their business does not impact negatively on those that live in the vicinity of the premises.
<b>Involvement</b> - how people have been involved in developing the initiative	✓		The Licensing Authority has undertaken an extensive, far reaching consultation exercise in developing this policy.
<b>Collaboration</b> - how we have worked with other services/organisations to find shared sustainable solutions	✓		The Licensing Authority works with other Local Authorities and partner agencies across Wales to develop consistent policies and processes. Membership of the Institute of Licensing and representation on the All Wales Licensing Expert Panel enables the Licensing Authority to work with



			other local authorities, partner agencies and trade bodies across Wales to develop consistent policies and process in order to achieve its objectives.
<b>Prevention</b> - how the initiative will prevent problems occurring or getting worse	✓		The Licensing Authority will carefully consider all applications to ensure the licensing objectives set-out in the Act are promoted at all times. Where premises are found to not be operating in a safe and responsible manner, the Licensing Authority will work with its partners to take remedial action, including formal enforcement to swiftly resolve any issues.

**7. Declaration - based on above assessment (tick as appropriate):**

A full impact assessment (second stage) <b>is not</b> required	✓
Reasons for this conclusion	
This report is to update the existing Licensing Policy in line with statutory requirements. Although the format of the Policy has been changed significantly, fundamentally, the content has only been amended to reflect changes in guidance and references to other documents.	

A full impact assessment (second stage) <b>is</b> required	
Reasons for this conclusion	

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	<b>Name</b>	<b>Position</b>	<b>Signature</b>	<b>Date</b>
Completed by	<b>Neil Chapple</b>	<b>Licensing Manger</b>		<b>22/05/19</b>
Signed off by	<b>Craig Griffiths</b>	<b>Head of Service</b>		<b>24<sup>th</sup> May 2019</b>

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Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## NEATH PORT TALBOT COUNCIL

### COUNCIL

2<sup>nd</sup> December 2020

### Report of the Director of Environment and Regeneration Nicola Pearce

#### Matter for Decision

Wards Affected: All

#### **Environment (Wales) Act 2016 – Consideration of the Neath Port Talbot Biodiversity Duty Plan (BDP) 2017 Implementation Report and the publication procedures to be implemented.**

#### Purpose of the Report

To consider and agree the Biodiversity Duty Plan (BDP) 2017 Implementation Report and the publication procedures to be implemented.

This Report was considered by Cabinet on 21st October 2020 where the Report was commended to Council for approval.

#### Executive Summary

The Environment (Wales) Act 2016 introduced a duty (under Part 1, Section 6 (7), referred to as the Biodiversity and Resilience of Ecosystems duty or in short ‘the S6 Duty’) on public authorities (including the Council) to maintain and enhance biodiversity, thereby promoting the resilience of ecosystems in the exercise of its functions.

The S6 Duty requires formal demonstration of compliance. The Council was initially required to prepare and publish a plan setting out how it intended to comply with the Duty. Accordingly, in December 2017 the Council published its first iteration of the Neath Port Talbot Biodiversity Duty Plan (BDP). Following publication, the Act also requires the Council to report at regular intervals on its implementation – i.e. covering what it has done to comply with the Duty and to set out recommendations on whether the published BDP should be amended or updated.

This report therefore seeks Member approval of the first BDP Implementation Report and the publication procedures to be implemented.

Members should note that once approved, the recommendations of the BDP Implementation Report will be incorporated into a revised BDP which will supersede the 2017 Plan. This will subsequently be reported to Members in the new year.

## **Background**

In 2016 the Environment (Wales) Act introduced a duty (the S6 Duty) on public authorities to maintain and enhance biodiversity. The Council is therefore required by the Act to prepare and publish a plan setting out how it intends to comply with the Duty. To comply with the S6 Duty the Council should embed the consideration of biodiversity and ecosystems into their early thinking and business planning, including any policies, plans, programmes and projects, as well as their day to day activities.

In December 2017, the Council published its first Biodiversity Duty Plan (BDP)<sup>1</sup> outlining the natural resources that exist within Neath Port Talbot, why they are so special and what activities were already underway to protect them. It also set out how the BDP works and the mechanisms for delivery, along with detailed actions to be achieved and milestones for reporting.

Following publication of the BDP, the Act requires the Council to publish an implementation report at regular intervals on what has been done to comply with the S6 Duty in order to ascertain what has been achieved, what needs to be improved and to make any revisions and improvements to the published BDP. The Implementation Report is required to be published online, with a link sent to the Welsh Government (WG).

## **NPT Biodiversity Duty Plan 2017 Implementation Report**

The 'BDP 2017 Implementation Report' is presented in full in **Appendix 1**. The report monitors the actions from initial publication up to financial year end 2020 – i.e. December 2017 to 31<sup>st</sup> March 2020.

The Act requires the Council to publish a report on what they have done to comply with the S6 duty before the end of 2019 and before the end of every third year thereafter. WG guidance on producing implementation reports was only published in November 2019 which prevented the

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<sup>1</sup> NPT Biodiversity Duty Plan (BDP) 2017 - <https://www.npt.gov.uk/media/9417/nptcbc-biodiversity-duty-plan.pdf?v=20190125155137>



Council from publishing its report by December 2019, further delay occurred as a result of the COVID-19 pandemic.

Moving forward, in order for the Council to monitor the actions within the BDP in line with grant funding streams and to allow for political reporting it is proposed that the monitoring timeline aligns with financial years. Accordingly, the Council will monitor the actions of the next BDP from 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2023 and submit the Implementation Report to WG by October 2023.

The S6 Duty aims to ensure that the consideration of biodiversity becomes an integral part of the decisions and actions that public authorities take. In late 2019, WG published guidelines<sup>2</sup> on how to report on BDPs. In accordance with these guidelines, the BDP Implementation Report sets out progress on individual actions, along with recommendations of how to move each of the actions forward.

The key outcomes, notable barriers and new future actions outlined in the Implementation Report are summarised below.

### ***Key Outcomes***

- An action to deliver against the Biodiversity Duty has been built into the **Corporate Plan**.
- The Council's **Integrated Impact Assessment (IIA)** considers the Biodiversity Duty and requirements to inform and ensure effective decision making and compliance. A summary of the IIA is required within the Committee Report template.
- There is **improved collaborative working with wider departments**, which has been supported by the employment of a Graduate Ecologist to provide survey and in-house consultancy services, resulting in **early engagement in projects and cost savings**.
- The Council **adopted its Biodiversity and Geodiversity Supplementary Planning Guidance (SPG)** in 2018.
- The Countryside and Wildlife Team (C&WT) has undertaken a **variety of surveys** such as Sites of Importance for Nature Conservation (**SINC**) surveys; the **Colliery Spoil Biodiversity Initiative** and the **Blue Ground Beetle Project**.

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<sup>2</sup> WG (2019) Environment (Wales) Act 2016 Part 1 – Guidance for Section 6 – The Biodiversity and Resilience of Ecosystems: Reporting Guidance <https://www.biodiversitywales.org.uk/File/701/en-GB>

- **Projects** – the C&WT is successfully leading on a number of biodiversity focused grant funded projects, which has led to many positive outcomes for health and wellbeing and other wider benefits, including multi-agency projects at a regional and landscape scale including:
  - **Lost Peatlands Project;**
  - **Working with Nature Project;**
  - **Connecting Green Infrastructure – South West Wales;**
  - Management of **Dyffryn Wildlife Site** and **Craig Gwladus Country Park;** and
  - **Local Nature Partnership (LNP) Cymru Project.**

**Notable Barriers** – whilst there have been numerous positive achievements over the reporting period there still remains a number of barriers to implementation of the Duty, including:

- The C&WT is heavily supported by income generation schemes and external grant funding, and consequently **many posts are temporary;**
- **Loss of regular and long term external funding** has led to uncertainty for staff and reduced capacity to deliver action for biodiversity; and
- Whilst significant progress has been made **integrating biodiversity into decision making**, there still remains challenges, particularly as a result of budget pressures, meeting grant funding deadlines or wider corporate or national requirements.

**New (Future) Actions** – in addition to minor amendments to existing actions to bring them in line with updated work practices, changes in funding or national action, two new actions have been recommended for inclusion within the new Plan, namely:

- **1.8 New Council Strategies** – C&WT to aid in the development of strategies or plans that contribute towards biodiversity conservation and respond to consultations and reviews of existing plans; and
- **3.5 Green Infrastructure Assessment (GIA)** – the Council will undertake a GIA in line with the requirements of Planning Policy Wales (PPW).

**Conclusion** – the 2017 Plan has allowed the Council to further embed biodiversity into decision making outside of the traditional service areas and whilst some actions have taken longer to fulfil than expected, progress

has been made on all actions and will continue through the implementation of the new Plan (scheduled for publication in the new year).

### **Publication Procedures and Next Steps**

Once approved, the BDP 2017 Implementation Report will be published on the Council's website and the link submitted to the WG. Additionally, in accordance with the Council's Welsh Language Standards Policy, the document will also be made available in Welsh.

Hard copies of the Plan will be made available for purchase at a reasonable charge. In common with previous practice, it is suggested that the price be based on the cost of printing together with postage and packing at the prevailing cost. Electronic copies will be made available at no cost.

Work will then commence on producing a **revised Biodiversity Duty Plan** in the new year (2021), incorporating amendments and recommendations from the Implementation Report. Covering the period 2020-2023, the new BDP will focus on evaluating the Council's existing work practices and assimilate the new statutory duty into wider Council functions. This will result in a more joined-up approach between services, fulfilling both the Environment (Wales) Act requirements and the sustainability ethos embedded in the Well-Being of Future Generations (Wales) Act.

### **Financial Impacts**

Given that there was no additional funding made available for the implementation of this Duty, delivery against the Plan was achieved within existing budgets, with a focus on making changes to work practices that could be achieved without placing a financial burden on the Council.

Project delivery and improvement works requiring additional resources were delivered through the use of external grants or partnership working. New, and amendments to existing actions have taken a similar approach, to ensure that delivery of the Plan can be achieved with existing resources.

### **Integrated Impact Assessment**

A first stage impact assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016.

The first stage assessment (presented in **Appendix 2**) has indicated that a more in-depth assessment is not required. A summary is included below.

- **Equalities** – biodiversity affects all generations and all areas of society. Implementation of the actions will be inclusive and will involve the Countryside and Wildlife Team working with all staff / sections throughout the Council, the wider public and a wide range of partner organisations including those from the public, private and community / voluntary sectors.
- **Welsh Language** – all of the actions contained within the 2017 BDP adhere to the Welsh Language Standards (No. 1) Regulations 2015 and any amendments to actions or new proposed actions recommended by the Implementation Report will also adhere to these Regulations. All communication via the Authority's social media platforms and websites; radio broadcasts and reports etc. are translated into Welsh and the technical names of species and habitats are also translated which increases people's opportunity to use and expand upon their Welsh Language vocabulary.
- **Biodiversity** – this is the remit of the 2017 BDP and Implementation Report. Actions contained within the BDP are monitored, with recommendations, through the Implementation Report, ensuring that the Council meets its statutory duty to maintain and enhance biodiversity as set out within the Environment (Wales) 2016 Act. One of the actions incorporated within the 2017 BDP was to include the impact on biodiversity into the Council's Integrated Impact Assessment (IIA). Additionally, numerous projects and initiatives organised by the C&WT and partners contribute towards meeting the Authority's statutory duty to promote the resilience of ecosystems, supporting protection of the wider environment.
- **Well-being of Future Generation (5 Ways of Working)** – the BDP 2017 Implementation Report embraces all five ways of working. The Implementation Report provides progress achieved on the 2017 BDP actions and recommendations for future improvement in order to meet the Council's Biodiversity Duty. The BDP and accompanying Implementation Report positively integrates with the Council's well-being objectives; involves people and partners in its development and implementation; and seeks to prevent problems getting worse.

