

# Public Document Pack



Neuadd y Sir  
Y Rhadyr  
Brynbuga  
NP15 1GA

Dydd Mercher, 27 Mai 2020

**Hysbysiad o gyfarfod:**

## **Cyngor Sir**

**Dydd Iau, 4ydd Mehefin, 2020 at 2.00 pm,  
Remote Teams Meeting**

### **AGENDA**

*Prayers will be said prior to the Council meeting at 4.55pm. All members are welcome to join the Chairman for prayers should they wish to do.*

<b>Eitem No</b>	<b>Eitem</b>	<b>Tudalennau</b>
1.	Welcome and Introductions	
2.	Ymddiheuriadau am absenoldeb	
3.	Datganiadau o Fuddiant	
4.	Cwestiynau'r Cyhoedd	
5.	Cyhoeddiad y Cadeirydd a derbyn deisebau	1 - 2
6.	Adroddiad y Prif Swyddog dros Adnoddau	
6.1.	Gwahardd y Wasg a'r Cyhoedd - atodiadau 4 a 5	3 - 4
6.2.	Rhaglen Re-Fit: Cam 1	5 - 78
7.	Adroddiad y Pennaeth Diogelu'r Cyhoedd	
7.1.	Datganiad Polisi Deddf Trwyddedu 2020	79 - 162
8.	Adroddiad Blynyddol y Prif Swyddog dros Blant a Phobl Ifanc	163 - 214
9.	Rhestr o Gynigion	
9.1.	Cynnig a gyflwynwyd gan y Cyngorydd Sir A. Easson	

Yn wyneb y penderfyniad diweddar gan Stagecoach i roi'r gorau i redeg y gwasanaeth bws Bryste / Casnewydd drwy Sir Fynwy rwy'n deall bod camau'n cael eu cymryd i geisio cael cefnogaeth cymhorthdal gan Lywodraeth Cymru er mwyn cadw'r gwasanaeth i fynd. Rwy'n cynnig y dylai'r cyngor hwn gefnogi ymdrechion i gadw'r gwasanaeth.

Fodd bynnag, pe byddai cefnogaeth yn dod, y byddai NAW ward Glannau Hafren, sydd â 20,000 o drigolion yn byw ynddynt, gael eu cynnwys yn yr adliniad. Cafwyd gwared â'r llwybr ar hyd y B4245 drwy Portskewett i Magwyr sawl blwyddyn yn ôl gan adael 20,000 o drigolion heb lwybr uniongyrchol i ardal Bryste, dyma gyfle i adfer y gwasanaeth.

## **9.2. Cynnig a gyflwynwyd gan y Cyngorydd Sir D. Batrouni**

Bod y cyngor yn creu swydd Cydlynedd Mynd i'r Afael â Thlodi ac Anghydraddoldeb cyfnod penodedig ar gyfer Sir Fynwy. Rydym ar fin wynebu'r dirwasgiad mwyaf ers blynyddoedd lawer ac mae'n bwysig bod gennym swydd sy'n uniongyrchol gyfrifol am gydlynu ein hymateb a bod y swydd yn atebol i'r swyddog cabinet dros gyfiawnder cymdeithasol.

## **10. Cwestiynau'r Aelodau**

### **10.1. Gan y Cyngorydd Sir M. Groucutt i'r Cyngorydd Sir P. Jordan, Aelod Cabinet dros Lywodraethu a Chyfraith**

A oes modd i'r Aelod Cabinet roi gwybod i ni am ei gynlluniau i ail agor llyfrgelloedd cyhoeddus Sir Fynwy, yn unol â chynlluniau cyffelyb sydd wedi eu cyhoeddi'n barod yng Nghasnewydd, Caerffili a Blaenau Gwent?

### **10.2. Gan y Cyngorydd Sir M. Groucutt i'r Cyngorydd Sir R. John, Aelod Cabinet dros Blant a Phobl Ifanc a MonLife**

Mae dadansoddiad o ddata arolwg ar ddysgu plant yn ystod y cyfnod clo presennol, a gyhoeddwy'r ar y 17eg o Fai gan y Sefydliad Astudiaethau Cyllid yn dangos bod y rheiny sy'n byw yn yr 20% o deuluoedd cyfoethocaf yn barod wedi derbyn, ar gyfartaledd, 75 munud yn fwy o ysgol gartref o'i gymharu â'r rhai yn y teuluoedd tlotaf. A oes modd i'r Aelod Cabinet ddweud wrthym beth sy'n cael ei wneud yn Sir Fynwy i leihau effaith tlodi ar ddysgu ers i'n hysgolion gau? Sut y mae'n gwybod os yw athrawon yn ceisio gwneud yn siŵr bod ein plant tlotaf yn cael eu cefnogi'n llawn drwy natur y gwaith sy'n cael ei anfon allan a drwy gadw'r cyswllt rhwng y cartref a'r ysgol?

### **10.3. Gan y Cyngorydd Sir M. Groucutt i'r Cyngorydd Sir R. John, Aelod Cabinet dros Blant a Phobl Ifanc a MonLife**

A oes modd i'r aelod cabinet roi gwybod i ni beth yw canran presenoldeb y plant rheiny a gaiff eu hystyried yn agored i niwed neu mewn perygl a

	darpariaeth hwb wedi ei neilltuo yn ystod y cyfnod y mae'r ysgolion wedi bod ar gau.	
<b>10.4.</b>	<b>Gan y Cyngorydd Sir M. Groucutt i'r Cyngorydd Sir R. John, Aelod Cabinet dros Blant a Phobl Ifanc a MonLife</b>  Unwaith y bydd y cynllun o ddychwelyd disgyblion i'r ysgol yn cael ei roi ar waith ac yn cael ei reoli, unwaith y bydd yn ddiogel gwneud hynny, pa gymorth a fydd yn cael ei roi i'n hysgolion er mwyn eu galluogi i wneud yn siŵr y bydd y disgyblion yn dychwelyd yn ddiogel ac na fyddant yn ail-godi'r risg o ledaenu'r firws Covid-19?	
<b>11.</b>	<b>Cofnodion cyfarfod y Cyngor Sir a gynhaliwyd ar y 5ed o Fawrth 2020</b>	215 - 226

**Paul Matthews**  
**Prif Weithredwr**

## CYNGOR SIR FYNWY

### MAE CYFANSODDIAD Y PWYLLGOR FEL SY'N DILYN:

Cynghorwyr Sir:

P. Clarke  
D. Batrouni  
J.Becker  
D. Blakebrough  
L.Brown  
A.Davies  
D. Dovey  
L.Dymock  
M.Feakins  
J. Higginson  
G. Howard  
S. Howarth  
R.John  
D. Jones  
L.Jones  
P. Jones  
S. Jones  
S.B. Jones  
P. Jordan  
M.Lane  
P. Murphy  
P.Pavia  
M. Powell  
J.Pratt  
R.Roden  
V. Smith  
B. Strong  
F. Taylor  
T.Thomas  
J.Treharne  
J.Watkins  
A. Watts  
A. Webb  
K. Williams  
S. Woodhouse

### **Gwybodaeth Gyhoeddus**

#### **Mynediad i gopiau papur o agendâu ac adroddiadau**

Gellir darparu copi o'r agenda hwn ac adroddiadau perthnasol i aelodau'r cyhoedd sy'n mynychu cyfarfod drwy ofyn am gopi gan Gwasanaethau Democrataidd ar 01633 644219. Dylid nodi fod yn rhaid i ni dderbyn 24 awr o hysbysiad cyn y cyfarfod er mwyn darparu copi caled o'r agenda hwn i chi.

#### **Edrych ar y cyfarfod ar-lein**

Gellir gweld y cyfarfod ar-lein yn fyw neu'n dilyn y cyfarfod drwy fynd i [www.monmouthshire.gov.uk](http://www.monmouthshire.gov.uk) neu drwy ymweld â'n tudalen Youtube drwy chwilio am MonmouthshireCC. Drwy fynd i mewn i'r ystafell gyfarfod, fel aelod o'r cyhoedd neu i gymryd rhan yn y cyfarfod, rydych yn caniatáu i gael eich ffilmio ac i ddefnydd posibl y delweddau a'r recordiadau sain hynny gan y Cyngor.

### **Y Gymraeg**

Mae'r Cyngor yn croesawu cyfraniadau gan aelodau'r cyhoedd drwy gyfrwng y Gymraeg neu'r Saesneg. Gofynnwn gyda dyledus barch i chi roi 5 diwrnod o hysbysiad cyn y cyfarfod os dymunwch siarad yn Gymraeg fel y gallwn ddarparu ar gyfer eich anghenion.

# Nodau a Gwerthoedd Cyngor Sir Fynwy

## Ein diben

Adeiladu Cymunedau Cynaliadwy a Chydnerth

### Amcanion y gweithiwn tuag atynt

- Rhoi'r dechrau gorau posibl mewn bywyd i bobl
- Sir lewyrchus a chysylltiedig
- Cynyddu i'r eithaf botensial yr amgylchedd naturiol ac adeiledig
- Llesiant gydol oes
- Cyngor gyda ffocws ar y dyfodol

## Ein Gwerthoedd

**Bod yn agored.** Rydym yn agored ac yn onest. Mae pobl yn cael cyfle i gymryd rhan mewn penderfyniadau sy'n effeithio arnynt, dweud beth sy'n bwysig iddynt a gwneud pethau drostynt eu hunain/eu cymunedau. Os na allwn wneud rhywbeth i helpu, byddwn yn dweud hynny; os bydd yn cymryd peth amser i gael yr ateb, byddwn yn esbonio pam; os na allwn ateb yn syth, byddwn yn ceisio eich cysylltu gyda'r bobl a all helpu - mae adeiladu ymddiriedaeth ac ymgysylltu yn sylfaen allweddol.

**Tegwch.** Darparwn gyfleoedd teg, i helpu pobl a chymunedau i ffynnu. Os nad yw rhywbeth yn ymddangos yn deg, byddwn yn gwrando ac yn esbonio pam. Byddwn bob amser yn ceisio trin pawb yn deg ac yn gyson. Ni allwn wneud pawb yn hapus bob amser, ond byddwn yn ymrwymo i wrando ac esbonio pam y gwnaethom weithredu fel y gwnaethom.

**Hyblygrwydd.** Byddwn yn parhau i newid a bod yn hyblyg i alluogi cyflwyno'r gwasanaethau mwyaf effeithlon ac effeithiol. Mae hyn yn golygu ymrwymiad gwirioneddol i weithio gyda phawb i groesawu ffyrdd newydd o weithio.

**Gwaith Tim.** Byddwn yn gweithio gyda chi a'n partneriaid i gefnogi ac ysbrydoli pawb i gymryd rhan fel y gallwn gyflawni pethau gwych gyda'n gilydd. Nid ydym yn gweld ein hunain fel 'trefnwyr' neu ddatrysyr problemau, ond gwnawn y gorau o syniadau, asedau ac adnoddau sydd ar gael i wneud yn siŵr ein bod yn gwneud y pethau sy'n cael yr effaith mwyaf cadarnhaol ar ein pobl a lleoedd.

## Chairman's Report - 1<sup>st</sup> March – 26<sup>th</sup> May 2020

Sunday 1 <sup>st</sup> March	Lord Mayor's St David's Day Civic Service The City Parish Church of St John the Baptist, Cardiff
Thursday 12 <sup>th</sup> March	H. M. Lord Lieutenant of Gwent Awards Ceremony Raglan Barracks, Allt Yr View, Newport
Saturday 14 <sup>th</sup> March	Chairman's Charity Ball Angel Hotel, Abergavenny

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## **SCHEDULE 12A LOCAL GOVERNMENT ACT 1972 EXEMPTION FROM DISCLOSURE OF DOCUMENTS**

**Meeting and Date of Meeting:** Full Council, 4<sup>th</sup> June 2020

**Report:** Re:fit Programme Phase 1

**Author:** Ian Hoccom

I have considered grounds for exemption of information contained in the background paper for the report referred to above and make the following recommendation to the Proper Officer:-

### **Exemptions applying to the report:**

This report will be exempt under paragraph 12 of Schedule 14 – Information relating to the financial or business affairs of any particular person (including the authority holding that information).

### **Factors in favour of disclosure:**

Openness & transparency in matters concerned with the public

### **Prejudice which would result if the information were disclosed:**

Appendix items 4 and 5 include costed proposals provided by a competitively appointed external Service Provider, disclosure of which would reveal commercially sensitive pricing that could disadvantage the Service Provider in future competitive tenders.

### **My view on the public interest test is as follows:**

Factors in favour of disclosure are outweighed by those against.

### **Recommended decision on exemption from disclosure:**

Maintain exemption from publication in relation to report

Date: 20<sup>th</sup> May 2020

Signed: Ian Hoccom

Post: Energy Officer

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I accept/~~I do not accept~~ the recommendation made above

Signed:

Date: 28.05.20

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<b>SUBJECT:</b>	<b>RE:FIT PROGRAMME PHASE 1</b>
<b>MEETING:</b>	<b>Full Council</b>
<b>DATE:</b>	<b>4<sup>th</sup> June 2020</b>
<b>DIVISION/WARDS AFFECTED:</b>	<b>All</b>

**NON-PUBLICATION**

**Appendix items 4, and 5 are not to be published publicly as exempt under paragraph 12 of Schedule 14 – Information relating to the financial or business affairs of any particular person (including the authority holding that information).**

**1. PURPOSE:**

- 1.1 To secure financial approval for Re:fit programme Phase 1, installing energy conservation measures (ECMs) across a portfolio of MCC buildings.