### **Valleys Communities Impacts**

No implications.

### **Workforce Impacts**

No implications.

### **Legal Impacts**

No implications.

### **Risk Management Impacts**

The Council will be in breach of its statutory duties to prepare, publish and report on the Biodiversity Duty Plan (BDP) should there be a failure to implement the proposed recommendations.

### **Consultation**

There is no requirement for external consultation on this item.

The BDP Implementation Report is the outcome of implementing the actions in the 2017 BDP. No substantial changes have been made since the original internal consultation, therefore, no further consultation has been undertaken.

### **Recommendations**

That having considered the report, it is resolved to make the following recommendations for approval:

1. That the Biodiversity Duty Plan (BDP) 2017 Implementation Report as set out within Appendix 1 be agreed.
2. That the publication procedures as set out in the report are implemented.

### **Reasons for Proposed Decisions**

The recommendations are needed to ensure compliance with the requirements of the Environment (Wales) Act 2016.

### **Implementation of Decisions**

The decisions are proposed for immediate implementation.

### **Appendices**

Appendix 1 – NPT Biodiversity Duty Plan (BDP) (2017) Implementation Report

Appendix 2 – First Stage Assessment: Integrated Impact Assessment (IIA)

### **List of Legislation and Guidance Documents**

Environment (Wales) Act 2016

Well-being of Future Generations (Wales) Act 2015

Nature Recovery Action Plan for Wales (2015)

Welsh Government (WG) (2019) Environment (Wales) Act 2016 Part 1 – Guidance for Section 6 – The Biodiversity and Resilience of Ecosystems: Reporting Guidance

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## **APPENDIX 1**

NPT Biodiversity Duty Plan (BDP) 2017 Implementation Report



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

# Neath Port Talbot Council Biodiversity Duty Plan (2017) Implementation Report October 2020



[www.npt.gov.uk](http://www.npt.gov.uk)





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# 1. Introduction

## 1 Introduction

### 1.1 Legislative requirements

- 1.1.1 The Environment (Wales) Act 2016 (the Act) introduced an enhanced biodiversity and resilience of ecosystems duty (the section 6 or S6 duty) for public authorities (including the Council), which must seek to maintain and enhance biodiversity in the exercise of their functions, so far as is consistent with the proper exercise of those functions, and in so doing promote the resilience of ecosystems.
- 1.1.2 To comply with the S6 duty the Council should embed the consideration of biodiversity and ecosystems into their early thinking and business planning, including any policies, plans, programmes and projects, as well as their day to day activities.

### 1.2 Neath Port Talbot (NPT) Biodiversity Duty Plan (2017) Implementation Report

- 1.2.1 The Neath Port Talbot Biodiversity Duty Plan (the Plan) was adopted in December 2017 and sets out how the Council intends to comply with the duty. It outlines what natural resources NPT has, why they are special and some of the activities already underway to protect them. It explains the legislative background; the mechanisms for delivery; detailed actions to be achieved and milestones for reporting.

**Figure 1 – Neath Port Talbot Biodiversity Duty Plan (2017)**



Neath Port Talbot County Borough Council  
Environment (Wales) Act 2016—Biodiversity Duty Plan  
December 2017

# 1. Introduction

## 1.3 Programme for Reporting

- 1.3.1 Under section 6 (7) of the Act, the Council must, before the end of 2019 and before the end of every third year thereafter, publish a report on what they have done to comply with the S6 duty.
- 1.3.2 In order for the Council to monitor the actions within the Plan in line with grant funding streams and to allow for political reporting it is proposed that the monitoring timeline aligns with financial years.
- 1.3.3 This implementation report is dated October 2020 as this is the date at which it gained Cabinet approval, however, the report monitors the actions from initial publication up to financial year end 2020 – i.e. December 2017 to 31<sup>st</sup> March 2020. Due to the late release of the Welsh Government (WG) guidance (November 2019) it has not been possible to publish the Council's Implementation Report by the end of 2019.
- 1.3.4 Accordingly, the Council will monitor the actions of the next BDP, from 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2023, and submit the Implementation Report to WG by October 2023 and place it on the Council's website.
- 1.3.5 The S6 duty guidance states that the Council can amend the Plan at any time. If such circumstances arise, this report will appear as an appendix to the new plan and will identify the reasons for the changes. Any changes made during that time will be documented within the 3 year implementation report and submitted to WG.



Viper's-bugloss outside The Quays Council Office, Baglan Energy Park. The site qualifies as a SINC and is managed to retain its interesting flora

## 2 Background

### 2.1 Context – Neath Port Talbot Council

- 2.1.1 The County Borough of Neath Port Talbot (NPT) is located on the coast between the counties of Swansea and Bridgend. NPT also shares boundaries with Carmarthenshire, Powys, Rhondda Cynon Taf (RCT) and the Brecon Beacons National Park. The population is over 140,000 and the administrative area covers 44,217 hectares.
- 2.1.2 NPT has a wide variety of habitats and species, from marshy grassland in the valleys supporting marsh fritillary butterfly to ancient woodlands providing home to the rare honey buzzard and blue ground beetle; and lowland wetlands and canals attracting fen raft spiders. Whilst the coastal dunes and saltmarsh border Swansea Bay, NPT's upland peatbogs extend right across the plateau into RCT with brownfield land such as coal tips supporting rare plants and invertebrates.



Aberpergwm restored bog site

- 2.1.3 As a Local Authority, Neath Port Talbot Council has the ability and opportunity to influence the amount and extent of biodiversity within the County Borough through management of its land / assets, strategies, policies and project delivery. The Authority implements and enforces national policy and legislation, works in partnership with a wide variety of stakeholders and engages with the public to achieve wider benefits.

## 2. Background

- 2.1.4 Delivery of the S6 Duty and implementation of the Plan is the responsibility of the Council as a whole. Following adoption of The Plan in December 2017, the Council embedded the coordination and monitoring into a staff post, putting the Biodiversity Implementation Officer of the Countryside and Wildlife Team as lead officer for the Plan.



NPT is a stronghold for the UK's smallest butterfly - the small blue

## 3. Highlights, Key Outcomes and Issues

### 3 Highlights, Key Outcomes and Issues

This section sets out the positive outcomes that have been achieved to-date from the progress made on the Actions set out within the Report (Section 4). It also highlights key enablers and barriers that have or are continuing to prevent action.

#### 3.1 Key Biodiversity Actions

##### Governance / Corporate Processes

- 3.1.1 **Corporate Plans and Processes:** An action to deliver against the Biodiversity Duty has been built into the Corporate Plan. Green Infrastructure, of which biodiversity is a key element, has been identified as a cross-cutting theme across all objectives within the Public Service Board's Well-being Plan.
- 3.1.2 **Integrated Impact Assessment (IIA).** The Council's IIA considers the duties and requirements of the key legislation in order to inform and ensure effective decision making and compliance, addressing equalities, welsh language, well-being and biodiversity. A summary of the IIA is contained within a section of all Cabinet Reports taken through the Council's political process with the full IIA attached (as appropriate) as an appendix to the Report. This procedure has raised the Team's profile of its statutory responsibilities, throughout the Authority.
- 3.1.3 **Countryside and Wildlife Team (C&WT) early engagement and biodiversity advice:** There is a well-established relationship between the C&W Team and planning services, with the team actively engaged in both the Development Management Process and Local Development Plan. There is improved collaborative working with wider departments, which has been supported by the employment of a Graduate Ecologist to provide survey and in-house consultancy services, resulting in early engagement in projects and cost savings.

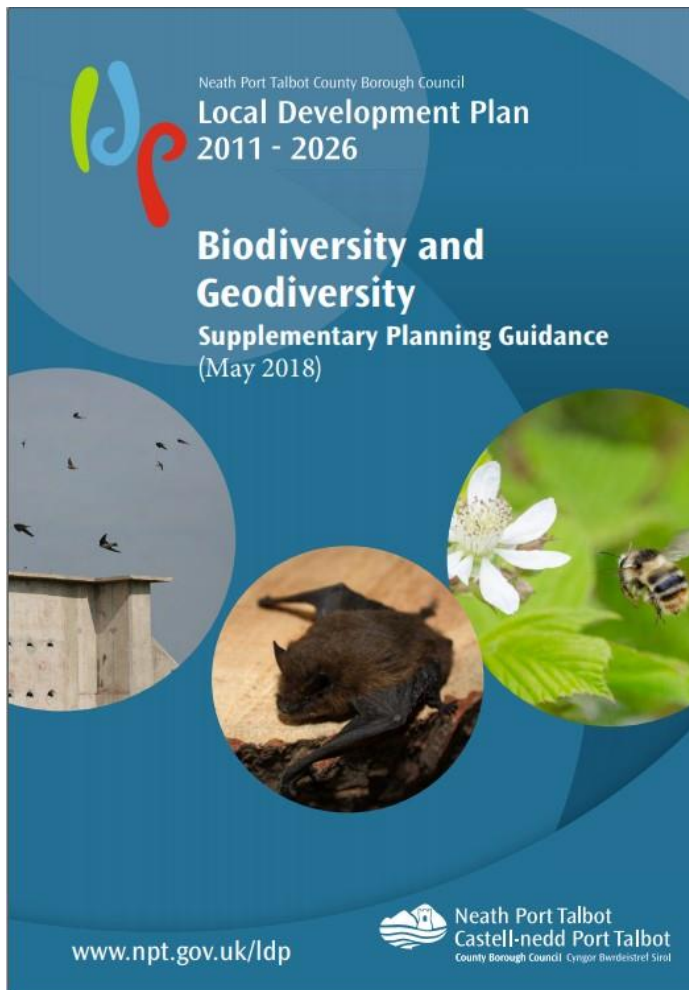


Early engagement on projects saves time and money

## 3. Highlights, Key Outcomes and Issues

- 3.1.4 **Biodiversity Supplementary Planning Guidance (SPG)** – the Authority adopted the Biodiversity and Geodiversity SPG in 2018. The SPG sets out the basic framework for dealing with Biodiversity in the planning process in Neath Port Talbot. It provides guidance on how to conserve and enhance important habitats and species as part of development.