**2. RECOMMENDATIONS:**

- 2.1 To seek approval to install a first phase of ECMs with a combined 8-year payback across a portfolio of MCC buildings at a budget cost of up to £2.5M, generating net energy savings to the Council and reducing operational carbon emissions.
- 2.2 To seek approval to fund the installation of the ECMs with a Salix interest-free loan from Welsh Government, repayments over a 10-year period to be covered by the energy savings generated, and add the project to the Authority’s capital programme.
- 2.3 To delegate final approval for the funding and commencement of the works stage of the Re:fit programme to the Chief Officer, Resources in consultation with the Cabinet Member Resources, based on presentation of a detailed business case to the Chief Officer before submission of the Salix application.

### 3. KEY ISSUES:

- 3.1 Energy savings of £25k from Re:fit in 2020/21 have been included in the Sustainability budget mandate agreed by Council, based on an initial desk-based benchmarking exercise across the entire Council estate undertaken by Re:fit Cymru.
- 3.2 The Re:fit programme will play a vital role in delivering actions included in the MCC Climate Emergency Strategy adopted in October 2019 and the goals of the MCC Corporate Plan, identifying and implementing energy efficiency improvements and renewable energy generation to reduce carbon emissions.
  - 3.2.1 The accelerated survey and implementation of ECMs will make significant contribution towards delivery of Climate Emergency Action Plan actions to “Implement energy efficiency improvements across the existing council estate by 2022” and for “All bulbs within council owned buildings [to] be LED.”
  - 3.2.2 The improved energy efficiency, reductions in carbon emissions and increased capacity of renewable energy installations will contribute to achieving Goal C of the MCC Corporate plan to “Maximise the potential of the natural and built environment”
- 3.3 The cost of ECMs will be funded by a Salix interest-free loan available from Welsh Government (WG), repayable from energy savings generated over a 10-year period. The Salix funding criteria requires an 8-year payback generated a net saving for the Council. Salix loan repayments will be made from energy savings recovered from energy budgets over a period of 10 years, the terms of the Re:fit programme requiring the Service Provider to guarantee kWh energy savings over the period.
- 3.4 Based on the initial desk-based benchmarking exercise, an Expression of Interest (EoI) was submitted to WG for Salix funding of up to £2.5M. This funding is available to the Council subject to approval of a detailed application that must be submitted by 30<sup>th</sup> June 2020.
- 3.5 Under the existing delegated authority, a Service Provider (SSE contracting) has been appointed and undertaken a High Level Assessment (HLA) to determine viability of ECMs across an initial phase of MCC buildings. Following review of the HLA findings, the Service Provider has been authorised to produce an Investment Grade Proposal (IGP) to confirm designs, costs, guaranteed kWh savings and measurement and verifications plans that will form the basis of the Salix funding application.

3.6 Delegated authority for the Chief Officer, Resources to approve the Salix application and works phase following production of the IGPs is sought to avoid delays at critical stages in the programme, thereby meeting Salix funding deadlines and allowing works in schools to be completed during the summer holidays.

#### **4. REASONS:**

4.1 Individual Cabinet Member Approval was given on 13<sup>th</sup> June 2018 to access Local Partnership's framework and support from Re:fit Cymru Programme Implementation Unit (PIU) to develop a Re:fit programme, delegating decision making and management of the programme to the Chief Officer, Resources in consultation with the Cabinet Member Resources.

4.2 Energy savings of £25k from Re:fit have been included in the Sustainability budget mandate agreed by Council for 19/20, based on an initial desk-based benchmarking exercise across the entire Council estate undertaken by Re:fit Cymru. Delays in implementation in 19/20 have meant the savings have had to be managed by other means, and the 19/20 saving rolled into 20/21 as part of the base.

4.2.1 The impact of COVID-19 working restrictions from the IGP stage onwards are expected to delay energy savings further, creating an additional budget pressure in 20/21. Although it is difficult to accurately estimate by how much until the programme is finalised, it is expected that part-year energy savings will be achieved as ECMs are installed before Mar-21 and Salix repayments and annual fees commence in 2021/22.

4.3 In May 2019, the Council declared a Climate Emergency, committing to achieving net zero carbon emissions from its operations by 2030. A phased Re:fit programme will identify and implement an accelerated programme of energy efficiency improvements and renewable energy generation projects to reduce carbon emissions necessary to deliver Climate Emergency actions.

4.4 Goal C of the MCC Corporate Plan, refreshed in March 2020, is to "Maximise the potential of the natural and built environment." The energy efficiency and carbon reductions delivered by a Phased Re:fit programme will help to upgrade and optimise the operation of existing buildings within the MCC estate.

4.5 Salix-funded projects must meet strict payback and cost-of-carbon criteria and help deliver national carbon reduction targets. The Re:fit approach to guarantee kWh savings and use Salix interest-free loans repaid from financial savings generated represents a cost-effective opportunity to deliver carbon reduction projects.

4.5.1 Additional Re:fit phases/programmes and funding will be required to fully deliver the Climate Emergency actions and Corporate Plan goals relating to energy and carbon due to the limitations of Salix paybacks, but use of the funding will allow significant progress to be made immediately without additional MCC capital expenditure.

4.6 Under the Local Partnerships Re:fit framework and with support from the PIU, a tender process was undertaken in 2019 and SSE Contracting Ltd. were appointed as Service Provider to deliver the Re:fit programme in January 2020. A High Level Assessment (HLA) undertaken by the Service Provider and completed in March 2020 included site surveys and data analysis across a first phase of sites. Although indicative at this stage, the HLA exercise has confirmed a potentially viable Phase 1 portfolio warranting progress to an Investment Grade Proposal (IGP) stage.

4.6.1 The indicative figures from the HLA estimated a budget Service Provider capital cost of £1,864,487 with gross savings of £2,493,506 over 10 years and a simple payback of 7.7 years based on energy consumption savings of 2,043,334 kWh p.a. With Salix repayments, contingencies, PIU fees, maintenance and monitoring and verification (M&V) costs added and covered by the energy savings, an indicative net saving is shown of £492,399 over 10 years or £49,240 p.a. on average. Indicative carbon savings of 501 tCO<sub>2</sub> p.a. are the equivalent of approximately 9% of emissions from the MCC estate.

4.6.2 The HLA has been reviewed by MCC officers and the PIU, and the final portfolio and scope of ECMs will differ by the time the final Salix bid is submitted to align with future building developments and allow for other project costs to be built into the Salix application.

4.6.3 Examples of ECMs proposed in the Phase 1 HLA include:

- LED lighting and controls
- Additional rooftop, ground-mounted, and car port solar PV
- Air handling unit and fan upgrades
- Boiler upgrades and CHP installation
- Heat pumps
- High efficiency showers

4.6.4 See Appendix 4 for the draft HLA report and Appendix 5 for the indicative HLA template.

- 4.7 The IGP stage has commenced to confirm detailed designs, costs, and guaranteed kWh savings to form the basis for the Salix funding application. The original deadline for submission of the Salix funding application was 30<sup>th</sup> June 2020, but the IGP was to be completed by 15<sup>th</sup> May 2020 and Salix bid submitted by the end of May 2020, allowing time for review and approval by various parties ready for sign-off in June 2020.
- 4.7.1 The original deadline for the Salix funding had been 30<sup>th</sup> June 2020, but Salix confirmed in writing an extension to 30<sup>th</sup> September 2020 due to the impact of COVID-19 on the programme. Once approved, applicants have 12 months to complete the funded works.
- 4.7.2 The Service provider produced a draft IGP by the original programme deadline of 15<sup>th</sup> May 2020, but it is heavily caveated and awaiting further detailed surveys and reviews delayed due to COVID-19 working restrictions.
- 4.7.3 Although the delivery programme may be delayed due to COVID-19 restrictions, the Re:fit programme itself aligns with the MCC coronavirus strategy value of teamwork, the principle of “being innovative and creative,” and the strategic aim of “ensuring we remain financially sustainable as an organisation.”
- 4.8 Delegated authority for the final approval for the funding and commencement of the works stage of the Re:fit programme to the Chief Officer, Resources will avoid further delays following the IGP stage that could result in loss of Salix funding or more significant delays to the programme. It may still be possible to undertake some works in schools during the summer holidays or at other properties during COVID-19 closures, minimising disruption to sites and overall programme.
- 4.9 See Appendix 7 for a Gantt chart demonstrating the original Phase 1 Re:fit Programme Plan. Delays due to COVID-19 have impacted the IGP stage onwards, although the approach to date has been to try and follow the original programme as closely as possible. It is almost certain there will be delays to delivery, and the programme is being reviewed with the Service Provider alongside the draft IGP containing details of the proposed works and timescales.
- 4.10 Assuming successful delivery of Phase 1, the intention is that a phased roll out of the programme covers the whole estate and may be expanded in scope to include wider measures and opportunities.

## 5. OPTIONS APPRAISAL

- 5.1 See sections 6 and 7 for resource implications and risks respectively.

Option	Benefits	Risks	Comments
Do nothing	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Energy bills continue to increase</li> <li>• Failure to deliver carbon reductions and Corporate Plan goals/Climate Emergency actions</li> <li>• Replacement of services within buildings will be funded from maintenance programme reducing budget available for other works</li> </ul>	Maintenance programme and new builds have delivered incremental improvements, but scope limited by available budgets and specific investment required to deliver significant and accelerated energy and carbon savings and meet obligations of Climate Emergency/WBFGA/budget pressures.
Deliver ECMs in-house	<ul style="list-style-type: none"> <li>• Direct control over delivery and costs, avoiding Service Provider fees</li> </ul>	<ul style="list-style-type: none"> <li>• Limited capacity to undertake accelerated programme in line with Corporate Plan/Climate Emergency Action Plan</li> <li>• No guarantee of savings and performance</li> </ul>	Budget and Climate Emergency pressures require accelerated delivery of ECMs across Estate, would require additional staffing resources and procurement processes to deliver.
Deliver ECMs using alternative funding.	<ul style="list-style-type: none"> <li>• Less restrictive funding criteria</li> <li>• Longer paybacks over lifetime of ECMs allowing wider scope of works</li> </ul>	<ul style="list-style-type: none"> <li>• Availability of alternative sources of funding/capital</li> <li>• Interest repayable on alternative funding impact paybacks and net savings</li> </ul>	Interest-free Salix funding has been allocated and offers cheaper way to deliver qualifying ECMs, alternative funding could be considered for longer-payback ECMs at later stage.
Deliver Re:fit programme with Service Provider using Salix funding.	<ul style="list-style-type: none"> <li>• Project management support from Local Partnerships and</li> <li>• Accelerated delivery of ECMs and savings due to delivery capacity and technical expertise of Service Provider</li> <li>• Guaranteed savings underwritten by Service Provider</li> </ul>	<ul style="list-style-type: none"> <li>• Delays in programme miss funding or delivery deadlines</li> <li>• Changes in energy prices affect paybacks</li> <li>• Contingencies render paybacks unviable under Salix</li> </ul>	Delegated authority for Salix application will reduce delays at key stage in programme. Contingencies and costs to be confirmed during IGP stage and portfolio reviewed to include cost within Salix funding and paybacks.



Option	Benefits	Risks	Comments
	<ul style="list-style-type: none"> <li>Reduction of future maintenance budget pressures</li> </ul>	<ul style="list-style-type: none"> <li>Salix funding limitations unable to deliver all MCC decarbonisation goals</li> </ul>	Salix funding will enable immediate action towards goals, help identify further opportunities

Table 1. Options appraisal

## 6. RESOURCE IMPLICATIONS:

- 6.1 All work undertaken by MCC staff to date has been delivered from existing staff resources, and will require allocation of key staff (Legal, QS, clerking) through the IGP and works stages.
- 6.2 All capital and delivery costs of Phase 1 up to a maximum of £2.5M will be included in the final Salix funding bid, including PIU support fees, IGP costs and a provisional sum for contingencies. Salix repayments, any additional maintenance costs and M&V fees for the ECMs installed will be paid for from the gross energy savings generated. Initial reviews of the draft HLA confirm that this can be done while delivering the required 8-year payback for Salix funding.
- 6.3 Gross savings in 2020/21 will be reduced due to the timing of ECM installations and the delays resulting from COVID-19 restrictions, but the high-level analysis of the HLA template and cash flow in Appendix items 5 and 6 do not show this reduction in Year 1. However, repayments of the Salix funding over 10-years will not commence until 2021/22 and reduce the impact of the reduced gross savings in Year 1, and the business case presented to the Chief Officer, Resources for approval will show accurately the predicted financial-year cash flows throughout the Salix repayment period.
- 6.4 Energy savings of £25k from Re:fit have been included in the Sustainability budget mandate agreed by Council for 19/20, delays in implementation in 19/20 meaning the savings have had to be managed by other means. The 19/20 saving has now been rolled into 20/21 as part of the base but the impact of COVID-19 working restrictions are expected to delay these savings further, creating an additional budget pressure in 20/21. Further energy savings are anticipated as the scheme develops that will be built into MTFP saving plans, existing profiles having been based on the desk-based benchmarking exercise undertaken by Re:fit PIU. The energy savings expected from Phase 1 will be confirmed following completion of the IGP and ahead of the Salix application.
- 6.4.1 The current profile of savings in the MTFP is shown in Table 2 based on an initial desk-based benchmarking exercise across the entire Council estate undertaken by Re:fit Cymru. The actual profile of savings achievable will be dependent on the final viability and delivery of Phase 1 and any subsequent roll out of additional phases, and any differences will have to be managed as budget pressures.