**Figure 2 – Neath Port Talbot’s Biodiversity & Geodiversity SPG (2018)**



[https://www.npt.gov.uk/media/9003/spg\\_biodiversity\\_geodiversity\\_may18.pdf](https://www.npt.gov.uk/media/9003/spg_biodiversity_geodiversity_may18.pdf)

### Surveying and Data

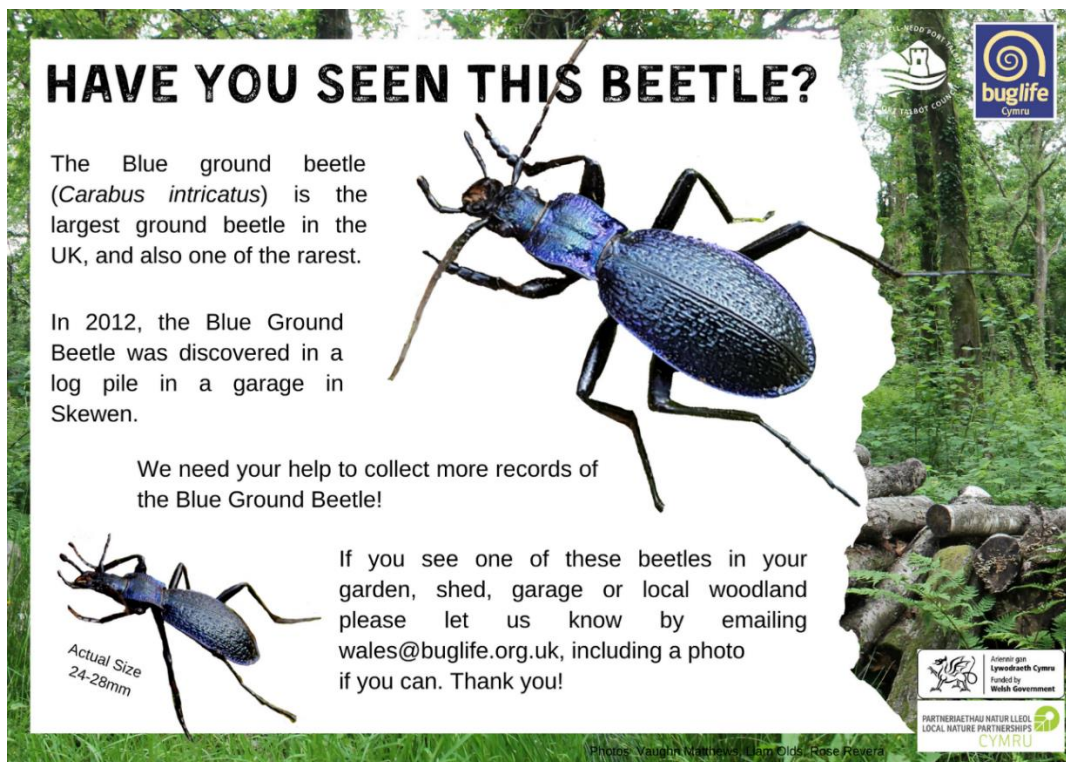
- 3.1.5 **Sites of Importance for Nature Conservation (SINC) surveys** – The C&WT undertake a standard 10% of SINC surveys annually which provides up to date information to feed into the Authority’s decision making processes.
- 3.1.6 **Data collection** – the Authority has in-house expertise and software which can collect, collate, interrogate and display a variety of data. Using specialist software the Authority is able to generate and share biological records. The use of QGIS mapping software enables the Authority to analyse a variety of data in map form, displaying data in a way that people can easily relate to. Recently this was used to map priority areas for Green Infrastructure interventions and to liaise with the



### 3. Highlights, Key Outcomes and Issues

public on how these should be delivered.

- 3.1.7 The **Colliery Spoil Biodiversity Initiative** surveyed several coal spoil sites throughout NPT and RCT; positively identifying 901 invertebrate species. Of these, 195 (~22%) are deemed to be of conservation priority (i.e. species considered Nationally/ Locally Scarce or Rare in Britain and/ or listed under Section 7 of the Environment (Wales) Act 2016 as species of principal importance in Wales). The work highlighted the importance of the habitat (coal spoil) in reproducing the conditions found in coastal habitats, allowing species displaced from the coast to disperse into other areas.
- 3.1.8 The charity **Buglife** ran a **Blue ground beetle project in 2019**. The Skewen area is the only place this beetle is found in Wales. Supported by the Council and the Local Nature Partnership, the Project engaged local people in the search for the beetle and in practical habitat management projects. Surveys by volunteers and professionals revealed the local conditions the beetle requires and generated many records. Identification postcards have been produced to encourage and report any further sightings.



Blue ground beetle survey card

#### Projects

- 3.1.9 The Council is successfully leading on a number of biodiversity focused grant funded projects, including multi-agency projects at a regional and landscape scale. These include:
- **The Lost Peatlands Project**, funded by the Heritage Fund. With over £400K already secured for the development there is the potential for a further £1.8M as part of the delivery phase. The project works in partnership with several organisations including NRW, Rhondda Cynon Taf (RCT), Swansea

### 3. Highlights, Key Outcomes and Issues

University, Coed Lleol (Small Woods Association) and Active Building Centre. It will restore peatland to help combat climate change and enhance biodiversity. Community engagement events will reconnect people with the wildlife, landscape and heritage of the area.

- **The Working with Nature Project**, which has supported volunteers and local communities in bringing sites into active management for biodiversity, including Local Nature Reserves, Parks and SINCs (Sites of Importance for Nature Conservation). Funded through LEADER and WG Single Revenue Grant.
- **Connecting Green Infrastructure – South West Wales** (Welsh Government Enabling Natural Resources and Well-being (EnRAW). This regional project took forward a new and collaborative approach to designing and implementing green infrastructure (GI) and nature recovery across Neath Port Talbot (NPT), Swansea and Carmarthenshire, for the benefit of local communities and their natural environment. £425K was secured for 2019/20, with a further application for £2.6M progressed to full application through the RDP ENRaW funding stream.
- Additional funding has also been secured from the Heritage Lottery Fund and Natural Resources Wales for distinct sites; **Dyffryn Railway Wildlife Site and Craig Gwladus Country Park**, with a particular focus at Craig Gwladus Country Park on developing a long term funding and income generation strategy for ongoing management of the site.
- The Council is a collaborative partner in the **Local Nature Partnership (LNP) Cymru Project**, with Welsh Council for Voluntary Action (WCVA) as project lead, and again funded through the ENRaW funding stream. The funding has enabled the employment of a dedicated LNP Officer, providing a supporting role for NPT's Nature Partnership in development of the LNP Plan and delivery of biodiversity action.



NPT Local Nature Partnership site visit

## 3. Highlights, Key Outcomes and Issues

### 3.2 Positive Outcomes for Health and Wellbeing

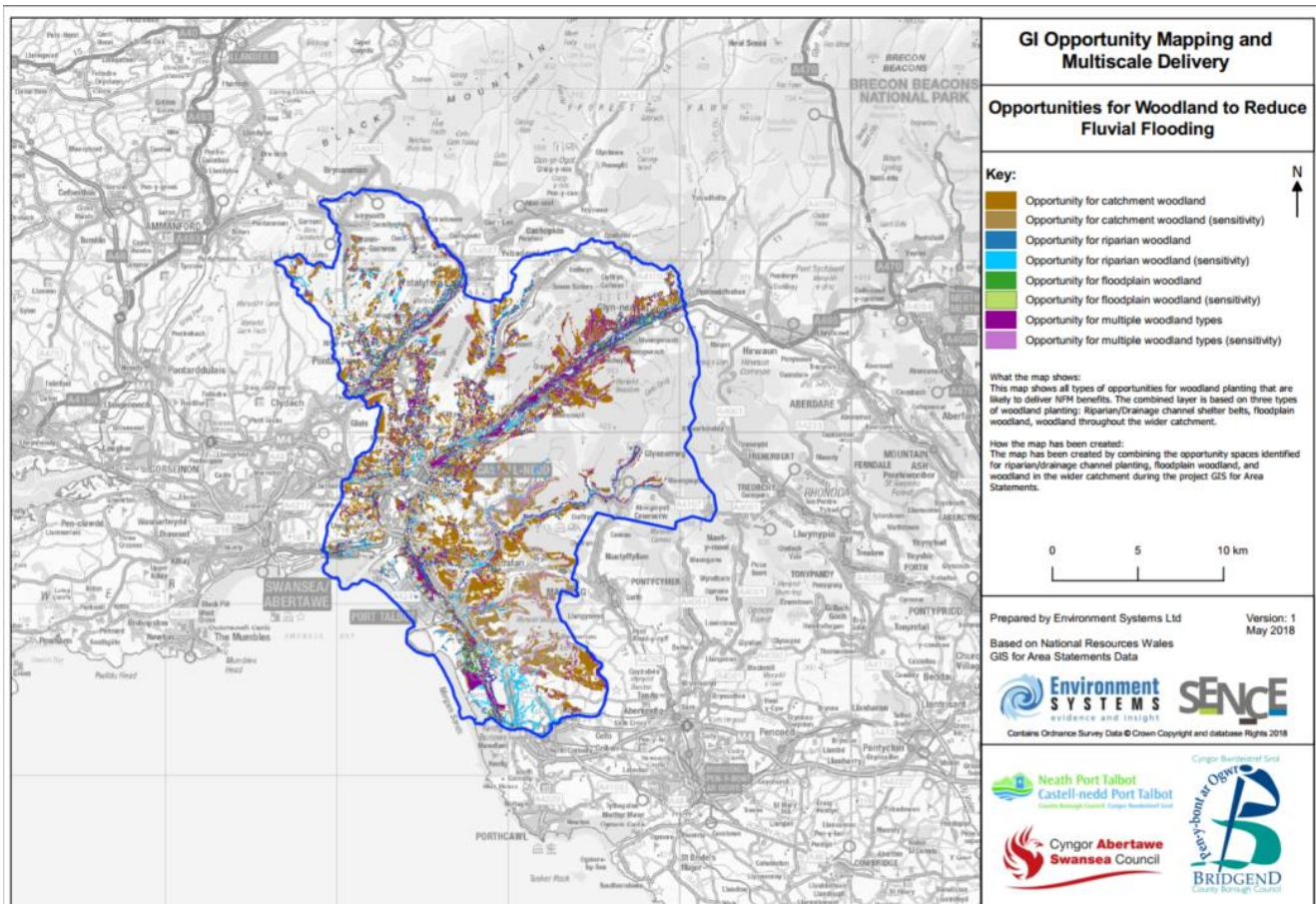
- 3.2.1 Engagement in the natural environment is now a strong element across all biodiversity projects being delivered by the C&W Team, either by participation in conservation activities, or through more focused well-being activities, designed to encourage new users to a site and / or increase confidence in engaging in these kinds of activities.
- 3.2.2 **Working with Nature** has, in particular, focused on well-being as a key outcome, engaging with a range of people of differing abilities and interests across the County Borough. The project has engaged with over 700 participants in the natural environment through the delivery of over 300 conservation and well-being activities since the project started. Participants have reported improved mental and physical well-being through increased physical activity, social engagement and interaction with nature. Partnership working with Coed Lleol (Small Woods Wales) has provided more targeted health and well-being activities, to increase opportunities for engagement and to benefit from access to the natural environment.



Wild cooking at Cwm Du Glen and Glanrhyd Plantation LNR, Pontardawe

- 3.2.3 A **Regional Green Infrastructure (GI) project** covered NPT, Bridgend and Swansea areas. Maps were produced that identified areas suitable for GI for various ecosystem services. One main driver of the project was to enhance access to open space to improve health and wellbeing. The data and maps will be used to feed into the production of the Neath Port Talbot Green Infrastructure Assessment (GIA) and steer future work on the ground.