Year	Saving	Additional saving released to MTFP
2020-21	£25,000	-
2021-22	£49,000	£24,000
2022-23	£72,000	£23,000
2023-24	£72,000	-

Table 2. Current Re:fit energy savings MTFP profile

- 6.5 Energy consumption savings will be guaranteed by the Service Provider to deliver a payback of 8 years or less across the portfolio, delivering net savings to the Council over the 10-year Salix repayment period. Under the terms of the Re:fit contracts, the Service Provider will be liable to pay the monetised difference should the actual savings achieved across the portfolio fail to deliver the guaranteed kWh savings. Sensitivity analysis undertaken on the impact of energy price increases and the difference between guaranteed and anticipated kWh energy savings is shown in Appendix 3 and will be repeated following the IGP stage.
- 6.6 Energy consumption savings at each site will be itemised to allow recovery of the financial savings from individual energy budgets. Energy savings from CYP buildings (schools) will be recovered through Education Finance by a reduction in allocated energy budgets, any difference between predicted and actual energy savings being reconciled and adjusted during the annual M&V review. The surplus from the energy savings across the portfolio after repayment of costs will be captured to deliver the mandated energy savings, with any additional surplus redistributed back into the individual energy budgets on a pro-rata basis.
- 6.7 Additional savings to Council budgets are anticipated from the Re:fit programme, for example from water and maintenance savings over the lifetime of the ECMs that is anticipated to be longer than the Salix repayment period. However, these are difficult to quantify accurately at present and/or are unable to be included within the Salix funding bid.
- 6.8 Outside the scope of Phase 1 and Salix funding criteria, the Re:fit programme and terms of the Service Provider appointment presents opportunities to identify and realise additional energy and carbon savings. A roll-out of additional phases is anticipated to cover the whole Council estate, potentially add value and reduce capital costs of refurbishment schemes such as Caldicot Leisure Centre, and identify other energy and carbon related opportunities within the scope of the original ITT.
- 7. RISKS:**
- 7.1 Key risks affecting the business case and delivery are summarised in Table 3.

Risk	Likelihood	Impact	Mitigation
Impact of COVID-19 working restrictions causes delays to IGP and works stages of programme resulting in missed Salix deadlines/holiday periods for works in schools and delay to achieving savings	High	High	<ul style="list-style-type: none"> <li>• Work on IGP stage (technical meetings, design, and tendering) has continued remotely, allowing draft IGP to be produced</li> <li>• Written confirmation of extension to Salix application deadline, and 12 months to complete works following award of funding</li> <li>• Existing programme to be reviewed and amended as necessary as detailed surveys completed and ECM timescales confirmed</li> <li>• May be able to reschedule schools works for other holidays, bring forward works in other buildings/those with reduced occupation.</li> </ul>
Time taken to approve IGP/Salix application/works contract cause additional delays resulting in missed Salix deadlines/holiday periods for works in schools and delay/failure to implementation of measures and overall programme progress.	High	High	<ul style="list-style-type: none"> <li>• Availability of MCC technical and Legal staff to input and review IGP/draft and finalise contracts.</li> <li>• Delegated authority to Chief Officer, Resources to approve Salix application and works stage.</li> </ul>
Identification of asbestos/planning/other costs during IGP stage results in cost increases outside Salix funding criteria.	Medium	High	<ul style="list-style-type: none"> <li>• Estimation of some potential provisional/contingency sum identified following HLA stage and included within Salix funding total.</li> <li>• Reduction of payback in draft IGP and anticipated reduction in scope/costs for some ECMs expected could allow sum within Salix to be increased.</li> <li>• Where costs cannot be absorbed within Salix funding, portfolio of ECMs to be reviewed and reduced further.</li> </ul>
Volatility of energy prices leads to variation/reduction in energy rates and actual savings achieved by energy reductions.	High	Medium	<ul style="list-style-type: none"> <li>• Monetisation of energy savings based on 8-year average energy prices applying conservative inflation rate to latest 2020/21 energy prices.</li> </ul>

Risk	Likelihood	Impact	Mitigation
			<ul style="list-style-type: none"> <li>• M&amp;V reporting will confirm actual energy consumption savings that can be reviewed and adjusted with latest contract prices change.</li> <li>• Wholesale energy prices have fallen during decrease in demand through COVID-19, but accepted long-term trend that energy prices will recover and continue to increase above inflation.</li> </ul>
Predicted savings are not realised and fail to cover funding repayments/provide additional savings, leading to dispute with Service Provider.	Low	High	<ul style="list-style-type: none"> <li>• Savings guarantees and M&amp;V plans to be included in IGPs and works contracts and reviewed with Re:fit PIU support.</li> <li>• Portfolio approach taken to energy savings guarantee, but itemised M&amp;V will allow adjustment of savings recovered from individual budgets to reflect actual site-by-site savings.</li> </ul>
Specification of low-quality or inappropriate ECMs by Service Provider fail to deliver performance/savings required resulting in issues for building users, maintenance, and repayments of Salic funding	Medium	Medium	<ul style="list-style-type: none"> <li>• MCC technical staff engaged through IGP stage to review ECM design and spec proposals</li> <li>• Service Provider has removed/amended some ECM proposals to address MCC concerns</li> <li>• Re:fit contractual approach places liability for defects and savings guarantee with Service Provider</li> </ul>
Delay in agreeing works contract following IGP delays drawing down of funding, implementation of measures and overall project progress.	Medium	Medium	<ul style="list-style-type: none"> <li>• MCC Legal engaged at early stage and throughout tender process to review standard Re:fit contracts and call off docs.</li> <li>• Allocation of Legal resource to draft/finalise contracts during/at end of IGP stage.</li> <li>• Submission of contracts for LP review as soon as possible.</li> </ul>
Lack of adequate MCC staff capacity to review IGP/act as clerk of works result in works that do not meet required performance/standards.	Medium	Medium	<ul style="list-style-type: none"> <li>• Allocation of adequate MCC technical staff resources at key times, and identify any additional capacity required.</li> <li>• Support from Re:fit PIU to review elements of IGP.</li> </ul>

Risk	Likelihood	Impact	Mitigation
			<ul style="list-style-type: none"> <li>• Service Provider appointed has allocated own in-house design and site management resources.</li> </ul>
Changes to building occupation in “new normal” following COVID-19 impact energy consumption in buildings affecting baselines and savings	Medium	Low	<ul style="list-style-type: none"> <li>• Anticipated changes to be considered during IGP review and portfolio amended as appropriate</li> <li>• Measures will reduce energy consumption and contribute to long-term sustainability of estate</li> </ul>

Table 3. Summary of main business case and delivery risks.

7.2 A comprehensive wider risk register is being maintained by MCC officers throughout the project and will be presented to the Chief Officer, Resources with the final Salix business case.

**8. WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING):**

8.1 The proposal does not have any equalities, safeguarding or corporate parenting implications.

8.2 The proposal contributes to the delivery of five of the seven well-being goals including:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A Wales of cohesive communities
- A globally responsible Wales

8.3 The proposal demonstrates embedding and prioritising all five of the sustainable governance principles in its development.

8.4 See Appendix 2 for the detailed Future Generations Evaluation.

**9. CONSULTEES:**

Estates  
Property  
Finance

CYP  
Leisure

**10. BACKGROUND PAPERS:**

Appendix 1: Exemption from Disclosure of Documents Certificate  
Appendix 2: Future Generation Evaluation  
Appendix 3: Detailed Resource Implications  
Appendix 4: Indicative HLA Draft Report  
Appendix 5: Indicative HLA Assessment Template  
Appendix 6: Indicative HLA Cash Flow (MCC Amended)  
Appendix 7: Re:fit Programme Plan

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## Future Generations Evaluation (includes Equalities and Sustainability Impact Assessments)

<p><b>Name of the Officer</b> completing the evaluation Ian Hoccom</p> <p><b>Phone no:</b> 01633 644448 <b>E-mail:</b> <a href="mailto:simonparfitt@monmouthshire.gov.uk">simonparfitt@monmouthshire.gov.uk</a></p>	<p><b>Please give a brief description of the aims of the proposal</b></p> <p>Install a range of energy conservation measures across MCC buildings as part of the Re:fit programme, reducing energy consumption and carbon emisissions and funded from the energy savings generated.</p>
<p><b>Name of Service</b></p> <p>Estates</p>	<p><b>Date Future Generations Evaluation</b> form completed</p> <p>13/03/2020</p>

***NB. Key strategies and documents that may help you identify your contribution to the wellbeing goals and sustainable development principles include: Single Integrated Plan, Continuance Agreement, Improvement Plan, Local Development Plan, People Strategy, Asset Management Plan, Green Infrastructure SPG, Welsh Language Standards, etc***

1. **Does your proposal deliver any of the well-being goals below?** Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.


Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<p><b>A prosperous Wales</b> Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p>	<p>Based on initial assessment, a first phase of measures could generate gross energy savings in excess of £240,000 p.a. with the net savings identified in budget mandates contributing to funding Council services.</p>	<p>The energy savings generated by the measures will be guaranteed by the Service Provider to mitigate any shortfall in performance.</p> <p>The appointed Service Provider is inviting quotations from local suppliers and sub-contractors to deliver works.</p>




Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
	<p>Supply and installation of the energy conservation measures will provide opportunities for local suppliers and sub-contractors.</p> <p>Increasing demand for the skills in delivering energy conservation works is being driven by climate emergency objectives.</p>	<p>Site management will be delivered by local work force and/or appointments, trained by the Service Provider where necessary.</p>
<p><b>A resilient Wales</b> Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)</p>	<p>N/A</p>	<p>N/A</p>
<p><b>A healthier Wales</b> People's physical and mental wellbeing is maximized and health impacts are understood</p>	<p>The built environment in workplaces and public buildings, including schools, will be improved through lighting and heating upgrades, thereby contributing to the physical and mental wellbeing of occupiers and visitors.</p>	<p>Where existing negative environmental issues have been identified (e.g. light levels, thermal discomfort), the measures will be designed so as to maintain an improved environment for building occupiers users.</p>
<p><b>A Wales of cohesive communities</b> Communities are attractive, viable, safe and well connected</p>	<p>Some of the measures proposed (e.g. lighting) will improve the aesthetics of public buildings.</p>	<p>Measures proposed will be reviewed by MCC officers to ensure they provide appropriate and safe solutions. Site supervision and clerking will ensure they are installed safely.</p> <p>Other building improvement works may be identified and undertaken while delivering measures, e.g. the identification and removal of asbestos.</p>
<p><b>A globally responsible Wales</b> Taking account of impact on global well-being when considering local social, economic and environmental wellbeing</p>	<p>Indicative savings from a first phase of instalaltions proposed estimate carbon savings of 501 tCO<sub>2</sub> p.a. or approximately 9% of emissions from the MCC estate.</p>	<p>N/A</p>




Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
	The interest-free loans repayable through savings generated used to deliver the measures will be redistributed by WG to fund other carbon reduction projects.	
<b>A Wales of vibrant culture and thriving Welsh language</b> Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation	N/A	N/A
<b>A more equal Wales</b> People can fulfil their potential no matter what their background or circumstances	N/A	N/A

 **How has your proposal embedded and prioritised the sustainable governance principles in its development?**

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Balancing short term need with long term and planning for the future</p>	<p>Measures will deliver net energy savings to reduce immediate budget pressures and contribute to existing PIs on carbon reduction.</p> <p>Measures will also reduce long-term revenue expenditure and maintenance budget, and deliver carbon savings over an extended period to deliver long-term climate emergency objectives of MCC operations becoming net zero carbon.</p>	N/A

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p data-bbox="331 341 510 564">Working together with other partners to deliver objectives</p> <p data-bbox="129 555 295 580"><b>Collaboration</b></p>	<p data-bbox="546 256 1308 440">The Re:fit framework used to appoint the Service Provider and deliver the measures has been developed by Local Partnerships and utilised by other local authorities throughout Wales and England to deliver UK and Welsh Government carbon reduction objectives.</p> <p data-bbox="546 480 1272 544">WG have provided subsidised support to delivery of the Re:fit programem.</p> <p data-bbox="546 584 1308 647">An external Service Provider has been appointed to deliver the programme with MCC.</p>	N/A
 <p data-bbox="344 724 515 908">Involving those with an interest and seeking their views</p> <p data-bbox="143 948 300 973"><b>Involvement</b></p>	<p data-bbox="546 691 1299 834">The Re:fit programem and first phase assessments have been undertaken in consultation with internal departments (Estates, Property, Legal, Finance) and building occupiers (Education, Leisure, SHS).</p> <p data-bbox="546 874 1321 970">During high level assessments, the Service Provider sought input from the building occupiers to identify and assess measures.</p>	N/A
 <p data-bbox="344 1018 506 1313">Putting resources into preventing problems occurring or getting worse</p> <p data-bbox="152 1257 295 1283"><b>Prevention</b></p>	<p data-bbox="546 1018 1285 1161">Investment in the measures using interest-free loans repayable from the savings generated will replace aging building services that would otherwise need to be funded from capital maintenance budgets.</p> <p data-bbox="546 1201 1254 1305">The energy savings generated will contribute to easing budget pressures and limiting exposure to any future increases in energy prices.</p>	N/A

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Considering impact on all wellbeing goals together and on other bodies</p>	<p>The measures proposed will contribute to delivering the overall carbon reduction targets and WBFGA goals of Welsh Government.</p>	<p>N/A</p>

3. **Are your proposals going to affect any people or groups of people with protected characteristics?** Please explain the impact, the evidence you have used and any action you are taking below. For more detailed information on the protected characteristics, the Equality Act 2010 and the Welsh Language Standards that apply to Monmouthshire Council please follow this link: <http://hub/corporatedocs/Equalities/Forms/AllItems.aspx> or contact Alan Burkitt on 01633 644010 or [alanburkitt@monmouthshire.gov.uk](mailto:alanburkitt@monmouthshire.gov.uk)

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Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Age	N/A		
Disability	N/A		
Gender reassignment	N/A		
Marriage or civil partnership	N/A		

Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Pregnancy or maternity	N/A		
Race	N/A		
Religion or Belief	N/A		
Sex	N/A		
Sexual Orientation	N/A		
Welsh Language	N/A		

Council has agreed the need to consider the impact its decisions has on important responsibilities of Corporate Parenting and safeguarding. Are your proposals going to affect either of these responsibilities? For more information please see the guidance <http://hub/corporatedocs/Democratic%20Services/Safeguarding%20Guidance.docx> and for more on Monmouthshire's Corporate Parenting Strategy see <http://hub/corporatedocs/SitePages/Corporate%20Parenting%20Strategy.aspx>

	Describe any positive impacts your proposal has on safeguarding and corporate parenting	Describe any negative impacts your proposal has on safeguarding and corporate parenting	What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?
Safeguarding	N/A		
Corporate Parenting	N/A		

**5. What evidence and data has informed the development of your proposal?**

An initial benchmarking exercise was undertaken to establish baselines and prioritise MCC buildings based on energy performance and potential for savings.