### 3. Highlights, Key Outcomes and Issues



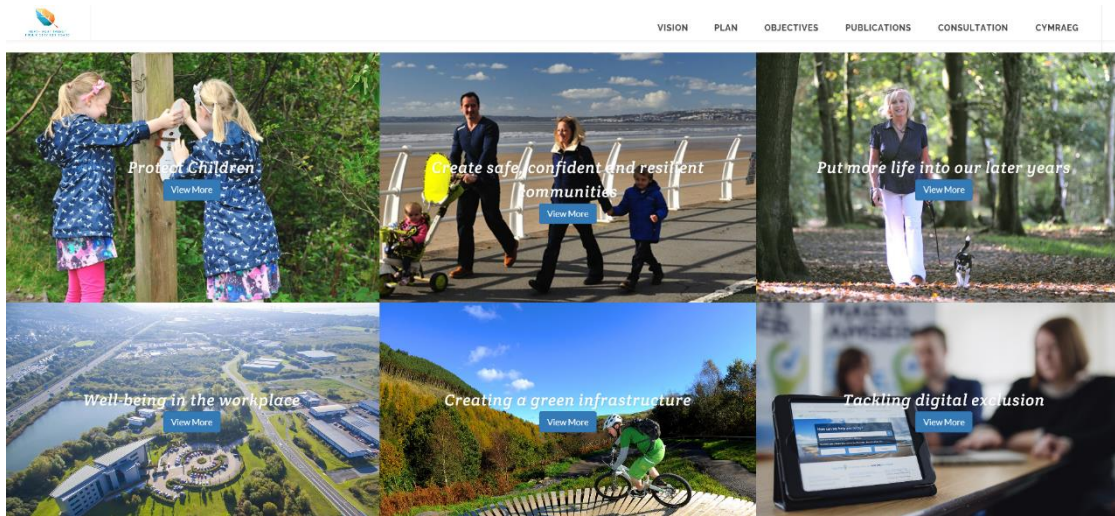
Example of a map produced for the GI project

#### 3.3 Key Enablers

- 3.3.1 The Council’s long established C&WT provide services and advice throughout the authority. The responsibility for this Plan was embedded into a permanent post, the Biodiversity Implementation Officer, whilst the scope and capacity of the team has been enhanced by the creation of a new consultancy service and employment of a graduate ecologist to support this service. This has allowed closer working with other service areas and wider awareness of the Council’s statutory duties.
- 3.3.2 There is good support for the C&WT at a corporate level, in delivering the requirements of the Plan, and in taking forward wider projects and initiatives. This has enabled a prominent role in regional and multi-agency projects, adding significant value to existing Council resources, whilst also supporting improved collaborative working with other departments.
- 3.3.3 Having a named Member as Biodiversity Champion has raised the profile of the biodiversity of NPT. It has also enabled a closer working relationship with Members.
- 3.3.4 The Well-being and Future Generations Act has supported an enhanced profile for biodiversity at a corporate and multi-agency level, also leading to increased opportunities for more cross-sector partnership working. The inclusion of Green

## 3. Highlights, Key Outcomes and Issues

Infrastructure as a cross-cutting theme in the Public Service Board's Well-being Plan was a notable achievement.



NPT Public Service Board Objectives

### 3.4 Notable Barriers

- 3.4.1 Biodiversity has consistently been under-resourced over the years and this is equally the case in Neath Port Talbot. Whilst the Council has succeeded in putting in place a good size team to deliver on biodiversity, this is heavily supported by income generation schemes and external grant funding, and consequently many posts are temporary. NPT Council made a commitment to secure a permanent post in order to deliver this Plan, however, this has inevitably put pressure on the team in delivering its wider functions. The provision of core funding to Public Bodies to appropriately resource the delivery of the Biodiversity Duty would have been welcomed, and going forward would provide greater opportunity to deliver against the Act.
- 3.4.2 The loss of regular and long term funding (i.e. the loss of the NRW Funding Partnership stream) and subsequently the Single Revenue Grant, has led to uncertainty for staff members and reduced capacity to deliver for biodiversity. Whilst the team has been successful in drawing down funding, these are often short term and related to specific project delivery. Whilst schemes such as ENRaW are extremely valuable for delivery of larger projects, there remains a gap in core funding, which reduces ability for long term planning and delivery. This is equally relevant for loss of core funding for voluntary organisations, the impact of which has already been seen in NPT by the loss of core funding for PONT, and subsequently the loss of the Glamorgan Grazing Scheme.
- 3.4.3 Whilst significant progress has been made in integrating biodiversity into decision making, there remains challenges in accommodating biodiversity requirements to the fullest extent possible. Some departments can be constrained by financial pressures, their own grant requirements and other statutory duties, and there remains a need to further integrate biodiversity requirements at a corporate level, and into governance and funding mechanisms fed down from Welsh Government.

## 4. Action Report

### 4 Action Report

#### 4.1 Nature Recovery Action Plan (NRAP) Objectives

- 4.1.1 This section reports on actions in the S6 duty plan, which were based on the objectives in the Nature Recovery Action Plan (NRAP) for Wales. The NRAP outlines how Wales will meet the commitments of the Convention on Biological Diversity, which is the key international agreement on biodiversity to which the UK Government is the signatory.
- 4.1.2 Progress against the milestones in the Plan are given with recommendations on future action. Amendments are explained and proposed new actions are suggested.
- 4.1.3 Identification of new milestones for years 3 to 5 will be undertaken for the new 2020 Plan. Where relevant in relation to amended actions, some of these milestones are included within this implementation report.

**Figure 2 – Nature Recovery Action Plan (NRAP) Objectives**

NRAP Objectives	
1	Engage and support participation and understanding to embed biodiversity throughout decision making at all levels
2	Safeguard species and habitats of principal importance and improve their management
3	Increase the resilience of our natural environment by restoring degraded habitats and habitat creation
4	Tackle key pressures on species and habitats
5	Improve our evidence, understanding and monitoring
6	Put in place a framework of governance and support for delivery

- 4.1.4 Some actions deliver against a range of objectives, however to avoid duplication, the actions are organised into the most appropriate NRAP objective with any additional relevant objectives (that they contribute to) highlighted in the coloured table below each action.
- 4.1.5 When producing the Plan, any actions that were already being carried out by the Council were highlighted in **Blue** and those that would be instigated through the Plan were highlighted in **Green**. Those that have started will revert to blue in the new Plan and actions recommended for deletion are highlighted in **Red**.

NB. C&WT = Countryside and Wildlife Team; Year 1 = December 2017 – March 2019 and Year 2 = April 2019 – March 2020.

## 4. Action Report

**NRAP Objective 1: Engage and support participation and understanding to embed biodiversity throughout decision making at all levels**

1.1	<b>BIODIVERSITY ADVISORY SERVICE</b>
Action	NPTC currently consider biodiversity in a wide range of functions, specifically through implementing the policies of the Local Development Plan (LDP) when making decisions through the development management process.
Reporting mechanism	C&WT planning spreadsheet which lists all planning applications that have received a Biodiversity response. The spreadsheet lists net loss / gain of habitat and recommendations to improve the scheme i.e. bat boxes. This information is also plotted on GIS.
Milestone year 1	Meet with the development management team to ensure the Biodiversity recommendations are in an appropriate format and update on the latest legislation/policy/regulations.
Progress	Internal response templates changed to reflect changes in legislation/policy/regulations.
Milestone year 2	Continue to liaise with the development management team to ensure the biodiversity recommendations (including the standardised biodiversity conditions) are included within the DM officer's reports in an appropriate format and provide an update to the DM Team on the latest legislation/policy/regulations.
Progress	Currently working with the development management team to standardise the wording of some planning conditions.
Recommendation	<p><b>Amend Action 1.1 to make reference to providing biodiversity advice to the SAB (SuDs Approving Body) team</b></p> <p><b>Action</b> - the Council currently consider biodiversity in a wide range of functions, specifically through implementing the policies of the LDP when making decisions through the development management process and as part of the SuDs (Sustainable Urban Drainage Systems) Approving Body.</p> <p><b>Milestones</b> - All advice recorded in the spreadsheet followed.</p>

NRAP Objectives	1					6
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1.2	<b>NATURAL RESOURCES MANAGEMENT WORKING GROUP</b>
Action	The NPT Natural Resources Management working group has been set up to consider opportunities to deliver sustainable natural resource management through the functions of the Environment Directorate.
Reporting mechanism	Attendance at regular meetings.
Milestone year 1	In line with the requirements of the group – awareness raising and sharing of good practice.

## 4. Action Report

Progress	Initial meetings were held, providing the opportunity for increased understanding of wider departmental remits and work practices.
Milestone year 2	N/A
Progress	N/A
Recommendation	<b>Remove this action.</b>  The NPT Green Infrastructure Core Group has since been established, to lead on delivery of the Public Service Board's (PSB) Green Infrastructure (GI) theme. Resources have been reprioritised to this group, due to the opportunity for wider partnership working.

NRAP Objectives	1		3	4		6
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1.3	<b>SERVICE ASSESSMENT</b>
Action	All services to be risk assessed to determine their potential impact on biodiversity and opportunities for best practice. Training provided as appropriate.
Reporting mechanism	Standard reports by the C&WT for each service.
Milestone year 1	Programme of assessment to be drawn up by C&WT - Assessments have started.
Progress	6 assessments carried out so far.
Milestone year 2	Assessments progressing and actions resulting from the recommendations included within the next Plan.
Progress	Work needed to identify roles and hierarchy of departments was greater than anticipated, therefore initial assessments will take longer than originally anticipated. Actions to be proposed once service assessment complete.
Recommendation	<b>Retain action.</b>

NRAP Objectives	1					
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1.4	<b>C&amp;WT EARLY ENGAGEMENT</b>
Action	The C&WT will identify service areas and set up regular meetings as appropriate, to discuss work plans and identify early issues/opportunities for biodiversity/ecosystem enhancements.
Reporting mechanism	Attendance at regular meetings.
Milestone year 1	Programme of meetings to be agreed. Meetings started.
Progress	Meetings held on an ad hoc basis since the Graduate Ecologist has been in post, as projects come up. This has allowed for early engagement and the flexibility for continual involvement and reaction to issues. The need for regular meetings will be kept under review and revisited if current programme of meeting is considered to be inadequate.
Milestone year 2	Meetings continuing.



## 4. Action Report

Progress	More departments have contacted the C&WT for advice, which is being provided.
Recommendation	<p><b>Amend action and reporting mechanism as set out below:</b></p> <p><b>Action</b> - The C&amp;WT are regularly consulted by other service areas and give appropriate advice and services.</p> <p><b>Reporting Mechanism</b> – Spreadsheet /PASTA.</p> <p><b>Milestones</b> - Retain internal consultancy function and continue to provide early advice to service areas throughout the Authority. All advice followed.</p>
NRAP Objectives	

1.5	<b>DECISION MAKING PROCESS</b>
Action	Biodiversity will be integrated into the impact assessment toolkit (Integrated Impact Assessment (IIA)) being developed as part of the Council's decision making process.
Reporting mechanism	Standard section in Committee reports.
Milestone year1	Proposals put forward for inclusion in the toolkit.
Progress	Inclusion in toolkit.
Milestone year 2	All committee reports to contain a report on outcomes of the impact assessment.
Progress	Specific biodiversity impact question in the Integrated Impact Assessment (IIA).
Recommendation	<p><b>Amend action as set out below:</b></p> <p><b>Action</b> - The Integrated Impact Assessment (IIA) that accompanies all committee reports includes an assessment of the impact on biodiversity in line with the Environment (Wales) Act 2016.</p>
NRAP Objectives	

1.6	<b>TRAINING</b>
Action	Integrate biodiversity into any Elected Member or officer training being delivered as part of the Well-being and Future Generations Act, 2015.
Reporting mechanism	Training in line with well-being objectives.
Milestone year1	Agreement made to include biodiversity in training material being developed.
Progress	Training has been provided as part of the Integrated Impact Assessment (IIA) process to officers and members, of which

## 4. Action Report

	biodiversity is a key element. No further training has been carried out as part of the Well-being and Future Generations Act.
Milestone year 2	Biodiversity integrated into the training programme.
Progress	Training has been provided as part of the Integrated Impact Assessment (IIA) process to officers and members, of which biodiversity is a key element. No further training has been carried out as part of the Well-being and future Generations Act.
Recommendation	<b>Amend action as set out below:</b>  Opportunities are taken to integrate biodiversity into any Elected Member or officer training (where appropriate) being delivered to raise awareness of S6 Duty / Biodiversity.
NRAP Objectives	1 6

1.7	<b>BIODIVERSITY SPG</b>
Action	Prepare, adopt and implement the Biodiversity Supplementary Planning Guidance in line with LDP policies.
Reporting mechanism	SPG written.
Milestone year 1	SPG draft June 2017.
Progress	Published.
Milestone year 2	Implement SPG.
Progress	SPG being used to assess planning applications.
Recommendation	Amend the Action and Reporting mechanism as set out below:  <b>Action</b> - Implement the Biodiversity Supplementary Planning Guidance in line with LDP policies.  <b>Reporting Mechanism</b> – C&WT Planning spreadsheet.  <b>Milestones</b> - Implement SPG.
NRAP Objectives	1 2 3 4 5 6

1.8	<b>WELL-BEING PROCESS</b>
Action	A healthy, functioning ecosystem is a vital component of our well-being, and the principles of the Biodiversity Plan will need to be integrated into the requirements of the Well-being of Future Generations (Wales) Act, 2015. Ensure that actions taken to deliver the Biodiversity Duty are part of the Council's Well-being objectives.
Reporting mechanism	Via well-being objectives.
Milestone year 1	TBC from Well-being objectives.

## 4. Action Report

Progress	An overarching action to deliver the Biodiversity Duty Plan has been integrated into Well-being Objective 3 - to develop the local economy and environment so that the well-being of people can be improved. Ref. 3.5.1: All services work together to deliver the Biodiversity Duty Plan and Green Infrastructure across the County Borough. In addition, a Key Performance Indicator is built into the Corporate Plan for management of council owned land.
Milestone year 2	Further detail on delivery against the Biodiversity Duty Plan achieved through monitoring of performance indicators, reporting on a quarterly basis.
Progress	Delivery against performance indicators reported at Committee quarterly, with delivery against the Biodiversity Duty included in the annual update on the Corporate Plan. Furthermore, the Council is a key partner in the Public Service Board, which is responsible for delivery of the NPT Well-being Plan. Biodiversity is seen as an integral part of green infrastructure, which in turn is recognised as a cross-cutting theme across each of the well-being objectives.
Recommendation	<p><b>Amend text of action and reporting mechanism as set out below:</b></p> <p><b>Action</b> - Deliver against 'Shaping NPT, the Council Corporate Plan's Improvement Priority 3.5; protect, conserve and enhance our natural environment and increasing awareness of its value and encouraging wider participation. Support delivery of the Green Infrastructure Cross Cutting Objective of the Public Service Board's Well-being Plan.</p> <p><b>Reporting Mechanism</b> - Via the Corporate Plan and PSB annual reports.</p>

NRAP Objectives	1	2	3	4	5	6
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### Proposed new action

1.8	<b>NEW COUNCIL STRATEGIES</b>
Action	C&WT to collaborate where appropriate with other sections to aid in the development of strategies or plans that contribute towards biodiversity conservation and respond to consultations and reviews of existing plans.
Reporting mechanism	BDP Reporting Spreadsheet (presented within the next report).
Milestone year 3	N/A
Milestone year 4	N/A
Milestone year 5	N/A
Recommendation	<b>Adopt this action as part of the new Plan.</b>

NRAP Objectives	1	2	3	4	5	6
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## 4. Action Report

### NRAP Objective 2: Safeguard species and habitats of principal importance and improve their management

2.1	<b>RE-VISIT CURRENT SCHEMES</b>
Action	Through a series of previous projects, including Conservation Areas and Verges, other service areas are aware of the importance of biodiversity. C&WT are reviewing these projects to assess their effectiveness, and if relevant, will seek amendments to existing schemes.
Reporting mechanism	Review report.
Milestone year 1	The review will be complete.
Progress	All known sites brought into one GIS layer.
Milestone year 2	Infrastructure across the County Borough.
Progress	Implementation of management requirements across infrastructure and sites continued. Early discussions have been held on a further review of the scheme to include all verges.
Recommendation	<p><b>Amend Action to:</b> Nature Conservation Sites Scheme. Undertake a review of the Nature Conservation Sites' scheme to include management of all verges and of council owned sites.</p> <p><b>Milestone year 3</b> – A working group is underway to develop the new scheme Milestone year 4 and 5 – implement the new scheme.</p>
NRAP Objectives	

2.2	<b>DEVELOPMENT MANAGEMENT PROCESS</b>
Action	NPTC currently consider biodiversity (including species and habitats of principal importance, designated sites, sites of importance for nature conservation (SINC), habitats and species that meet the SINC criteria, and important natural features) through the development management process, in line with the Local Development Plan. Losses of protected/priority habitat/species (where known) are recorded.
Reporting mechanism	C&WT planning spreadsheet.
Milestone year 1	No net loss and, where possible, net gain of S7 and SINC habitats/species through the planning process. No net loss of habitat / species that are designating features of a site.
Progress	There was no net loss.
Milestone year 2	No net loss and, where possible, net gain of S7 and SINC habitats/species through the planning process. No net loss of habitat / species that are designating features of a site.
Progress	Net loss of 0.15ha of SINC habitat (open mosaic on previously developed land).
Recommendation	<b>Retain.</b>

## 4. Action Report

NRAP Objectives	1	2	3	4	5	6
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2.3	<b>WG ESD LA GRANT</b>
Action	NPTCBC draw down funding from the WG Environment and Sustainable Development (ESD) Grant. This is partly allocated to the C&WT who utilise it to administer biodiversity enhancement and engagement projects.
Reporting mechanism	As grant requirements.
Milestone year 1	As grant requirements.
Progress	A range of projects and initiatives were delivered as part of the grant, including community support, habitat management and species surveys, delivery of outdoor focussed health and well-being programmes and volunteer training, partnership support and landowner support for woodland creation and management.
Milestone year 2	As grant requirements.
Progress	The ESD grant has been discontinued by Welsh Government and replaced by the competitive Enabling Natural Resources and Well-being Grant (EnRAW). The Council were initially awarded funding for one year and have now resubmitted for a three year project to run from 1 <sup>st</sup> April, 2020. An expression of interest was successful and the outcome of the full application is pending.
Recommendation	<b>Remove this Action.</b>

NRAP Objectives	1	2	3			
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2.4	<b>WORKING WITH NATURE</b>
Action	The grant funded Working with Nature Project undertakes conservation and community engagement activities at publicly accessible sites, focusing on the multiple benefits to be had from the natural environment.
Reporting mechanism	As grant funded requirements, including RDP LEADER and WG ESD LA Grant.
Milestone year 1	As grant requirements.
Progress	The Working with Nature Project started in August 2016. The project has delivered environmental and access improvements to a number of sites, through the help of volunteers and community groups. The project has engaged with 616 people by March, 2019, 230 of which were during the 18/19 financial year. A combined total of 156 activities were completed, including a range of educational, volunteer and engagement events, working across 17 sites across the County Borough.
Milestone year 2	As grant requirements.
Progress	The project has continued, with additional funding support secured as part of the WG Enabling Natural Resources and Well-being Grant. A further 164 activities have been carried out, bringing the total to 320 across the project duration, with 791

## 4. Action Report

	people engaged from project start. The project has been extremely successful however is nearing the end of its funding stream. Continuation of Working with Nature is being sought as part of a wider Green Infrastructure project through ENRaW funding.
Recommendation	<b>Delete and incorporate into an amended action 2.9, as part of wider funding opportunities.</b>
NRAP Objectives	2

2.5	<b>NPT NATURE PARTNERSHIP</b>
Action	NPTCBC facilitates the NPT Nature Partnership which implements the Local Biodiversity Action Plan (LBAP). This is a key mechanism for species and habitat conservation in the County Borough.
Reporting mechanism	The NPT LBAP reporting spreadsheet.
Milestone year 1	Continue to provide secretariat for the NPT Nature Partnership, providing support in the delivery of targeted action.
Progress	Ongoing.
Milestone year 2	Continue to provide secretariat for the NPT Nature Partnership, providing support in the delivery of targeted action.
Progress	NPT Nature Partnership have decided to re-write the Local Biodiversity Action Plan and they will create a new reporting mechanism. A replacement system to the UK-wide 'Biodiversity Action Reporting System' from WG is pending.
Recommendation	<b>Amend Action and Reporting Mechanism as set out below:</b>  <b>Action:</b> The Council facilitates the NPT Nature Partnership which implements the NPT Nature Plan. This is a key mechanism for species and habitat conservation in the County.  <b>Milestone Year 3</b> – Timescale and Process will be agreed with the Nature Partnership.
NRAP Objectives	1 2 3 4 5 6

2.6	<b>AWARENESS RAISING</b>
Action	The C&WT raise awareness of biodiversity through a variety of methods; training, public engagement (walks/talks), interpretation panels, leaflets, web pages, social media.
Reporting mechanism	Project delivery and ongoing upkeep of the NPTCBC web pages and NPT Wildlife Facebook page.
Milestone year 1	2 awareness raising projects per year; and year on year increase in visitors to the web pages and likes on the Facebook page.
Progress	As of Jan 1st 2019 NPT Wildlife Facebook had 725 followers which increased to 785 in May 15th.

## 4. Action Report

	Beach Festival; and The Gnoll Wildlife Explorer Trail.
Milestone year 2	2 awareness raising projects per year; and year on year increase in visitors to the web pages and likes on the Facebook page.
Progress	Craig Gwladus bio-blitz; Fen raft spider walk; As of March 2020, the NPT Wildlife Facebook page has 802 followers with an approximately 750 likes to the Group.
Recommendation	<b>Amend Milestones:</b> by changing likes to followers and remove hits to webpage as there is no single landing page. Two awareness raising projects per year and year on year increase in followers on the Facebook page.

NRAP Objectives	1	2	4	5
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2.7	<b>BIODIVERSITY AUDIT</b>
Action	<p>Undertake a biodiversity audit on land within our ownership and control, to identify where we have protected/S7 habitats and species on our land. Priority will then be given to those areas / sites where protected Section 7 habitats / species have been identified which offer the greatest benefit to biodiversity, considering one of the following options:</p> <ol style="list-style-type: none"> <li>1) The status quo – with no further action being taken.</li> <li>2) Be brought into appropriate management for the benefit of biodiversity. This may be through: The Authority and, where necessary, suitable revenue sources can be secured by way of external funding to support and manage the identified sites. Lease to external parties. NB Any notional financial loss to the Authority needs to be reported and agreed before any lease is granted.</li> <li>3) Any future disposal of a site will include relevant information from the audit so that the purchaser / tenant can comply with the relevant requirements.</li> <li>4) In advance of undertaking any works and / or any material changes in land use on sites owned and controlled by the Authority, it will take into consideration the findings of the audit, taking steps to conserve and where possible enhance the biodiversity value</li> </ol>
Reporting mechanism	First report will be results of audit.
Milestone year 1	Programme of assessment to be drawn up by C&WT.
Progress	Assessment started. Stock phrases created. Sites audited looking at each valley working east to west across the county.
Milestone year 2	Assessments completed and actions put forward for the next stage of the plan.
Progress	Audit still ongoing with priority being given to sites that are being considered for change of use / management. This is a large and

## 4. Action Report

	complex task that will take longer to complete than originally anticipated.
Recommendation	<b>Amend Milestones as set out below:</b> Milestone year 3 - Assessment ongoing. Milestone year 4 - Advice provided as part of assessment followed. Milestone year 5 - Ongoing communications. Advice followed.
NRAP Objectives	

2.8	<b>NATIONAL GUIDANCE</b>
Action	Implement any national/regional guidance on enhancing biodiversity and ecosystems resilience through the planning system. Any new guidance will be taken into account and integrated into the system.
Reporting mechanism	C&WT Planning spreadsheet.
Milestone year 1	All national/regional guidance to be integrated into the planning system within 3 months of its release.
Progress	New guidance includes Planning Policy Wales 10 and the new guidance on bats and wind turbines.
Milestone year 2	All national/regional guidance to be integrated into the planning system within 3 months of its release.
Progress	Ongoing.
Recommendation	<b>Retain.</b>
NRAP Objectives	