A high level assessment (HLA) has been undertaken by the appointed Service Provider to identify and assess the viability of measures across a first phase of MCC buildings. The HLA included site surveys, data analysis, and the production of budget estimates and energy savings.

MCC officers have reviewed the technical and financial merits of the HLA proposals, including high level assumptions and calculations used by the Service Provider.

**6. SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?**

Positive impacts: The indicative figures from the HLA estimated a gross savings of £2,621,746 over 10 years and a simple payback of 7.7 years. With interest-free loan repayments and operating and maintenance costs being covered by the energy savings, an indicative net saving is shown of £504,452 over 10 years or £50,4452 p.a. on average. Indicative carbon savings of 544 tCO2 p.a. are the equivalent of approximately 10% of emissions from the MCC estate. The proposal will deliver mandated budgets savings and significant carbon reductions required under the Climate Emergency Declaration.

Negative impacts: The proposal would commit the Council to an interest-free loan from WG requiring bi-annual repayments over a 10-year period, although all costs will be covered by the energy savings generated and a surplus created.

**7. ACTIONS: As a result of completing this form are there any further actions you will be undertaking? Please detail them below, if applicable.**

What are you going to do	When are you going to do it?	Who is responsible	Progress
<p>Instruct the Service Provider to undertake a detailed investment grade proposal (IGP) to confirm HLA findings and inform final decision to implement.</p> <p>Request delegated authority for final decision.</p>	<p>MCC officer approval for IGP stage granted 26<sup>th</sup> March 2020 and draft version completed 15<sup>th</sup> May 2020.</p> <p>Review ongoing, expect to complete June 2020.</p> <p>Delegated authority to be sought 4<sup>th</sup> June 2020.</p>	<p>Ian Hoccom, Energy Officer (delivery)</p> <p>Peter Davies, Chief Officer, Resources (programme management decision)</p>	<p>Draft IGP review in progress, expected to be in position to approve some time during June 2020.</p> <p>Some delays due to COVID-19 impacts experienced/expected, but not critical to overall delivery.</p>

	Funding application expected to be submitted during June 2020.		
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**8. MONITORING:** The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.

The impacts of this proposal will be evaluated on:	12 months after completion of works if approved.
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**9. VERSION CONTROL:** The Future Generations Evaluation should be used at the earliest stages of decision making, and then honed and refined throughout the decision making process. It is important to keep a record of this process so that we can demonstrate how we have considered and built in sustainable development wherever possible.

Version No.	Decision making stage	Date considered	Brief description of any amendments made following consideration
1.1	Council approval	04/06/2020	

## RE:FIT PROGRAMME PHASE 1 REPORT

### Appendix 3 – Detailed Resource Implications

- 1 All work undertaken by MCC staff to date has been delivered from existing staff resources, mainly within Estates, Property, Procurement, and Legal.
  - 1.1 The Re:fit Programme Implementation Unit (PIU) has provided support for benchmarking, tender development, project management and High Level Assessment (HLA) review to date, and will provide additional support including Investment Grade Proposal (IGP) and monitoring and verification (M&V) plan reviews.
  - 1.2 Technical input and review during the IGP stage, together with clerk of works and QS functions during the works stage, will be delivered from existing Property staff resources, but will require allocation of key staff and may cause capacity issues.
  - 1.3 Annual performance reviews against the M&V plans and any subsequent contractual activities will be undertaken by existing MCC Estates staff resources with support available from the PIU and Welsh Government Energy Services.
- 2 Under the Individual Cabinet Member Decision on 13<sup>th</sup> June 2018, commitment was made to the Re:fit Cymru PIU support fee of £10,000.
  - 2.1 The estimated cost of delivering the standard package of Re:fit PIU support for an organisation is approximately £70-100k. However, funding from Welsh Government to subsidise the PIU support results in a net cost to MCC of £10,000 which will escalate to £20,000 should the Council choose not to proceed.
  - 2.2 The £10,000 will form part of the capital programme costs to be funded via the Salix bid.
- 3 The costs of producing the IGPs for all Phase 1 sites will form part of the capital programme costs to be funded via the Salix bid. The indicative cost in the HLA for the IGP stage is £14,600.

- 3.1 Should the Council choose not to proceed past the IGP stage, the IGP costs will be met from existing budgets as abortive project costs.
- 4 All capital and delivery costs of Phase 1 will be included in the final Salix funding bid, up to a maximum of £2.5M.
  - 4.1 The capital costs in the Salix bid will include the PIU support fee, IGP costs, all costs incurred by the Service Provider to design, supply, install and project manage the delivery of the Energy Conservation Measures (ECMs), and any contingencies or provisional sums. Preliminary review of the draft HLA has confirmed that this can be done while delivering the required 8-year payback for Salix funding.
  - 4.2 Initial indications from HLA stage estimate that a provisional sum in the region of £100,000 may be considered to cover contingencies that could be included within the Salix funding bid. The draft IGP indicates that there may be room to increase the sum included within the Salix funding bid while maintaining required paybacks.
  - 4.3 The deadline for submission of the Salix application is 30<sup>th</sup> September 2020, extended from 30th June 2020 upon request due to the potential impact of COVID-19 on the programme. It is expected an application could be submitted to Salix in June 2020 which may allow funding to be drawn down from July 2020 that would need to be spent within 12 months
  - 4.4 Where ECM paybacks do not meet the Salix criteria, it may be possible to deliver them from the capital maintenance budget. Alternatively, a blended funding approach may be considered to reduce payback to within Salix limits using existing capital budgets. This approach will be subject to MCC officer review of existing capital budget programmes, but may have potential to add value to existing and/or future maintenance or refurbishment projects.
- 5 Additional maintenance costs and M&V fees for the ECMs installed will be paid for from the energy savings generated. The impact of these on gross savings has already been included in the HLA/daft IGP and will be confirmed by completion of the IGP stage.
  - 5.1 Ongoing M&V and reporting will provide evidence of the guaranteed kWh savings achieved and form the basis for any claim against the service provider for underperformance.
- 6 Energy savings of £25k from Re:fit have been included in the Sustainability budget mandate agreed by Council for 19/20, delays in implementation in 19/20 meaning the savings have had to be managed by other means. The 19/20 saving has now been rolled into



20-21 as part of the base but the impact of COVID-19 working restrictions are expected to delay these savings further, creating an additional budget pressure in 20/21. Further energy savings are anticipated as the scheme develops that will be built into MTFP saving plans, existing profiles having been based on the desk-based benchmarking exercise undertaken by Re:fit PIU. The energy savings expected from Phase 1 will be confirmed following completion of the IGP and ahead of the Salix application.

6.1 The current profile of savings in the MTFP is shown in Table 2 based on an initial desk-based benchmarking exercise across the entire Council estate undertaken by Re:fit Cymru. The actual profile of savings achievable will be dependent on the final viability and delivery of Phase 1 and any subsequent roll out of additional phases, and any differences will have to be managed as budget pressures.

Year	Saving	Additional saving released to MTFP
2020-21	£25,000	-
2021-22	£49,000	£24,000
2022-23	£72,000	£23,000
2023-24	£72,000	-

Table 1. Current Re:fit energy savings MTFP profile

6.2 Although it is difficult to accurately estimate by how much until the COVID-19 impacted programme is finalised, it is expected that part-year energy savings will be achieved in 2020/21 as ECMs are installed before Mar-21 and Salix repayments and annual fees commence in 2021/22. If these part-year savings were assumed at 25% of indicative annual savings from the HLA it would equate to approximately £63,000.

7 Energy consumption savings will be guaranteed by the Service Provider to deliver a payback of 8 years or less across the portfolio making up the Salix application, resulting in a project that delivers net savings to the Council over the 10-year Salix repayment period. (See Appendix 5 for indicative HLA cash flow.)

7.1 The savings guarantee is applied to the portfolio as a whole and expressed in terms of kWh units of energy consumption. The financial savings and any income achieved is calculated by applying the unit rates to the energy consumption savings.

7.2 The estimated financial savings are based on April 2020 energy contract prices with a 4% p.a. increase applied, an average figure over the 10-year period being used in producing the HLA. There is a risk that actual savings may be impacted by

differences in actual energy prices, so a sensitivity analysis using a separate MCC model on the impact of different energy price increases on the indicative savings in the HLA is summarised in Table 1.

<b>Increase in energy prices p.a.</b>	<b>Gross savings (10 years)</b>	<b>Net savings (10 years)</b>	<b>Simple Payback (years)</b>
0%	£2,119,877	£75,758	9.3
2%	£2,317,121	£273,002	8.5
<b>4%</b>	<b>£2,536,518</b>	<b>£492,399</b>	<b>7.7</b>
6%	£2,780,485	£736,366	7.1

Table 2. Energy price increases sensitivity analysis.

7.3 All energy savings used for the HLA, IGP and Salix application are based on the energy consumption savings guaranteed by the Service Provider. The Service Provider has confirmed that the anticipated energy consumption savings are higher than the guaranteed savings. How the difference between guaranteed and anticipated kWh savings may impact the indicative HLA assessment is summarised in Table 2.

<b>Savings approach</b>	<b>Gross savings</b>	<b>Net savings</b>	<b>Simple Payback (years)</b>
<b>Guaranteed</b>	<b>£2,536,518</b>	<b>£492,399</b>	<b>7.7</b>
Anticipated (assuming portfolio guarantee of 95% of savings)	£2,667,756	£623,636	7.4

Table 3. Guaranteed v anticipated savings sensitivity analysis.

7.4 Under the terms of the Re:fit contracts, should the actual energy consumption savings achieved from the portfolio of ECMs fail to deliver the guaranteed kWh savings, the service provider will be liable to pay the Council the difference in the monetised value.

8 The gross energy savings achieved will be used to cover annual Salix funding repayments over a 10-year period, together with the additional maintenance costs and M&V fees.

8.1 Under the original programme, Phase 1 ECMs would begin to be installed in July 2020, school sites being completed by September 2020 and all installations completed by the end of March 2021. The impact of COVID-19 working restrictions are expected to delay the programme delivery and installations further, resulting in savings in 2020/21 and Year 1 to be reduced,

annual savings likely being realised in full from 2021/22 onwards. Due to the high level of the analysis, the HLA template and cash flow in Appendix items 4 and 5 do not show this reduction in Year 1.

8.2 The repayment of Salix funding over 10 years when the portfolio of ECMs has a combined 8-year payback will reduce the impact of part-year savings in Year 1. Together with the difference between the guaranteed and anticipated savings, this will create the net saving to the Council to deliver the energy savings in the budget mandate.

9 Although a portfolio approach is applied to the energy consumption savings guarantee, guaranteed and actual kWh savings are itemised in the HLA, IGP, and M&V reporting to identify actual savings achieved by individual ECMs at each site.

9.1 Itemised energy savings generated will be recovered from individual energy budgets to cover the costs of Salix repayment contributions, maintenance costs and M&V fees. Energy savings from CYP buildings (schools) will be recovered through Education Finance by a reduction in allocated energy budgets by the guaranteed savings amount. Where there is any difference in the predicted and actual energy savings from any individual budget, this will be reconciled and adjusted during the annual M&V review.

9.2 Any surplus from the energy savings across the portfolio after repayment of costs will be captured to deliver the £25k energy savings in the Council budget mandate.

9.3 Any surplus from the energy savings across the portfolio after repayment of costs and delivery of the mandated energy savings will be redistributed back into the individual energy budgets on a pro-rata basis.

9.4 Where an individual ECM has a shorter payback, savings will continue to be recovered throughout the 10-year period that Salix repayments are due for funding across the portfolio.

10 Additional savings to Council revenue and capital budgets is anticipated from the Re:fit programme. However, these are difficult to quantify accurately at present and/or are unable to be included within the Salix funding bid.

10.1 Some ECMs included in the HLA will result in water consumption savings, but the Salix funding criteria does not allow these to be included in the funding application and payback calculations.

- 10.2 The expected lifetime and persistence factors of ECMs is longer than the 8-year payback and 10-year repayment periods and will, therefore, continue to deliver energy savings after funding has been repaid in full.
- 10.3 The installation of ECMs is expected to produce some maintenance savings due to:
- Longer life and lower maintenance requirements of ECMs compared with some existing plant and equipment.
  - Replacement of aging plant and equipment that would otherwise be included in future maintenance programmes.
  - Alignment with other planned maintenance works where possible to add value.
- 11 Outside the scope of Phase 1 and limited eligibility criteria of Salix funding, the Re:fit programme and terms of the Service Provider appointment presents opportunities to identify and realise additional energy and carbon savings.
- 11.1 Assuming successful delivery of Phase 1, the intention is that a phased roll out of the programme covers the whole estate and may be expanded in scope to include wider measures and opportunities. The Phase 1 HLA process has also identified opportunities outside the scope of Salix funding that could be considered under an alternative business case.
- 11.2 An initial assessment of Caldicot Leisure Centre has been made by the Service Provider and a full HLA will be undertaken once developing plans and scope for the refurbishment are confirmed. Inclusion with the Re:fit programme will add value to the refurbishment and deliver additional long term energy and carbon savings.
- 11.3 The scope of the original ITT issued allows for the provision of other energy related services across a wider portfolio, and the Service Provider appointed has experience with varied and innovative projects that align with other MCC decarbonisation interests.