2.9	<b>FUNDING</b>
Action	Apply for funding as opportunities arise, either specifically for biodiversity or as part of wider schemes delivering multiple benefits.
Reporting mechanism	As funding requirements.
Milestone year 1	As opportunities arise.
Progress	<p>Successful Heritage Fund bid for the Lost Peatlands Project £434,751 development phase, with the potential to apply for a further £1.8million HF funding with overall project cost of £2.1 million.</p> <p>Money secured from the WG GI capital grant. The Council led on the regional, multi partner project. The project included mapping demand and opportunity areas, engaging with local communities, GI design and delivery of on the ground GI infrastructure.</p> <p>Additional funding has also been secured from the Heritage Lottery Fund and Natural Resources Wales for distinct areas;</p>



## 4. Action Report

	Dyffryn Railway Wildlife Site and Craig Gwladus Country Park. Each were delivered in partnership with dedicated community groups: Afan Environment Volunteers and Friends of Craig Gwladus respectively.
Milestone year 2	As opportunities arise.
Progress	<p>Funding was secured for the Connecting Green Infrastructure – South West Wales Project, through the Welsh Government Enabling Natural Resources and Well-being (EnRAW). £425K was drawn down for the region, with a further application for £2.6M progressed to full application through the RDP ENRaW funding stream.</p> <p>Additional funding was secured for further delivery at Craig Gwladus Country Park as part of a long term strategy, whilst Dyffryn Railway delivered again its final year of funding.</p> <p>The Council is a collaborative partner in the Local Nature Partnership (LNP) Cymru Project, providing a supporting role for NPT’s Nature Partnership. Welsh Council for Voluntary Action (WCVA) are project lead, and was again funded through the ENRaW funding stream.</p>
Recommendation	<p><b>Amend action as set out below:</b></p> <p>Apply for funding as opportunities arise, to continue to deliver on Working with Nature, for biodiversity, or as part of strategic, multi-functional projects delivering multiple benefits.</p>

NRAP Objectives	1	2	3	4	5	6
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### NRAP Objective 3: Increase the resilience of our natural environment by restoring degraded habitats and habitat creation

3.1	<b>CURRENT MANAGEMENT</b>
Action	NPTC areas are currently being managed to ensure their resilience.
Reporting mechanism	GIS layer kept of areas under active management.
Milestone year 1	Sites continue to be managed for the resilience of our natural environment.
Progress	Nature Conservation Sites’ GIS layer created and maintained.
Milestone year 2	There is an increase in sites being managed for the resilience of our natural environment.
Progress	There has been an overall increase in the area of land being managed through the creation of a reptile compensation site on council land.

## 4. Action Report

Recommendation	<p><b>Retain, but amend measure from ‘number of sites’ to an area based measure, and to exclude areas within the verge management scheme.</b></p> <p><b>Reporting Mechanism:</b> reported through the KPI’s within the Corporate Plan.</p> <p><b>Milestones year 3</b> - Agree an amended KPI as part of the Corporate Plan.</p>
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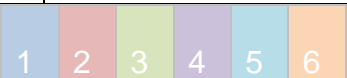
NRAP Objectives	1	2	3	4	5	6
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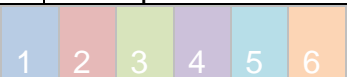
3.2	<b>HABITAT MANAGEMENT THROUGH DEVELOPMENT MANAGEMENT</b>
Action	Through the development management process habitat management plans are put in place increasing the resilience of our natural environment and improving the management of S7 habitats.
Reporting mechanism	C&WT Planning spreadsheet.
Milestone year 1	Appropriate assessments of ecosystems resilience submitted through the planning process and appropriate measures to deliver improvements taken.
Progress	Ecosystem resilience assessments are being submitted for relevant planning applications, however, due to the lack of national guidance the quality and detail of this assessment is lacking.
Milestone year 2	Appropriate assessments of ecosystems resilience submitted through the planning process and appropriate measures to deliver improvements taken.
Progress	Ecosystem resilience assessments are being submitted for relevant planning applications, however, due to the lack of national guidance the quality and detail of this assessment is lacking.
Recommendation	<b>Retain.</b>

NRAP Objectives	1	2	3	4	5	6
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3.3	<b>COED CYMRU</b>
Action	NPTC are key partners in the Coed Cymru initiative, Wales’ foremost woodland organisation. Coed Cymru aims to improve the condition of Welsh woodland and integrate new woodlands into the landscape, through the provision of advice, support, innovation and access to grant aid. They bring research about the role of trees in flooding, soils and water, agricultural productivity and wider ecosystem services into practice.
Reporting mechanism	Annual funding reports.

## 4. Action Report

Milestone year 1	As Coed Cymru objectives.
Progress	Woodland management advice ongoing and woodland creation plans approved and implemented on private land, including local businesses.
Milestone year 2	As Coed Cymru objectives.
Progress	Landowner advice continued with plans in place for future woodland creation. Collaborated with Green Infrastructure project on Trees for Schools project – planting trees across 11 school grounds in NPT. Worked with Tai Tarian (Registered Social Landlord (RSL)) – to identify and design planting on social housing sites throughout NPT.
Recommendation	<b>Retain.</b>
NRAP Objectives	

3.4	<b>AREA STATEMENTS</b>
Action	NPTCBC will assist NRW in writing and implementing Area Statements as required.
Reporting mechanism	As required.
Milestone year 1	As appropriate.
Progress	NRW have not sought NPT input yet.
Milestone year 2	As appropriate.
Progress	Hosted an Area Statement workshop in The Quays, fed back on questions NRW required. Attended and contributed towards numerous Area Statement stakeholder events. Area Statements have now been published.
Recommendation	<b>Amend action as set out below:</b>  The Council will assist NRW in implementing Area Statements as required.
NRAP Objectives	

### Proposed new action

3.5	<b>GREEN INFRASTRUCTURE ASSESSMENT</b>
Action	The Council will undertake a Green Infrastructure Assessment (GIA) in line with the requirements of Planning Policy Wales (PPW) for Neath Port Talbot (NPT).
Reporting mechanism	LDP Planning Inspectorate and Welsh Government approval as part of the evidence base that will underpin the LDP.
Milestone year 3	Engagement, participation and contribution in partnership with the LDP Team to produce a GIA for the Authority.
Milestone year 4	Engagement, participation and contribution in partnership with the LDP Team to produce a GIA for the Authority.
Milestone year 5	GIA complete.

## 4. Action Report

Recommendation	<b>Adopt as part of the new Plan.</b>					
NRAP Objectives			3	4	5	

### Objective 4: Tackle key pressures on species and habitats

4.1	<b>INVASIVE NON-NATIVE SPECIES (INNS)</b>
Action	INNS are dealt with through the development management process by requesting surveys and conditioning remedial actions where appropriate.
Reporting mechanism	Planning decision notices.
Milestone year 1	Appropriate conditions applied where INNS are identified.
Progress	Ongoing.
Milestone year 2	Appropriate conditions applied where INNS are identified.
Progress	Ongoing. There are additional activities being undertaken on Council owned land.
Recommendation	<b>Amend action and Reporting Mechanism as set out below:</b>  <b>Action</b> - A proactive approach is taken to dealing with INNS including Development Management Process and treatment on Council land.  <b>Reporting Mechanism</b> - C&WT Planning spreadsheet and BDP Spreadsheet.

NRAP Objectives	1		3	4	5	6
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4.2	<b>AIR QUALITY</b>
Action	The air quality implications of plans and projects are fully assessed for their potential effects on sensitive habitats and species through the HRA process.
Reporting mechanism	C&WT Planning spreadsheet.
Milestone year 1	All development proposals assessed as appropriate.
Progress	Ongoing.
Milestone year 2	All development proposals assessed as appropriate.
Progress	There have been no plans or projects that have required a HRA in the period since the Plan was written.
Recommendation	<b>Retain.</b>

NRAP Objectives	1	2	3	4	5	6
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4.3	<b>GLAMORGAN GRAZING</b>
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## 4. Action Report

Action	NPTCBC is currently supporting PONT to set up a Glamorgan Grazing project which allows land to be managed in a sensitive way. Whilst the project continues to be led by PONT, we will input into the project through landowner and grazier engagement, and identification of sites.
Reporting mechanism	Database will be held by PONT, with local contacts shared with C&WT.
Milestone year 1	Project set up and initial lists of grazers and landowners available.
Progress	List set up.
Milestone year 2	List is being utilised to bring sites under our ownership into conservation grazing.
Progress	PONT have lost their funding. Due to this loss of funding, the project is unable to continue.
Recommendation	<b>Remove.</b>

NRAP Objectives	1	2	3	4	5	6
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4.4	<b>STATE OF NATURAL RESOURCES REPORT (SoNaRR)</b>
Action	Review the SoNaRR report and identify key pressures for NPT.
Reporting mechanism	Report on key pressures identified via SoNaRR.
Milestone year 1	Report written.
Progress	Key pressures for NPT were identified from SoNaRR.
Milestone year 2	Any additional actions identified and actioned, or built into the next review process.
Progress	There was an interim SoNaRR published by WG and several other projects are gathering data – these will be used to identify local pressures.
Recommendation	<b>Amend Action and Reporting Mechanism as set out below:</b>  <b>Action:</b> Collate all of the local information and identify local pressures. <b>Reporting Mechanism:</b> Report on local pressures identified.

NRAP Objectives				4		
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### Objective 5: Improve our evidence, understanding and monitoring

5.1	<b>DATA CAPTURE</b>
Action	NPT uses a range of data capture tools and techniques. This has led to a large number of species records which are passed on to the Local Records Centre and, therefore, shared with the wider community.

## 4. Action Report

Reporting mechanism	Metadata from MapMate.
Milestone year 1	Maintenance of the MapMate database.
Progress	Ongoing.
Milestone year 2	Maintenance of the MapMate database.
Progress	Ongoing. NPTC Biodiversity has generated 11,785 records to date.
Recommendation	<b>Amend Milestones</b> - Maintenance of the MapMate database and Biodiversity GIS layers.

NRAP Objectives		2		4	5	
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5.2	<b>SITES OF IMPORTANCE FOR NATURE CONSERVATION</b>
Action	NPTC have a programme of identifying sites that qualify as Sites of Importance for Nature Conservation (SINC). This allows us to assess the quality of a site against national guidelines and each site will be reviewed within 10 years.  Within this reporting round, we will ensure that all SINC's have been reviewed within the 10 year timescale. Following this, we will introduce a programme of, on average, 10% of SINC's being reviewed annually and QGIS layer updated and shared with SEWBRc.
Reporting mechanism	Annual SINC report produced.
Milestone year 1	Put together a programme of sites to be reviewed.
Progress	Sites identified for review on a rolling 10 year programme.
Milestone year 2	Carry out a review of all SINC's that are scheduled for review this year.
Progress	17 sites were reviewed (target 12).
Recommendation	<b>Amend Milestones</b> - Carry out a review of all SINC's that are scheduled for review this year. Undertake SINC surveys on new sites as necessary, designating where appropriate.

NRAP Objectives	1	2	3	4	5	6
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5.3	<b>SURVEYS</b>
Action	NPTCBC provides secretariat for the NPT Nature Partnership which includes a number of specialist surveyors and SEWBRc. We utilise this expertise by organising surveys for targeted sites and species.
Reporting mechanism	Evidence based report by C&WT.
Milestone year 1	Work with the Partnership to take forward specialist surveys where most appropriate.