By virtue of paragraph(s) 12 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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By virtue of paragraph(s) 12 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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## HLA Summary: Summary cash flow (MCC Amended)

Summary cash flow to be completed by the provider indicating the cash flow of their proposal, unless stated as not required in the Contracting Authority's ITT (Mini-Competition).  
This standard sheet does not calculate NPV / use discounted cash flow.

Project details (updates automatically from Section 1 + 2 BASELINE sheet)

Provider:	SSE Contracting Ltd
Contracting Authority	Monmouthshire County Council
Contracting Authority's project name / code	Monmouthshire RE:FIT Phase 1

All values in £'s

	2020/21	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	10 Yr Total	Average	Comments
<b>Costs</b>														
1 - IGP Services Fee	£ 14,600	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 14,600	£ -	
2 - Works/Optimisation Services Fee	£ 1,849,887	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 1,849,887	£ -	
3 - M&V Services Fee	£ -	£ 6,344	£ 6,470	£ 6,600	£ 6,732	£ 6,866	£ 7,004	£ 7,144	£ 7,287	£ -	£ -	£ 54,446	£ 6,806	Average over 8-years of guarantee only
4 - Maintenance Fee	£ -	£ 2,300	£ 2,346	£ 2,393	£ 2,441	£ 2,490	£ 2,539	£ 2,590	£ 2,642	£ 2,695	£ 2,749	£ 25,185	£ 2,518	Average over 10-years of Salix repayments
5 - Facilitation Services Rebate and/or CCS Fee	£ 2,436	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 2,436	£ -	Info only, included within ECM costs
6 - PIU Fee	£ 10,000	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 10,000	£ -	
7 - Contingencies	£ 90,000	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 90,000	£ -	Based on asbestos/planning estimates, draft IGP indicates larger contingency can be included within Salix payback
<b>A - TOTAL COSTS [sum of the above]</b>	<b>£ 1,964,487</b>	<b>£ 8,644</b>	<b>£ 8,816</b>	<b>£ 8,993</b>	<b>£ 9,173</b>	<b>£ 9,356</b>	<b>£ 9,543</b>	<b>£ 9,734</b>	<b>£ 9,929</b>	<b>£ 2,695</b>	<b>£ 2,749</b>	<b>£ 2,046,554</b>	<b>£ -</b>	
<b>Savings and income</b>														
8 - Total Anticipated Savings against Base Line	£ -	£ 249,351	£ 249,351	£ 249,351	£ 249,351	£ 249,351	£ 249,351	£ 249,351	£ 249,351	£ 249,351	£ 249,351	£ 2,493,506	£ 249,351	Unit rates have been averaged over 8 years using 4% year on year inflation already see HLA template. Some savings expected in 2020/21 as ECMs are installed.
9 - Income: Anticipated Savings [leave blank if not requested in ITT]	£ -	£ 4,301	£ 4,301	£ 4,301	£ 4,301	£ 4,301	£ 4,301	£ 4,301	£ 4,301	£ 4,301	£ 4,301	£ 43,011	£ 4,301	
10 - Any other Anticipated Savings	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	Additional water and maintenance savings anticipated but not quantified/included
<b>B - TOTAL SAVINGS + INCOME [Sum of the above]</b>	<b>£ -</b>	<b>£ 253,652</b>	<b>£ 253,652</b>	<b>£ 253,652</b>	<b>£ 253,652</b>	<b>£ 253,652</b>	<b>£ 253,652</b>	<b>£ 253,652</b>	<b>£ 253,652</b>	<b>£ 253,652</b>	<b>£ 253,652</b>	<b>£ 2,536,518</b>	<b>£ 253,652</b>	10 Yr total and average does not include any part-year savings in 2020/21.
Salix Funding Drawdown	£ 1,964,487	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 1,964,487		
Salix Repayments	£ -	£ 196,448.70	£ 196,449	£ 196,449	£ 196,449	£ 196,449	£ 196,449	£ 196,449	£ 196,449	£ 196,449	£ 196,449	£ 1,964,487	£ 196,449	
<b>Net cash flow [B - A] + Salix (Repayments - Funding)</b>	<b>£ -</b>	<b>£ 48,560</b>	<b>£ 48,387</b>	<b>£ 48,210</b>	<b>£ 48,030</b>	<b>£ 47,847</b>	<b>£ 47,660</b>	<b>£ 47,469</b>	<b>£ 47,274</b>	<b>£ 54,508</b>	<b>£ 54,454</b>	<b>£ 492,399</b>	<b>£ 49,240</b>	10 Yr total and average does not include any part-year savings in 2020/21.
<b>Cumulative cash flow</b>	<b>£ -</b>	<b>£ 48,560</b>	<b>£ 96,946</b>	<b>£ 145,157</b>	<b>£ 193,187</b>	<b>£ 241,034</b>	<b>£ 288,694</b>	<b>£ 336,163</b>	<b>£ 383,437</b>	<b>£ 437,945</b>	<b>£ 492,399</b>			
<b>Notes and assumptions</b>														
Utilities price annual inflation assumption (% change per annum)	2% RPI applied to annual fee's													
MCC Comments	Original HLA cash flow over 8 years payback period. Capital costs to be spread over 10-year repayments to Salix interest-free loan. 2020/21, Year9, Year 10, 10 Yr Total and Average columns added by MCC to demonstrate project lifetime cash flow.													
	PIU support fees and some contingencies to be built into Salix funding bid. (ECM portfolio to be adjusted through IGP stage, may allow increased contingencies to be built in within Salix paybacks.)													
	Some savings expected in 2020/21 as ECMs installed through financial year but figure dependent on programme delays. Full savings assumed from 2021/22 (Year 1) onwards, guaranteed once portfolio works completed and accepted.													
	Salix repayments anticipated to commence 2021/22 (Year 1 of HLA cash flow). Flat repayment profile assumed.													
	Portfolio of sites, ECMs and final costs/savings to be adjusted and finalised during IGP stage before Salix funding application decision.													
	Above will impact project totals and cashflow but will be accurately assessed in separate MCC model before Salix application against savings targets.													

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Legend and Update record

Click to the left to hide / reveal.

High level plan

Detailed Plan

TODAY

L.H. Annual Leave. (26/5 - 29/5)

L.H. Annual Leave. 8/7 - 31/7

Drawdown deadline: 18 months from app

TASKS	Complete?	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20
ITT: ITT preparation	Complete											
MC: Mini-competition (Procurement)	Complete			ITT	Visits	Response						
Tender period			25-Oct	07-Nov	27-Nov							
Scoping and selection complete					18-Dec							
Appointment, kick off / Call-Off Contract signing												
Intention to award / standstill	Complete				20-Dec							
Letter of intent Issued (taken to be appointment letter, taken to be letter of intent)	Complete					8/1/						
Project meeting (all parties)	Complete					15/1/						
Finalise Call off contract	Complete					23-Jan						
Signoff: Appoint Service Provider with Call-off Contract (Schedule 5). Completed 18/2	Complete						Planned	Actual 18/2				
HLA Stage (High Level Appraisal)												
Coordination with building users / stakeholders (MCC)	Complete					12 - 13 days site visits						
Service commencement	Complete					20-Jan						
Commence HLA (12 - 13 days site visits)	Complete					23-Jan						
Completion of HLA	Complete					27-Jan						
Client approval of HLA	Complete						6th Mar					
Production and submission of report for cabinet: defined performance parameters	Complete							25-Mar				
Notification to proceed to IGP	Complete							17-Mar				
Salix offer extension application (new task)	Complete							20th	26-Mar			
Salix offer extension decision (new task)	Complete							25-Mar				
Stage close	Date tbc								02-Apr			
IGP Stage (Investment Grade Proposal)												
Revised tasks and dates to be input based on finalisation of stage 3 exception plan												
Kick off meeting and Mobilisation	On hold							23-Mar				
Draft IGP & M&V production	On hold							27-Mar			15-May	
IGP progress meetings	On hold								?	23-Apr	07-May	?
IGP technical review meetings	Dates TBC								?			
Amend report for Council	New task									Mech	Elec	?
Council approval of defined performance parameters and obtain delegated authority to proceed to subsequent stages	Delayed from 02-Apr											22-Jun
IGP surveys (delayed due to COVID-19)	Dates TBC								2nd Apr		14-May	04-Jun
Production of draft WOS	New task											
Submit draft WOS to LP / review	On hold									15-May		
WOS comments integrated / produce final copy	On hold										29-May	
PIU IGP review	On hold											
Review & approval of IGP	On hold											
IGP and appendices submitted to Salix (technical review)	On hold											29-May
Funding application deadline	Extended from 30-Jun											
Salix review	On hold											12-Jun
Make any changes to IGP, M&V based on Salix comments	On hold											18th June
Submit IGP & M&V to LP for framework compliance check	On hold											19th June
LP review of IGP and M&V	On hold											3rd July
Works Contract signed (both parties)	On hold											17-Jul
Works Stage for Phase (or Optimisation Services)												
Kickoff meeting and agree Drawdown schedule												20-Jul

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## MONMOUTHSHIRE COUNTY COUNCIL REPORT

**SUBJECT:** Licensing Act 2020 Policy Statement

**DIRECTORATE:** Social Care, Safeguarding & Health

**MEETING:** Full Council

**Date to be considered:** 4<sup>th</sup> June 2020

**DIVISION/WARDS AFFECTED:** All Wards

### 1. PURPOSE:

- 1.1 To consider the proposed 'Licensing Act 2003 Policy Statement 2020', as previously debated by the Licensing and Regulatory Committee, and attached as Appendix A.

### 2. RECOMMENDATION(S):

- 2.1 Members approve the updated Licensing Policy statement for adoption by Monmouthshire County Council, to come into force on 1<sup>st</sup> July 2020 (Attached as Appendix A).

### 3. KEY ISSUES

- 3.1 Section 5 of the Licensing Act 2003 requires a Licensing Authority to prepare and publish a statement of its licensing policy every five years. It has been nearly five years since the last policy was approved at Full Council on 25<sup>th</sup> June 2015 and this report sets out the procedure and proposed, updated, policy statement for prior to consideration at Full Council.
- 3.2 Before determining it's policy for the next five year period a full consultation must take place, with representations with the following:-
- The Chief Officer of Police for the licensing authority's area,
  - The Fire Authority for that area,
  - Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
  - Such persons as the licensing authority considers to be representatives of holders of club premises certificates issued by that authority,
  - Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
  - Such other persons as the licensing authority considers to be representatives of businesses and residents in its area.
- 3.3 The revised policy was considered by the Licensing and Regulatory Committee on 26<sup>th</sup> November 2019, prior to it being released for consultation. The consultation required in 3.2 above was duly carried out, with it ending and comments received up until Friday 28<sup>th</sup> February 2020.
- 3.4 Following this consultation responses were received from two separate bodies. The first being Goetre Fawr Community Centre, who had no comments to make on the contents of the policy, but requested that an Executive Summary would be beneficial. The policy is broken down into Sections to attempt to help readers navigate the statement. Compilition of Policy Statements is highly prescribed but this Authority will review whether a summary would be helpful next time it is updated.

Aneurin Bevan University Health Board (ABUHB) made the other comment on the policy. The ABUHB recognised the changes to the Cumulative Impact Area and the assessments that are now required which was highlighted at the Licensing and Regulatory Committee on 26<sup>th</sup> November 2019 and is again referred to in 3.5 below. With this in mind the ABUHB made the following comments:

*Aneurin Bevan University Health Board (ABUHB) welcomes the opportunity to provide feedback to Monmouthshire County Council on the draft Statement of Licensing Policy 2020.*

*ABUHB have considered the draft document in depth, consulted with public health colleagues and congratulate the Council on producing a comprehensive document. The draft Policy provides clear and detailed guidance on licensing expectations and processes in Monmouthshire.*

*Although initially concerned with the removal of the Chepstow Cumulative Impact Policy area, ABUHB recognise the reasons for this and are satisfied that other measures can and will be put in place if problems arise. We have been reassured that the Policy will be accompanied by a Model Pool of Licensing Conditions, which are being drafted in collaboration with our local Public Health Team.*

3.5 The model pool of conditions is referred to within the policy, in section 26.7 to provide guidance to applicants when completing premises applications under the Licensing Act 2003.

### 3.6 Cumulative Impact Assessment – Chepstow

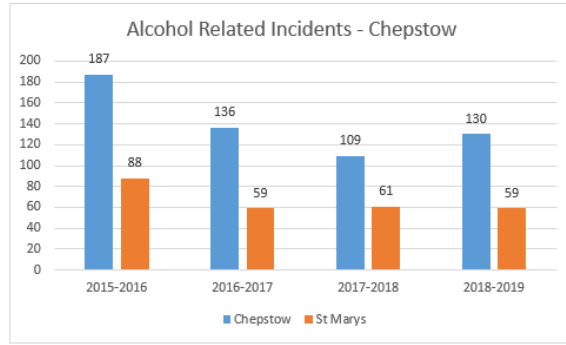
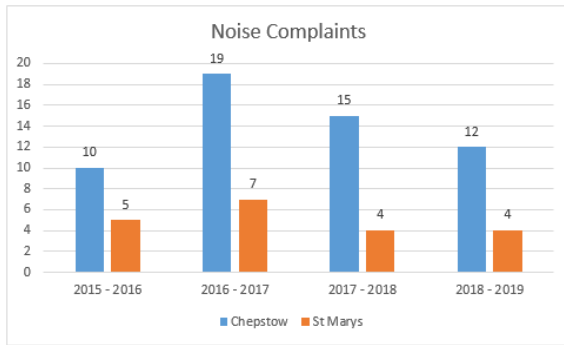
One of the key changes to the previous policy adopted in 2015 is the proposal to remove the Cumulative Impact Policy for Chepstow. In April 2018, Section 141 of the Policing and Crime Act 2018 made changes to the Licensing Act 2003, which requires all Authorities to carry out a Cumulative Impact Assessment (CIA) to the area they propose to have special measures put in place. 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 a CIA applies to all licences or those of a particular kind.

As such, the Authority cannot have a cumulative impact policy, as previously adopted, but must instead conduct a thorough assessment if a CIA is to be introduced. It must be reviewed at least every three years and when being reviewed should not be re-introduced unless justified.

An assessment was carried out for Chepstow (St Marys Ward is the current Cumulative Impact Area) since the adoption of the last Policy in 2015 as follows:-

9 new applications, 2 variation applications and 2 minor variation applications were processed. None of these applications were refused within the previous Cumulative Impact Area.

Information received from Environmental Health regarding noise complaints and Gwent Police regarding alcohol and violent incidents are as follows:



There is a steady decline in noise complaints and in alcohol related incidents. In carrying out an assessment, it is clear that Chepstow Town Centre can no longer be considered as a Cumulative Impact Area. It is clear that even though 9 new premises licences that selling alcohol (5 of those having entertainment) were granted for this area since 2015, it did not increase any incidents. It was further recognised that other measures are in place to tackle unlawful and anti-social behaviour associated with licensed premises throughout Monmouthshire and this is stated in 31.5 of the proposed Policy Statement 2020 attached as Appendix A.

If there is no clear evidence that there are crime and disorder or nuisance concerns, or there are no activities which pose a threat to public safety or the protection of children from harm, then a Cumulative Impact Area should not be adopted and would be open to challenge. Chepstow Town Centre has no evidence of such concerns and the Cumulative Area should be removed, which is supported by Gwent Police, who stated the following by e-mail on 12<sup>th</sup> November 2019

*“Gwent Police understand that it is being considered that the cumulative impact area be removed for Chepstow Town. Gwent Police would agree with this consideration. Since the cumulative impact area has been in place it has not been used to prevent new licensed premises opening. These new applications have been allowed with strict licensing conditions attached to the Premises License, this has resulted in the four Licensing Objectives being adhered to.”*

However, the Authority will consider this approach if at any time it becomes appropriate and necessary to adopt an area within Monmouthshire. Where appropriate, the Authority will conduct an assessment and carry out a full consultation should the Policy Statement need amending.

**4. REASONS:**

- 4.1 The policy is necessary to guide consistent decisions and takes account of guidance.
- 4.2 There is a need to take account of collaborative approaches
- 4.3 To ensure that applications with no relevant information to consider can be dealt with without unnecessary delay.
- 4.4 To enforce the provisions of the Licensing Act 2003 effectively.

**5. RESOURCE IMPLICATIONS:**

No resource implications identified.

**6. WELLBEING AND FUTURE GENERATIONS IMPLICATIONS**

The ‘Future Generations’ template is attached as Appendix B.

**7. CONSULTEES:**

The Chief Officer of Police, the Fire Authority, licensed premises holders, club certificate holders, personal licence holders and their representatives. Gwent Licensing Forum.

Consultation will also take place with relevant business and resident representatives via notification of the revised Policy on the Council's website. Similarly, County Councillors, Town and Community Councillors and Solicitors that have previously been involved in licensing matters will be consulted.

**8. BACKGROUND PAPERS:**

Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003 – Home Office, dated April 2018

**9. AUTHOR:**

Linda O’Gorman

Principal Licensing Officer

**CONTACT DETAILS:**

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monmouthshire  
sir fynwy

# Licensing Act 2003 Draft Policy Statement 2020

Revision 1<sup>st</sup> July 2020

Further information can be obtained from:  
Licensing Section  
Monmouthshire County Council  
Abergavenny Community Education Centre  
Old Hereford Road  
Abergavenny  
NP7 6EL  
Tel: 01873 735420  
Email: [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)  
Website: [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.gov.uk/licensing)

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## 1. Introduction

- 1.1 The Licensing Act 2003 requires the Council, in fulfilling its role as the Licensing Authority, to publish a “Licensing Policy” that sets out the policies the council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. This is that statement of policy prepared in accordance with the provisions of the 2003 Act and the latest version of Home Office Guidance issued under section 182 of the Act.
- 1.2 **Monmouthshire County 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 Licensing Act 2003, 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 (WLGA) and various trade associations have been taken into account wherever possible. Where appropriate, the Policies of other Gwent authorities have also been taken into account, in order to achieve uniformity wherever possible and to help ensure the integration of the various policies over a wider geographical area. Other Corporate policies adopted by the Council have also been taken into account, and these will be referred to throughout this document as appropriate.
- 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 **Monmouthshire County 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 Monmouthshire 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 the County

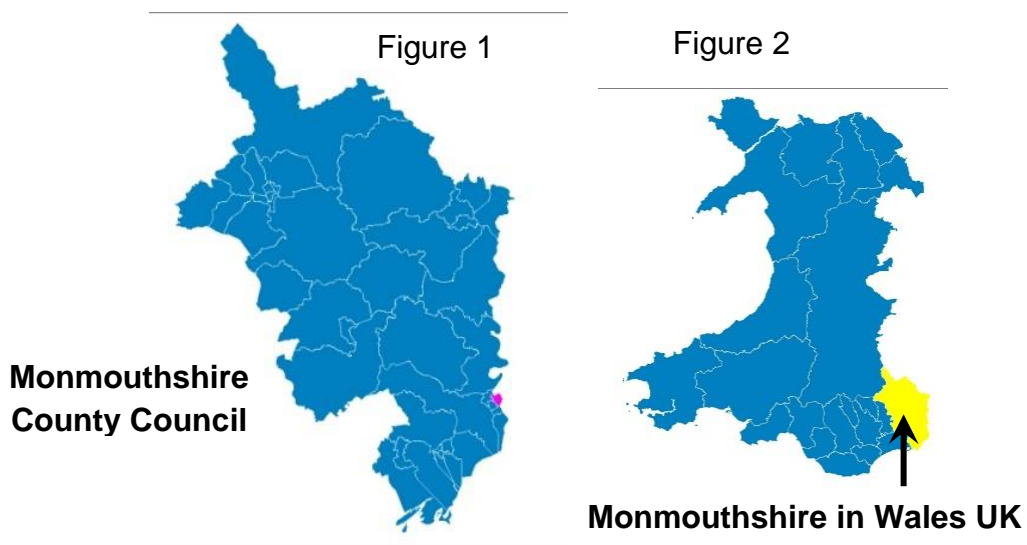
### The County of Monmouthshire

The Monmouthshire County has a population of approximately 92,336 and is mainly rural in character. The five main towns of Monmouth, Abergavenny, Caldicot, Chepstow and Usk are surrounded by numerous villages, each with their own individual character.

There are a few major concentrations of premises in the County providing Regulated Entertainment and/or the retail of sale of alcohol. There are a few private clubs; a cinema and several premises which have late night extensions. However, mobile cinema showings are now active in the County. We have a few theatres in Monmouthshire. Other local venues such as village, community and school halls also provide many of the locations for cultural activities. Several open air concerts/shows provide for the larger cultural events.

There are many public houses in the County outside of the main Towns, many of these in the small, rural villages which provide the focal point for community life. In other cases this focal point may be provided by small stores and shops that sell alcohol. The main late night refreshment premises are located in the main Towns.

Because of the rural nature of the County, premises and events licensed under the Licensing Act 2003 provide an essential contribution to the local economy, through tourism and cultural development.



### **3. Licensing Committee**

- 3.1 The Council will appoint a Licensing Committee in accordance with its constitution.
- 3.2 A Licensing Committee shall establish Sub-Committees (panels) consisting of three Members of the Committee, to consider applications where representations have been received from any person and/or Responsible Authorities.
- 3.3 The Licensing Committee will also sit to determine applications not associated with the Licensing Act 2003, such as taxi and private hire vehicle licensing.
- 3.4 In the interests of good governance, where a Councillor who is a Member of a Licensing Committee or a Licensing Sub-Committee has had a direct or indirect pecuniary or personal interest in any matter before them they will be disqualified from any involvement in the decision-making process affecting the premises licence. A Councillor will not sit on a Sub-Committee to consider an application within their 'Ward'.
- 3.5 The Licensing Sub-Committee will refer to the Licensing Committee any matter it is unable to deal with because less than three members are able to consider the matter before the Sub-Committee.
- 3.6 The Licensing Committee shall refer to the 'Licensing Authority' [the Council], any matter it is unable to deal with because less than the quorum of three Members are able to consider the matter before the Committee.
- 3.7 Every determination of a licensing decision by the Licensing Committee or a Licensing Sub-Committee shall be accompanied with reasons for the decision. A summary of the decision 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.
- 3.8 The Council's Licensing Officers will deal with all licence applications where either no relevant representation has been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 3.9 A periodic report will be made to Licensing Committee on the exercise of delegated powers.



- 3.10 The Council will ensure that members and relevant officers are appropriately trained to carry out their duties under the Act.
- 3.11 Matters in respect of the Licensing Act 2003 are to be dealt with as specified in the council's scheme of delegation under its constitution.

#### **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 Monmouthshire 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 closed 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 economies which are important for investment and employment locally. The Authority considers that it is vital to create an appropriate balance between the economic needs of licensed premises and the rights of local residents to be able to enjoy a reasonable degree of peace and quiet at noise-sensitive times and other persons not experience early fall out of the night-time economy. To this end, the Licensing Authority is prepared to consider identifying zones in its area where hours of operation for licensable activities will be fixed. This will be applied in the event of representations being made upon an application unless the Licensing Sub-Committee is persuaded that it would not be appropriate to apply them in the circumstances of the application.

- 5.4 The Licensing Authority notes that the Government's Section 182 Guidance states that "Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours". However, because of the problems experienced in some local communities in Monmouthshire 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 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 Licensing Act 2003 is to regulate the supply of alcohol. Licensing is therefore the key mechanism by which the availability of alcohol can be regulated, through regulating the times and days of the week alcohol can be sold, premises which can supply alcohol and the conditions of sale.

7.5 Monmouthshire County Council recognises the significant negative impact on the health of our residents caused by alcohol, reflected in hospital admissions and deaths from alcohol related illnesses (see below). Alcohol data shared by Public Health Wales 2019 indicates that Monmouthshire local authority area has:

- The **joint highest** rate (23.7%) in Wales of persons aged 16+ self-reporting drinking above the guidelines compared to all Welsh local authorities, with the national average of 19%.
- The **highest rate** of adults self-reporting hazardous drinking when compared to all local authority areas in Wales, and the **lowest rate of adults self-reporting to be non-drinkers** (12.6%) compared to all local authority areas in Wales.
- Similar rates of alcohol-specific hospital admissions for females compared to the Welsh average. Monmouthshire has traditionally been below the national average for alcohol-specific hospital admissions. However, whilst rates have been slowly decreasing in Wales between 2014 and 2017, rates in Monmouthshire have been **slowly rising** in the same period.
- Slightly below average rates of alcohol-specific hospital admissions for males compared to the national average. NB: A higher number of male adults are admitted to hospital for alcohol-specific conditions than females in Monmouthshire. All hospital admissions for alcohol are preventable.
- Has a similar level of alcohol-specific hospital admissions for under 18s, for both males and females compared to the Welsh average. However, more young females were admitted to hospital for alcohol-specific conditions than males in Monmouthshire in 2015-17.
- Below the national average rates for alcohol-specific mortality (deaths) for both males and females.

7.6 Within the context of promoting the four licensing objectives, the Licensing Authority expects applicants to propose licensing conditions to mitigate the impact their premise 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 Monmouthshire County Council's 'Model Pool of Conditions'.

7.7 In addition, the Licensing Authority expects applicants to consider the impact their premise 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 premise is close to the location of treatment services, and areas where children and young people may congregate, such as schools, youth clubs and parks.

## **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 Gwent 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 Gwent Police written policy. Furthermore, in the interest of Crime and Disorder, Gwent Police would also require licensed premises to allow the use of the ION Track machine 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 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 Monmouthshire Group, 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. Details of the factors that will need to be considered as part of the operating schedules are given in the Licensing Policies and matters for consideration when deciding applications, which are attached in the annex to this policy and in the Guidance notes for applicants.
- 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 recognise that although Gwent 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 wellbeing of individuals, their family, friends and work colleagues, our public service staff and licensed premise 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 Authority 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 Monmouthshire County 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.

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 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> or can report to Licensing on 01873 735420 or e-mail [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk). 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.

The Licensing Authority recognise 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 premise may have on public nuisance particularly from noise and put in place mitigating measures.

- 11.4 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.

- 11.5 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.

- 11.6 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.

- 11.7 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.
- 11.8 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.
- 11.9 **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.
- 11.10 The Statutory Licensing guidance issued under Section 182 of the Licensing Act 2003 does not currently provide any reference to how operationally Licensing Authorities are to have regard to the requirements of the WFG Act 2015 specifically as it may relate to the promotion of the Licensing Objective, the Prevention of Public Nuisance. It is clear however in the Welsh Government's 'Noise and Soundscape Action Plan 2018-2023' that there is recognition of the impact of noise. The Licensing Authority will have regard to this action plan when determining applications (please refer to section 17 Integrating strategies below).

## **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 **Monmouthshire** 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 Heddlu Gwent Police promotes the use of polycarbonate drinking vessels to reduce injuries caused either deliberately or accidentally from glass drinking vessels. The Council supports this initiative and would advise any applicant or authorisation holder that toughened glass often lose their tempering through repeated use, and should consider the introduction of solely polycarbonate or plastic drinking vessels. Where premises are associated with crime and disorder, the Council may also advocate that open glass bottles for consumption on the premises should not be permitted and that contents are decanted before serving to customers, the purpose being to reduce any incidents where bottles may be used as weapons.