## 4. Action Report

Progress	Colliery spoil biodiversity initiative 2018 (report available). Specialist invertebrate surveys identified the high quality of our coal spoil as a habitat.
Milestone year 2	Work with the Partnership to take forward specialist surveys where most appropriate.
Progress	Blue ground beetle 2019 run by Buglife. Skewen is the only area in Wales where this beetle is found. Several suitable woodland were surveyed and population estimates gathered. Craig Gwladus bio blitz 2019. With members of the NPT Nature Partnership, Friends of Craig Gwladus the species list for the site was updated.
Recommendation	<b>Retain.</b>
NRAP Objectives	

5.4	<b>RECORD CENTRE SEARCHES</b>
Action	All planning applications containing biodiversity information must be accompanied by a SEWBReC search undertaken by/on behalf of the applicant, unless agreement is reached with the C&WT that sufficient justification exists to negate this need.
Reporting mechanism	C&WT Planning spreadsheet.
Milestone year 1	All biodiversity information contained in a planning application must be accompanied by a SEWBReC search, unless agreed otherwise.
Progress	Ongoing.
Milestone year 2	All biodiversity information contained in a planning application must be accompanied by a SEWBReC search, unless agreed otherwise.
Progress	Ongoing.
Recommendation	<b>Retain.</b>
NRAP Objectives	

5.5	<b>BIODIVERSITY COMPENSATION SCHEME</b>
Action	The grant funded Biodiversity Compensation Scheme is currently researching the potential for a compensations scheme that would allow development to move along quicker by banking compensation sites.
Reporting mechanism	As grant funding reporting.
Milestone year 1	Incorporate research findings from the 2015 project into Biodiversity SPG.
Progress	Completed.
Milestone year 2	Implement SPG via the development management process.

## 4. Action Report

Progress	Working group set up and met. Identifying potential compensation sites but only 1 site being progressed at the moment.
Recommendation	<b>Amend Action and Reporting Mechanism as set out below:</b>  <b>Action</b> - Implement the compensation scheme as set out within the Biodiversity SPG.  <b>Reporting Mechanism</b> – C&WT Planning spreadsheet.

NRAP Objectives	1	2	3	4	5	6
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5.6	<b>RESILIENT WALES GOAL</b>
Action	Contribute data towards the Wales biodiversity indicators for the Resilient Wales goal of the Well-being of Future Generations (Wales) Act 2015.
Reporting mechanism	Responses.
Milestone year 1	As required.
Progress	No data has been requested by WG.
Milestone year 2	As required.
Progress	No data has been requested by WG.
Recommendation	<b>Retain.</b>

NRAP Objectives	1				5	6
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5.7	<b>BIODIVERSITY PLAN EVIDENCE</b>
Action	Evidence to be collected to ensure compliance with this Plan.
Reporting mechanism	All reporting to be gathered and collated to report on this Plan.
Milestone year 1	End of year report.
Progress	Completed and fed into this Report.
Milestone year 2	End of year report.
Progress	Completed and fed into this Report.
Recommendation	<b>Retain.</b>

NRAP Objectives	1	2	3	4	5	6
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**NRAP Objective 6: Put in place a framework of governance and support for delivery**

6.1	<b>COUNTRYSIDE AND WILDLIFE TEAM RESOURCES</b>
Action	There is currently enough skills and capacity in the Countryside and Wildlife Team to co-ordinate the work needed to comply with the legislation, however sustaining this in the long term will be a challenge given budgetary pressures.



## 4. Action Report

Reporting mechanism	This duty reporting.
Milestone year 1	Secure the temporary post on a permanent basis.
Progress	Secured new, permanent, Biodiversity Implementation Officer post including a specific remit to implement this Plan. Income funded Graduate Ecologist employed to help build internal consultancy service.
Milestone year 2	Maintain current staffing levels.
Progress	Additional staff linked to specific grant-funded project employed - Lost Peatlands (project manager, 2x part-time ecologists) - Green Infrastructure Project (Green Infrastructure Officer).
Recommendation	<b>Amend Milestones as set out below:</b>  <b>Milestones</b> - Maintain current core staff levels and retain / employ additional project staff to deliver grant funded projects as and when funding becomes available.

NRAP Objectives	1	2	3	4	5	6
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6.2	<b>NPT NATURE PARTNERSHIP</b>
Action	Continue to support the NPT Nature Partnership, providing the secretariat, steering the objectives and collating information on member activities through the Biodiversity Officer post.
Reporting mechanism	Partnership minutes.
Milestone year 1	Continue to provide secretariat for the NPT Nature Partnership.
Progress	Ongoing.
Milestone year 2	Continue to provide secretariat for the NPT Nature Partnership.
Progress	Ongoing.
Recommendation	<b>Amend Action as set out below:</b>  To reflect the supporting role the Biodiversity Officer has with supporting partnership actions, the following amendment to the action is proposed:  Continue to support the NPT Nature Partnership, providing the secretariat, steering the objectives and supporting delivery of member action through the Biodiversity Officer post.

NRAP Objectives						6
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6.3	<b>BIODIVERSITY CHAMPION</b>
Action	A NPTC Councillor is appointed Biodiversity Champion and attends events/meetings as appropriate.

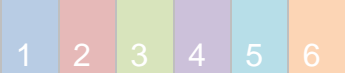
## 4. Action Report

Reporting mechanism	Attendance at regular meetings.
Milestone year 1	Continued engagement as appropriate.
Progress	A good working relationship has been established between the Biodiversity Champion and the C&W Team, with support provided as required.
Milestone year 2	Continued engagement as appropriate.
Progress	A good working relationship has been established between the Biodiversity Champion and the C&W Team, with support provided as required.
Recommendation	<b>Retain.</b>
NRAP Objectives	1 6

6.4	<b>NPT NATURE PLAN</b>
Action	Through the NPT Nature Plan, maximise opportunities to deliver priorities via volunteers and partners.
Reporting mechanism	LBAP spreadsheet.
Milestone year 1	Spreadsheet is being updated with a continual process of new actions being added and delivered.
Progress	Change to new Nature Plan.
Milestone year 2	Spreadsheet is being updated with a continual process of new actions being added and delivered.
Progress	Limited reporting whilst new Nature Plan being developed.
Recommendation	<p><b>Amend action and Reporting Mechanism as set out below:</b></p> <p>(There is a new plan (Nature Recovery Action Plan) being written by the NPT Nature Partnership as part of the LNP Cymru project).</p> <p><b>Action 6.4 - Nature Recovery Action Plan</b></p> <p><b>Reporting Mechanisms:</b> <i>Awaiting new reporting mechanisms from WG.</i></p> <p><b>Milestones:</b> Delivery of biodiversity conservation as per Nature action plan/ LNP Cymru Project. Reporting as per grant requirements.</p>
NRAP Objectives	1 2 3 4 5 6

6.5	<b>AREA STATEMENTS</b>
Action	Feed into the delivery of Area Statements where appropriate.
Reporting mechanism	As appropriate.
Milestone year 1	As appropriate.
Progress	NRW have not sought NPT input yet.

## 5. Conclusions

Milestone year 2	As appropriate.
Progress	Hosted Area Statement workshop in The Quays, fed back on questions NRW required. Attended and contributed towards numerous Area Statement stakeholder events.
Recommendation	<b>Remove - replicated in Action 3.4.</b>
NRAP Objectives	

## 5 Conclusions

### 5.1 New Actions

- 5.1.1 Since adoption of the Plan, new legislation has been introduced requiring the Local Authority to act as a SuDS (Sustainable Drainage) Approving Body (SAB). The SAB requires the management of surface water drainage for new developments to comply with mandatory National Standards for SuDS. Once built and functioning in accordance with approved proposals, the SuDS are adopted by the Local Authority. One of the Standards of SuDs relates to biodiversity and consequently the C&WT are a consultee on all SABs applications in relation to the biodiversity Standard. This function is dealt with in Action 1.1 through the biodiversity advisory service.
- 5.1.2 At the time of writing, the Council is preparing a number of new strategies/ assessments in relation to issues such as decarbonisation and green infrastructure. A new Action 1.8 has been included to adopt and implement general strategies as they are put forward.
- 5.1.3 The 2018 Green Infrastructure project resulted in a suite of bespoke GIS layers and plans identifying demand and opportunity maps for a number of different interventions for differing needs. These maps will feed into the Green Infrastructure Assessment (GIA) which is now covered by a new Action 3.5.

### 5.2 Overview

- 5.2.1 The Council has a long tradition of environmental conservation through dedicated staff, strong policy implementation and links to the wider community. The Plan has allowed the Authority to further embed biodiversity into decision making outside of the traditional service areas. As this was a new plan the first 1 ½ years has primarily focused on getting to know about wider services being delivered by the Council and details of corporate governance. Appointing a specific officer to bring together The Plan ensures that there is no duplication and all areas of work are covered.
- 5.2.2 Local Authorities are large and extremely multi-functional and consequently it has taken longer than anticipated to carry out the internal service area audit and the land audit. These actions are ongoing with milestones for the updated Plan to reflect this ongoing activity.
- 5.2.3 The Council were one of the first Local Authorities to publish a Biodiversity Duty Plan. Implementation of the plan is led by the Biodiversity Implementation Officer

and it complements other duties including supporting the NPT Nature Partnership and internal collaborations. Although some actions have taken longer to fulfil than expected, progress has been made on all actions.



## **APPENDIX 2**

First Stage Assessment: Integrated Impact Assessment (IIA)

## Integrated Impact Assessment (IIA) - First Stage

### 1. Details of the initiative

<b>Initiative description and summary:</b> Neath Port Talbot Biodiversity Duty Plan (BDP) 2017 Implementation Report
<b>Service Area:</b> Planning Policy, Planning and Public Protection
<b>Directorate:</b> Environment and Regeneration

### 2. Does the initiative affect:

	Yes	No
Service users	✓	
Staff	✓	
Wider community	✓	
Internal administrative process only		✓

### 3. Does the initiative impact on people because of their:

	Yes	No	None/ Negligible	Don't Know	Impact H/M/L	Reasons for your decision (including evidence)/How might it impact?
Age		✓				Biodiversity affects all generations and all areas of society, the actions set out within the Biodiversity Duty Plan (2017), which the attached Implementation Report monitors progress against, encourages inclusivity and involvement. Many of the projects aim to bring communities together creating and improving spaces (i.e. open space, Green Infrastructure (GI), Nature Reserves) for all members of society to meet, explore, exercise and learn. Research states being close to nature improves mental health and wellbeing.
Disability		✓				
Gender Reassignment		✓				
Marriage/Civil Partnership		✓				
Pregnancy/Maternity		✓				
Race		✓				
Religion/Belief		✓				
Sex		✓				
Sexual orientation		✓				Implementation of the actions will be inclusive and will involve the Countryside and Wildlife Team (C&WT) working with all

						staff / sections throughout the Council, the wider public and a wide range of partner organisations including those from the public, private and community / voluntary sectors.
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**4. Does the initiative impact on:**

	Yes	No	None/ Negligible	Don't Know	Impact H/M/L	Reasons for your decision (including evidence)/ How might it impact?
People's opportunities to use the Welsh language		✓				<p>All of the actions contained within the 2017 BDP adhere to the Welsh Language Standards (No. 1) Regulations 2015 and any amendments to actions or new proposed actions recommended by the Implementation Report will also adhere to these Regulations.</p> <p>As all of the technical names of species and habitats are required to be translated by the Regulations, as a result, it is felt that the opportunity for people to use and expand upon their Welsh Language vocabulary has increased providing a positive impact (albeit low) on people's use of the Welsh language.</p>
Treating the Welsh language no less favourably than English		✓				<p>All of the actions contained within the 2017 BDP adhere to the Welsh Language Standards (No. 1) Regulations 2015 and any amendments to actions or new proposed actions recommended by the Implementation Report will also adhere to these Regulations.</p> <p>All communication via the Authority's social media platforms and websites; radio broadcasts and reports etc... (whether written, visual or verbal), is translated into Welsh to ensure that the Welsh language is treated no less favourably than English.</p>