12.7 The Licensing Authority recognise 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.

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 Chief Officer Social Care 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.**

**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.

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.

If there are concerns the licence holder and staff are to report the matter to either Monmouthshire Safeguarding on 01291 635669 or Police Safeguarding on 01495 745409. If someone is in immediate danger to call the Police on 999.

13.7 The Licensing Authority recognise 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.

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 recognise 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).

13.8 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.



13.9 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 Act has inserted the term 'other person' to replace 'interested party' as someone who can make representations, it also removed the vicinity test for residents and the specific term of councillor. This opens up the range of persons who may make representation and includes for example the following:-

- Residents living near the premises
- Persons with an interest in the premises or locality
- Local councillors
- Businesses with an interest in the premises or locality.
- Organisations with an interest in the locality, premises or licensable activities.

The Council will have to decide if the representation is relevant and/or reasonable, and in making that assessment will assess the person or organisation making the representation and their relationship to the premises and or vicinity.

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 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 Safeguarding Children Board
- In relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board
- The Local Health Board (Aneurin Bevan University Health Board)
- The Licensing Authority (The Council)
- Immigration (Home Office Immigration Enforcement)

## 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 as a consequence, 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 impact directly or indirectly on the licensing regime. The Licensing Authority must have regard to the following

when it discharges its responsibilities under the Licensing Act 2003 and in relation to the promotion of the four licensing objectives:

#### Crime and Disorder Act 1998

This Act requires local authorities and other bodies to consider crime and disorder reduction. Section 17 of the Act states that it shall be the duty of each authority, to exercise its various functions with due regard to the likely effect the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment). This links specifically with the licensing objective of prevention of crime and disorder and the licensing authority will take into account all reasonable measures that actively promote this licensing objective.

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

This Act gives a wide range of powers to local authorities and the police to tackle incidents of crime, disorder and nuisance that may be impacting on residents. The Act introduced public spaces protection orders which allows the local authority to designate areas where anti-social behaviour such as street drinking will be prohibited. The Act also gives powers to the local authority and police to close licensed premises where nuisance and anti-social behaviour is taking place. This Act therefore clearly supports and actively promotes the licensing objectives contained within the Licensing Act 2003.

#### Immigration Act 2016

Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 and made Home Office Immigration Enforcement a Responsible Authority concerned with the licensing objective of prevention of crime and disorder. They will exercise their power both in respect of being a consultee on new licence applications and having right of entry to licensed premises with a view to seeing whether an offence under any of the Immigration Acts is being committed on a licensed premises. This will primarily involve the detection and prevention of illegal working on premises that have an alcohol licence or a late night refreshment licence. The offence of employing people at licensed premises who have no right to work in the UK is also now listed in the Secretary of State's guidance under Section 11.27 which covers criminal activity deemed to be particularly serious and where a licensing authority should consider revoking a premises licence even in the first instance. This Act clearly supports and actively promotes the licensing objective of preventing crime and disorder and the

licensing authority will work with colleagues in the Immigration service and Gwent Police to enforce this.

#### Human Rights Act 1998

The Council has a duty under the European Convention on Human Rights to protect both the rights of resident to privacy and family life (Article 8), and the rights of a licence holder to operate their business without undue interference (Article 1 of the First Protocol). This promotes the need for the licensing authority to reach a balance between these two principles when making decisions.

#### Equality Act 2010

The Act places a legal obligation on public authorities to have regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between persons who shared a protected characteristic and those that do not. Protected characteristics include age, disability, race, religion and sexual orientation. When making a decision, the licensing authority will have regard to this due to the goal of ensuring that the night time economy is safe and accessible to all. Other legislation that the Licensing Authority will consider -

#### Well-being of Future Generations (Wales) Act 2015

This Act requires Local Authorities in Wales to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems, such as poverty, health inequalities and climate change. The Act clearly supports and actively promotes the licensing objectives. This Act links specifically to the prevention of crime and disorder and public nuisance. It recognises that there is a need to create appropriate soundscapes – the right acoustic environment in the right time and place. The Local Authority will consider the management of noise and soundscapes and in particular the five ways of working contained under this Act namely, i) Long term – the importance of balancing short-term needs with the needs to safeguard the ability to also meet long-term needs, ii) Integration, iii) Involvement, iv) Collaboration and v) Prevention. Welsh Government has produced a ‘Noise and Soundscape Action Plan for 2018-2023’ <https://gov.wales/sites/default/files/publications/2019-04/noise-and-soundscape-action-plan.pdf>

The Licensing Authority will also have cognisance to the following legislation when it decides to discharge its responsibilities under the Licensing Act. This list is not exhaustive:-

- Environmental Protection Act 1990 which deals with noise and nuisance
- Regulatory Reform Order 2005 which deals with fire safety
- Highways Act 1980 which deals with pavement café licences.

- 17.2 The Licensing Authority will as far as possible seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate or proportionate to impose the same or similar duties on the premises licence holder or club. Once the discretion of the Licensing Authority is engaged, it is only where additional and supplementary measures are appropriate to promote the licensing objectives that appropriate and proportionate conditions will be attached to a licence.
- 17.3 Other Local Authority and Government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the Licensing Authority may liaise with the relevant authorities or its directorates with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they can indirectly impact upon them.
- 17.4 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.
- 17.5 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**

- 17.6 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.
- 17.7 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.

- 17.8 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.
- 17.9 The Local Authority will aim to properly separate planning, building control and licensing regimes in order to avoid duplication and inefficiency. The Licensing and Planning regimes involve consideration of different (albeit related) matters.
- 17.10 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.
- 17.11 The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa.
- 17.12 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 Council recognises it has very little discretion in the granting of a personal licence. In general provided an applicant is **aged 18 or over, is entitled to work in the UK**, has an approved qualification, **has not had a personal licence forfeited within 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 premise is being used for licensable activities during the times specified in the licence. Failure to comply with the terms and conditions of a licence or if licensable activities are carried out without a premises licence, may result in 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 If posted, 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. If sent electronically, the Licensing Authority will consult with the relevant consultees on behalf of the applicant.

- 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 Temporary Event Notice, particularly where this involves the provision of regulated entertainment, gives as much notice to the Authority as possible, to ensure that proper advice can be given and any anticipated issues resolved in a planned and timely manner. Whilst notices can legally be submitted with 10 working days 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 Event Safety Advisory Group (ESAG) of any Temporary Event Notices involving the provision of regulated entertainment. This Panel brings together the various enforcement bodies that may be responsible for enforcement in respect of an event, along with any applicants and other organisers, and allows agreement to be reached regarding the way that the event will be organised etc. It is recommended that all applicants submitting a Temporary Event Notice go through the Events Panel

when drawing up their Notice, and the Events Panel will be of particular assistance to charities, community and voluntary groups, and other event organisers who may not have access to legal advice or technical knowledge.

It is recommended that ESAG is contacted in adequate time to factor in the possibility of objections to a licence or temporary event and the hearing timescale. As such, it is recommended that ESAG be contacted for events under 500 people, 24 working days before the event and 68 working days before the event for events over 500. This is recommended where alcohol, regulated entertainment and/or late night refreshment is taking place.

- 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 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).

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.

### 23.2 Public Audience

For the purpose of regulated entertainment, the term “audience” refers to any person for whose entertainment (at least in part) any licensable activities are provided. An audience member need not be, or want to be, entertained: what matters is that an audience is present and that the purpose of the licensable activity is (at least in part) intended to entertain any person present. The audience will not include performers, together with any person who contributes technical skills in substantial support of a performer (for example, a sound engineer or stage technician), during any associated activities. This includes setting up before the entertainment, reasonable breaks (including intervals) between activities and packing up thereafter. Similarly, security staff and bar workers will not form part of the audience while undertaking their duties.

More than one entertainment activity (or single activity, more than one performance or event) can be held concurrently, provided that the audience for each such performance or event does not exceed the threshold at which such a performance or event does not exceed the threshold at which such a performance or event becomes licensable. In some circumstances, there will be a clear distinction between performances or events; for example, their taking place in separate rooms or on separate floors. However, organisers will have to ensure that audiences do not grow or migrate, so that the audience exceeds the relevant limit for any one performance or event at any time. If there is the possibility of audience migration, it might be easier and more flexible to secure an appropriate authorisation.

### 23.3 **Overview of circumstances in which entertainment activities are not licensable**

There are a number of exemptions that mean that a licence (or other authorisation) under the 2003 is not required. This Policy cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:

- Activities which involve participation as acts of worship in a religious context;
- Activities in places of public religious worship;
- Education – teaching students to perform music or to dance;
- The demonstration of a product – for example, a guitar – in a music shop;
- The rehearsal of a play or performance of music for a private audience where no charge is made with a view to make a profit;
- Morris dancing (or similar);
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors)

## 23.4 **Deregulatory changes where a licence is not required**

As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- **Plays:** no licence is required for performances between 08.00 and 23.00 on any day, if the audience do not exceed 500.
- **Dance:** no licence is required for performances between 08.00 and 23.00 on any day, if the audience do not exceed 500.
- **Films:** no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day, provided that the audience does not exceed 500 and the organiser (a) gets the consent to the screening from a person who is responsible for the premises and (b) ensures that such screening abides by age classification ratings.
- **Indoor sporting events:** no licence is required for an event between 08.00 and 23.00 on any day, if the audience do not exceed 1000.
- **Boxing or wrestling entertainment:** no licence is required for a contest exhibition or display of Greco-Roman wrestling, or freestyle between 08.00 and 23.00 on any day, if the audience do not exceed 1000.
- **Live unamplified music:** No licence is required for a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
- **Live amplified music:** No licence is required for a performance of amplified live music between 08.00 and 23.00 on any day
  - on premises authorised to sell alcohol for consumption on the premises, if the audience do not exceed 500.
  - In a workplace that does not have a licence, if the audience do not exceed 500.
  - In a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- **Recorded music:** No licence is required for any playing of recorded music between 08.00 and 23.00 on any day
  - On premises authorised to sell alcohol for consumption on the premises, if the audience do not exceed 500.
  - In a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the

- organiser gets consent for the performance from a person who is responsible for the premises.
- At the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience do not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- **Cross Activity Exemptions:** No licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - Any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - Any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider.
  - Any entertainment taking place on the premises of the school 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 Temporary Event Notice (TEN) could still be required include if the activity is the playing of recorded music or the exhibition of a film that required an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.

Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.

## 23.5 **Circumstances in which entertainment activities are no longer licensable**

**Local Authorities, hospital healthcare providers and school proprietors: cross entertainment activity exemption**



No licence is required for any entertainment provided by or on behalf of a local authority, health care provider, or school proprietor to the extent that it takes place on defined premises, between 08.00 and 23.00 on any day provided that:

- For entertainment provided by, or on behalf of, a local authority it takes place on premises in which that authority has relevant property interest, or is in lawful occupation.
- For entertainment provided by, or on behalf of, a health care provider, providing it takes place on any premises forming part of a hospital in which the provider has a relevant property interest, or is in lawful occupation; and
- For entertainment provided by, or on behalf of, a school proprietor it takes place on the premises of the school.

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.

### **Local authority, hospital and school premises: third party music entertainment**

No licence is required for a performance of live music or the playing of recorded music on local authority, hospital or school premises, that are not domestic premises, between 08.00-23.00 on any day provided that;

- It is performed in front of an audience of no more than 500 people; and
- A person concerned in the organisation or management of the music entertainment has obtained the prior written consent of the local authority, health care provider or school proprietor (as appropriate) for that entertainment to take place. It is for these “trusted providers” to determine whether, or not, they wish to make their premises available for music entertainment by a 3rd party and on what terms they deem it appropriate.

### **Community premises: music entertainment**

No licence is required for a performance of live music or the playing of recorded music on community premises, between 08.00-23.00 on any day provided that;

- The community premises are not authorised, by a premises licence or club premises certificate, to be used for the supply of alcohol for consumption on the premises;
- The music entertainment is in the presence of an audience of no more than 500 people and
- A person concerned in the organisation or management of the music entertainment has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

### **Community premises: exhibition of film**

No licence is required for an exhibition of a film on community premises between 08.00-23.00 on any day providing that

- The film entertainment is not provided with a view to a profit
- The film entertainment is in the presence of an audience of no more than 500 people

- The admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by BBFC or relevant licensing authority regarding the admission of children and
- A person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises

Under this exemption, one condition is that the film entertainment is not being provided with a view to profit. An entry charge does not of itself make the film entertainment licensable; it is whether the organiser intended to make a profit (that includes raising money for charity). A charge or contribution that is made solely to cover the costs of the film screening is consistent with 'not being provided with a view to profit'. The 'not with a view to profit' condition applies solely to the activity of exhibiting the film under this exemption. A charge with a view to making a profit may legitimately be levied for any other activity or event that is distinct from film admission, such as the provision of refreshments, film talks, or a social event.

This community film exemption is also conditional on those responsible having in place operating arrangements that ensure that the age rating for the film is implemented by means of a suitable child admission policy. How this is achieved is a matter for the organisation or social group exhibiting the film. For example, they may operate a membership subscription scheme which pays for entry to all titles in a season and is limited to adults. It could be a children's film club with a policy of only showing films that are suitable for all by being rated 'U' by the BBFC. Alternatively, the organisers could sell tickets to the public and ensure that children are only permitted to attend in accordance with any age rating for the film – i.e. a door admissions policy linked to proof of age.

### **Travelling Circuses**

Where types of entertainment are present in a performance by a travelling circus they will not be licensable provided that certain qualifying conditions are met. The qualifying conditions are;

- The entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
- The entertainment takes place between 08.00hrs and 23.00hrs on the same day;

- The entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
- The travelling circus has not been located on the same site for more than 28 consecutive days.