**5. Does the initiative impact on biodiversity:**

	Yes	No	None/ Negligible	Don't know	Impact H/M/L	Reasons for your decision (including evidence) / How might it impact?
To maintain and enhance biodiversity	✓				H	This is the remit of the 2017 BDP and Report. Actions contained within the BDP and monitored, with recommendations, through the Implementation Report, ensures that the Authority meets its statutory duty to



						<p>maintain and enhance biodiversity as set out within the Environment (Wales) 2016 Act.</p> <p>One of the actions incorporated within the 2017 BDP was to include the impact on Biodiversity into the Council's Integrated Impact Assessment (IIA) to improve the Council's decision-making process.</p>
To promote the resilience of ecosystems, i.e. supporting protection of the wider environment, such as air quality, flood alleviation, etc.	✓				H	<p>This is one of the aims of the 2017 BDP and Implementation Report. Actions contained within the BDP and monitored, with recommendations, through the Implementation Report, ensure that the Authority meets its statutory duty to promote the resilience of ecosystems, supporting protection of the wider environment, as set out within the Environment (Wales) Act 2016.</p> <p>Numerous projects and initiatives organised by the C&amp;WT and partners to contribute towards meeting the Authority's Biodiversity Duty (as required by the Act) are set out within the 2017 BDP with progress and further recommendations for improvement listed within the Implementation Report. For example, the Connecting Green Infrastructure – South West Wales regional project.</p>

**6. Does the initiative embrace the sustainable development principle (5 ways of working):**

	Yes	No	Details
<b>Long term</b> - how the initiative supports the long term well-being of people	✓		By monitoring the actions set out within the 2017 BDP the Authority can review the progress that is being made towards achieving its Biodiversity Duty. Progress has been made on all of the actions within the BDP with the majority, if not all, having a direct or indirect link to supporting the long-term well-being of people. Through conserving and enhancing Biodiversity now, will benefit the long term well-being of future generations.

<p><b>Integration</b> - how the initiative impacts upon our wellbeing objectives</p>	✓		<p>Positive action on biodiversity is far reaching and all-encompassing and therefore will have a positive impact on the Council's wellbeing objectives. A species and habitat-rich environment will ultimately improve the well-being of children, young people and all adults living in the County Borough.</p>
<p><b>Involvement</b> - how people have been involved in developing the initiative</p>	✓		<p>Whilst officers from across the Council's Environment Directorate have been mainly involved in developing the actions included within the 2017 BDP, the progress review of the actions contained within the Plan has been undertaken by the Biodiversity Implementation officer within the C&amp;WT who ensures that the data on the actions is appropriately stored, assessed and accurately reported.</p> <p>Implementation of the Biodiversity Duty will be delivered through the functions of the Authority as a whole. There are a number of established internal and external working groups where issues are raised, information disseminated and best practice shared. The Working Groups, together with partners, stakeholders, volunteers and Members (promoted by the Biodiversity Champion) will provide the mechanism to ensure the BDP and the accompanying Implementation Report remains fit for purpose and responsive to changes in circumstances.</p>
<p><b>Collaboration</b> - how we have worked with other services/organisations to find shared sustainable solutions</p>	✓		<p>Achieving the identified actions set out within the 2017 BDP and subsequent revisions, will require significant contributions internally from across the Council and externally from a wide variety of partner organisations, including cross-boundary collaboration where appropriate. Partner organisations will include those from the public, private and community/voluntary sectors.</p>
<p><b>Prevention</b> - how the initiative will prevent problems occurring or getting worse</p>	✓		<p>By seeking to address the loss of biodiversity and meet the Council's Section 6 Duty, the Implementation Report provides recommendations on how actions can be improved for tackling issues and barriers for implementation at the local level. The various actions (individually and collectively), will seek to maintain and enhance biodiversity and in so doing promote the resilience of ecosystems. The ongoing monitoring and evaluation of actions through the Implementation Report will enable the Council to limit any unintended consequences and help mitigate any negative impacts.</p>

**7. Declaration - based on above assessment (tick as appropriate)**

A full impact assessment (second stage) <b>is not</b> required	✓
Reasons for this conclusion	
<p><b>Equalities</b> – Biodiversity affects all generations and all areas of society. Implementation of the actions will be inclusive and will involve the Countryside and Wildlife Team working with all staff / sections throughout the Council, the wider public and a wide range of partner organisations including those from the public, private and community / voluntary sectors.</p> <p><b>Welsh Language</b> – All of the actions contained within the 2017 BDP adhere to the Welsh Language Standards (No. 1)) Regulations 2015 and any amendments to actions or new proposed actions recommended by the Implementation Report will also adhere to these Regulations. All communication via the Authority’s social media platforms and websites; radio broadcasts and reports etc... are translated into Welsh and the technical names of species and habitats are also translated which increases people’s opportunity to use and expand upon their Welsh Language vocabulary.</p> <p><b>Biodiversity</b> – This is the remit of the 2017 BDP and Implementation Report. Actions contained within the BDP and monitored, with recommendations, through the Implementation Report, ensures that the Authority meets its statutory duty to maintain and enhance biodiversity as set out within the Environment (Wales) 2016 Act. One of the actions incorporated within the 2017 BDP was to include the impact on Biodiversity into the Council’s Integrated Impact Assessment (IIA). Additionally, numerous projects and initiatives organised by the C&amp;WT and partners contribute towards meeting the Authority’s statutory duty to promote the resilience of ecosystems, supporting protection of the wider environment.</p> <p><b>Well-being of Future Generation (5 ways of Working)</b> – the BDP 2017 Report embraces all five ways of working. The Implementation Report provides progress achieved on the 2017 BDP actions and recommendations for future improvement in order to meet the Council’s Biodiversity Duty. The BDP and accompanying Implementation Report positively integrates with the Council’s well-being objectives; involves people and partners in its development and implementation; and seeks to prevent problems getting worse.</p>	

	<b>Name</b>	<b>Position</b>	<b>Date</b>
Completed by	Lana Beynon	Planning Policy Manager	16/09/2020
Signed off by	Ceri Morris	Head of Service	20/09/2020

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Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

### **Council**

**2<sup>nd</sup> December 2020**

### **Report of the Head of Legal Services – Mr Craig Griffiths**

#### **Matter for Decision**

#### **Wards Affected:**

All wards

#### **Review of the Neath Port Talbot County Borough Council Constitution**

#### **Purpose of the Report:**

To seek a decision from Council that the Democratic Services Committee be formally tasked with undertaking a review of the Constitution of Neath Port Talbot County Borough Council and for the Monitoring Officer to prepare an updated version to be placed before Council for approval.

#### **Executive Summary:**

A decision is sought from Council that the Democratic Services Committee be formally tasked with undertaking a review of the Constitution of Neath Port Talbot County Borough Council and for the

Monitoring Officer to prepare an updated version to be placed before Council for approval.

**Background:**

The Council's Monitoring Officer (the Head of Legal Services) has the specific duty to ensure that the Council, its officers and its elected members maintain the highest standard of conduct in all they do. The legal basis for the post is found in section 5 of the Local Government & Housing Act 1989.

The Monitoring Officer has three main roles:

- to report on matters he or she believes are, or are likely to be, illegal or amount to maladministration;
- to be responsible for matters relating to the conduct of Councillors and officers; and
- to be responsible for the operation of the Council's Constitution.

The purpose of the Constitution is to set out the rules that govern how the Council works. It:

- contains rules setting out the processes by which decisions are made;
- states who is responsible for making decisions;
- contains the rules governing the conduct of meetings.

Although the Monitoring Officer has updated the Constitution when decisions are ultimately made by Council and/or Cabinet and when new legislation comes into force, the Monitoring Officer is of the view that it could be updated further and simplified to make the document more user friendly and understandable to members of the public who wish to review. Additional amendments could be made in order to facilitate the democratic process and to take into account the current

way of working electronically, for example allowing items to be submitted electronically instead of hard copy.

The Welsh Government have now introduced the Local Government and Elections (Wales) Bill to the Assembly. The Bill proposes to reform the legislative framework for local government electoral arrangements, democracy, performance and governance. The proposed Bill would require the Council to make a number of changes to its Constitution. For example, although there is an existing duty on councils to prepare and publish a constitution, which includes standing orders and codes of conduct, the Bill places, a duty on councils to keep their constitution “up to date”, and to prepare and publish a constitution guide which “explains the content of their constitution in ordinary language.

Terminology will have to change within the Constitution as well to take into account principles that will be established by the Bill, for example the Head of Paid Service will become the Chief Executive Officer and the Audit Committee will become the Audit and Governance Committee.

### Role of the Democratic Services Committee

Democratic Services Committees were introduced by the Local Government (Wales) Measure 2011. Initially, the terms of reference for such committees were extremely limited by the primary legislation to matters concerned with the appointment of someone to the new statutory role of Head of Democratic Services and consideration of the resourcing of the democratic services functions of the authority. Subsequently, the legal position was amended to enable these committees to undertake wider pieces of work relevant to the support and advice available to elected members and the terms and conditions of office of elected members, provided that such activities were formally approved by full Council (s11A of the Local Government (Democracy) (Wales) Act 2013).

It is suggested that the Democratic Services Committee would be well placed to take forward any work that Council determines it would like to undertake in respect of the Constitution, taking account of developments that may feature in future Welsh Government legislative proposals.

### **Financial Impacts:**

There should be minimal financial impacts from undertaking any research/review work. Any potential financial implications that could arise as part of the Constitution review will be incorporated in any advice provided to Council.

### **Integrated Impact Assessment:**

Any options for amending the Constitution would need to be assessed to ensure the Council's legal obligations in respect of the Welsh language; equalities legislation; Wellbeing of Future Generations (Wales) Act 2015 and the biodiversity duty have been fully considered.

### **Valleys Communities Impacts:**

No impacts though this will be assessed as part of the Constitution review.

### **Workforce Impacts:**

Any potential changes may have impacts on the Council's workforce which would need to be assessed as part of any options appraisal.

### **Legal Impacts:**

The Democratic Services Committee can be commissioned to consider the matters covered in this report using powers contained in s11A of the Local Government (Democracy) (Wales) Act 2013. It



should be noted that whatever proposals are developed by the Democratic Services Committee, a report will need to be brought to Full Council. Any such proposals will require amendment to the Constitution of Neath Port Talbot Council. The Assistant Chief Executive and Chief Digital Officer and the Head of Legal Service will provide advice to the Committee and to Council in this regard.

**Risk Management Impacts:**

The risks associated with each option considered, together with any risks associated with implementing the proposed recommendations and also the risks associated with failing to implement the proposed recommendations will be set out in any advice to Council where appropriate.

**Consultation:**

There will be no requirement for any consultation at this stage.

**Recommendations:**

It is recommended that Council formally tasks the Democratic Services Committee to prepare advice for full Council in respect of a review of the Constitution of Neath Port Talbot County Borough Council to ensure it is fit for purpose and meets all legislative requirements, including, where applicable an analysis of the risks and impacts of progressing/not progressing any options considered.

**Reasons for Proposed Decision:**

To ensure the Constitution of Neath Port Talbot Council is up to date and meets all legislative requirements

**Implementation of Decision:**

The decision is proposed for implementation immediately.

**Appendices:**

None

**List of Background Papers:**

Local Government and Housing Act 1989  
Local Government (Wales) Measure 2011  
Local Government (Democracy) (Wales) Act 2013  
Constitution of Neath Port Talbot County Borough Council

**Officer Contact:**

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