## **Live Music**

Live music is licensable -

- Where a performance of live music – whether amplified or unamplified – takes place before 08.00 or after 23.00 on any day;
- Where a performance of amplified live music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment;
- Where a performance of amplified live music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- Where a performance of amplified live music takes place at relevant licensed premises, or workplaces, in the presence of an audience of more than 500 people; or
- Where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act when imposing a condition on a premises licence or club premises certificate as a result of a licence review.

In any of the above circumstances, unless the performance of live music is appropriately authorised by a premises licence, club premises certificate or TEN, allowing it to take place could lead to enforcement action and, where relevant, a review of the alcohol licence or certificate.

A public performance of live unamplified music that takes place between 08.00 and 23.00 on the same day no longer requires a licence under the 2003 Act in any location. An exception to this is where a specific condition related to live music is included following a review of the premises licence or club premises certificate in respect of relevant licensed premises.

## **Key terms used in relation to live music**

Under the live music provisions, “music” includes vocal or instrumental music or any combination of the two. “Live music” is a performance of live music in the presence of an audience which it is intended to entertain. While a performance of live music can include the playing of some recorded music, ‘live’ music

requires that the performance does not consist entirely of the playing of recorded music without any additional (substantial and continual) creative contribution being made. So, for example, a drum machine or backing track being used to accompany a vocalist or a band would be part of the performance of amplified live music. The performance of a DJ who is merely playing tracks would not be classified as live music, but it might if he or she was performing a set which largely consisted of mixing recorded music in a live performance to create new sounds. There will inevitably be a degree of judgement as to whether a performance is live music (or recorded music) and organisers of events should check with their licensing authority if this consideration is relevant to whether the activity is authorised by a licence or certificate. In the event of a dispute about whether a performance is live music or not, it will be for the licensing authority initially and ultimately, for the courts to decide in the individual circumstances of any case.

A “workplace” is as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992 and is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces, as well as the means of entry and exit.

A “relevant licensed premises” for the purposes of this chapter is one which is authorised to sell or supply alcohol for consumption on the premises by a premises licence or club premises certificate. Premises cannot benefit from the deregulation introduced by the 2012 Act by virtue of holding an authorisation for the sale or supply of alcohol under a TEN.

### **Recorded Music**

No licence is required for recorded music where it takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises. However, recorded music remains licensable

- Where the playing of recorded music takes place before 08.00 or after 23.00 on any day;
- Where the playing of recorded music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- Where the playing of recorded music takes place at a relevant licensed premises in the presence of an audience of more than 500 people; and
- Where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act (as amended).

## **Plays and Dance**

No licence is required for a performance of a play or dance to the extent that certain qualifying conditions are satisfied. However a performance of a play or dance remains licensable;

- Where the performance takes place before 08.00 or after 23.00 on any day; or
- Where the performance takes place in the presence of an audience of more than 500 people.

## **Indoor Sport**

No licence is required for an indoor sporting event to the extent that certain qualifying conditions are satisfied. However an indoor sporting event remains licensable;

- Where the performance takes place before 08.00 or after 23.00 on any day; or
- Where the event takes place in the presence of more than 1000 spectators.

## **23.6 Licence Conditions**

### **Live Music or Recorded Music**

Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate which relate to live music or recorded music remain in place, but are suspended between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

- At the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- If the music is amplified, it takes place before an audience of no more than 500 people; and
- The music takes place between 08.00 and 23.00 on the same day.

Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of regulated entertainment all doors and windows must remain closed” would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an

audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.

More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect)

These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.

Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.

### **Beer Gardens**

Beer gardens are often included as part of a premises licence or club premises certificate. Live amplified music that takes place in a beer garden is exempt from licensing requirements, provided the beer garden is included in the licence or certificate applying to the relevant licensed premises, and the performance takes place between 08.00 and 23.00 on the same day before an audience of 500 people or fewer.

Where a beer garden does not form part of the relevant licensed premises and so is not included in plans attached to a premises licence or club premises certificate, it is nevertheless very likely that it will be a workplace.

Paragraph 12B of Schedule 1 to the 2003 Act says that a performance of live music in a workplace that does not have a licence (except to provide late night refreshment) is not regulated entertainment if it takes place between 08.00 and 23.00 on the same day in front of an audience of no more than 500 people. Note that the exemption in paragraph 12B does not apply to the playing of recorded music.

However, a licensing authority may, where justified, impose a licence condition that relates to the performance of live music in an unlicensed beer garden being served by any associated premises licence or club premises certificate. Provided such a condition is lawfully imposed, it takes effect in accordance with its terms.

## **Plays, dance and indoor sport**

Where qualifying conditions are satisfied, any current licence condition that relates to a performance of a play or dance, or an indoor sporting event for which a licence is no longer required will (except in the circumstances described in the next paragraph) have no effect.

Where, however, these non-licensable activities take place at the same time as other activities for which a licence is required (e.g. the sale or supply of alcohol for consumption on the premises), conditions included in a licence may nevertheless apply to the non-licensable activities in the circumstances set out above.

Dance that is sufficiently sexual in nature continues to be regulated. Performances of dance which are “relevant entertainment” within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) are not deregulated, regardless of the size of the audience or the time of day. “Relevant entertainment” is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.

In almost all cases where a performance of dance is potentially licensable as both the provision of relevant entertainment (under the 1982 Act) and regulated entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments. However, an authorisation under the 2003 Act rather than the 1982 Act will continue to be required where:

- The premises are not licensed as a sex entertainment venue under the 1982 Act, and
- 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.

## **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.

### **23.7 Conditions relating to other non-licensable activities**

If appropriate for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, could create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.

Similarly, while karaoke no longer needs licensing as the provision of entertainment facilities (and will generally be classed as a performance of live music) it might, for example, be possible on review to limit the use or volume of a microphone made available for customers on an 'open-mic' night (which encompasses more than just live music), if a problem had occurred because of customers purchasing alcohol for consumption on the premises becoming louder and less aware of causing noise nuisance later in the evening. Another example might be a condition restricting access to a dance floor at certain times, where the presence of customers in close proximity who had been consuming alcohol on the premises had led to serious disorder. In the first instance it is for the licensing authority to satisfy itself that a particular condition is appropriate and lawful in each case.

## 23.8 Incidental music

The performance of live music or playing of recorded music is not regulated entertainment under the 2003 Act if it is 'incidental' to another activity "which is not itself a description of entertainment falling within paragraph 2" of Schedule 1 to the 2003 Act. 16.58 The incidental music exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required, as it takes place between 08.00 and 23.00 on the same day and before an audience which does not exceed the relevant limit. This is because such an activity is no longer a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the 2003 Act. This means that, while a performance of live music or the playing of recorded music cannot be incidental to a boxing or wrestling entertainment, such music may be within the scope of the incidental music exemption for an indoor sporting event or performance of a play or dance for which no licence is required.

Whether or not music is "incidental" to another activity will depend on the facts of each case. In considering whether or not live or recorded music is incidental, one relevant factor could be whether, against a background of the other activities already taking place, the addition of music will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. Other factors might include some or all of the following:

- Is the music the main, or one of the main, reasons for people attending the premises and being charged?
- Is the music advertised as the main attraction?
- Does the volume or the music disrupt or predominate over other activities, or could it be described as 'background' music.

Conversely, factors which would not normally be relevant in themselves include:

- The number of musicians, e.g. an orchestra providing incidental music at a large exhibition;
- Whether musicians are paid;
- Whether the performance is pre-arranged; and
- Whether a charge is made for admission to the premises.

In any disputed case, it will be for the licensing authority initially and, ultimately, for the courts to consider whether music is "incidental" in the individual circumstances of any case.

## 23.9 **Removing licence conditions**

On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.

An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements.

## 23.10 **Busking**

Busking or street performance is the practice of performing in public spaces for money. Performances are not limited to music or singing and can take the form of a wide range of activities that people find entertaining.

Busking is generally not licensable under the 2003 Act as

- It often occurs in a place that is not a premises made available (at least in part) for the purposes of providing entertainment.
- The entertainment is usually incidental to another activity, such as shopping or sightseeing, as there are few circumstances in which anyone would go out specifically to watch buskers; and
- Any unamplified live music is not licensable between 08.00 and 23.00.

Monmouthshire has a busking policy on where it would be appropriate to carry out such activity and this can be found at [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.gov.uk/licensing)

## 23.11 **Incidental Film**

An exhibition of a film within the meaning of paragraph 15 of Schedule 1 to the 2003 Act is not regulated entertainment if it is 'incidental' to another activity "which is not itself a description of entertainment falling within paragraph 2" of Schedule 1 to the 2003 Act.

The incidental film exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required as it takes place between 08.00 and 23.00 on the same day before an audience which does not

exceed the relevant limit. Such activities would no longer be a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the 2003 Act

This means that, while any exhibition of moving pictures cannot be incidental to a boxing or wrestling entertainment, such film displays may be within the scope of the incidental film exemption for an indoor sporting event or performance of a play or dance for which no licence is required.

Whether or not an exhibition of moving pictures is “incidental” to another activity will depend on the facts of each case. In considering whether or not film is incidental, one relevant factor could be whether, against a background of the other activities already taking place, the addition of an exhibition of moving images will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. This would mean that if the BBFC or the relevant licensing authority has given an age rating to a film, video, or music video, then to qualify for the “incidental film” licensing exemption, the admission of children to the premises will need to be restricted in accordance with the appropriate age rating. But that is one aspect of one relevant factor. Other factors to consider in assessing whether film is incidental might include some or all of the following:

- Is the film the main, or one of the main, reasons for people attending the premises and being charged?
- Is the film advertised as the main attraction?
- Does the screening of the film predominate over other activities, or could it be described as ‘background’ images?
- Does the appearance of moving pictures within another entertainment activity, for which no licence is required (e.g. a performance of a play or dance), undermine the promotion of the licensing objectives?

#### **23.12 Entertainment activity provided as part of childcare**

Entertainment activity that is provided as part of childcare will generally not be licensable. This includes entertainment activity in a nursery or private home. In addition, paragraph 5 of Schedule 1 to the 2003 Act includes a licensing exemption for an exhibition of a film where the main purpose is to provide education. Education will generally include all forms of pre-school child and day care. Furthermore, an exhibition of a film, or the playing of live or recorded music, will generally be incidental to the activity of childcare and so the incidental music and film exemption in paragraph 7 of Schedule 1 will also apply. This will generally be the case for any entertainment activity organised as part of wraparound childcare, including breakfast clubs, after school clubs or holiday clubs linked to the child’s school or based in the local community.

### 23.13 **Child Performers**

Child performance legislation requires that a licence must be obtained from a child's home local authority before a child can take part in certain types of performance and activities. A licence may be required whether or not any payment is made for the child to perform. The deregulation of entertainment licensing does not alter the regulations on when children can take part in performances. 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 detailed information on all of the services it offers for licensees, applicants, complainants and all other enquiries. Application information and forms can be downloaded from our website. The licensing teams can be contacted by any of the following means:-

Licensing Section  
Monmouthshire County Council  
Abergavenny Community Education Centre  
Old Hereford Road  
Abergavenny  
Monmouthshire  
NP7 6EL  
E-mail: [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)  
Tel: 01873 735420  
Fax: 01633 644878  
Web: [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.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 detailed information on all of the services it offers for

licensees, applicants, complainants and all other enquiries. In addition the website can be used to search existing licences to view activities, times and conditions and is available at [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.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.monmouthshire.gov.uk/licensing](http://www.monmouthshire.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 Monmouthshire County Council website at [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.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 Responsible Authorities are:**

<b>Responsible Authority</b>	<b>Contact details</b>
Licensing Authority	Licensing Monmouthshire County Council Abergavenny Community Education Centre, Old Hereford Road, Abergavenny NP7 6EL. <a href="mailto:licensing@monmouthshire.gov.uk">licensing@monmouthshire.gov.uk</a>
Environmental Health Authority	Environmental Health – Public Health Monmouthshire County Council P O Box 106, Caldicot NP5 9AN. <a href="mailto:environmentalhealth@monmouthshire.gov.uk">environmentalhealth@monmouthshire.gov.uk</a>
Health and Safety	Environmental Health – Commercial Team Monmouthshire County Council P O Box 106, Caldicot NP5 9AN. <a href="mailto:environmentalhealth@monmouthshire.gov.uk">environmentalhealth@monmouthshire.gov.uk</a>
Trading Standards	Trading Standards Monmouthshire County Council

	P O Box 106, Caldicot NP5 9AN. <a href="mailto:tradingstandards@monmouthshire.gov.uk">tradingstandards@monmouthshire.gov.uk</a>
Child Protection Authority	Child Protection Co-ordinator Children's Services, Monmouthshire County Council, P O Box 106, Caldicot NP5 9AN. <a href="mailto:kellyturner@monmouthshire.gov.uk">kellyturner@monmouthshire.gov.uk</a>
Planning Authority	Planning Monmouthshire County Council, P O Box 106, Caldicot NP5 9AN. <a href="mailto:planning@monmouthshire.gov.uk">planning@monmouthshire.gov.uk</a> (For applications in the Brecon Beacons area you will need to submit the application to Planning Services, Brecon Beacons National Park Authority, Plas y Ffynnon, Cambrian Way, Brecon LD3 7HP. <a href="mailto:planning.enquiries@beacons-mpa.gov.uk">planning.enquiries@beacons-mpa.gov.uk</a> )
Heddlu Gwent Police	The Licensing Department, East LPA Licensing, Newport Central Police Station, 1-3 Cardiff Road, Newport NP20 2EH. <a href="mailto:eastlpaicensing@gwent.pnn.police.uk">eastlpaicensing@gwent.pnn.police.uk</a>
South Wales Fire & Rescue Service	South Wales Fire & Rescue Service, Forest View Business, Llantrisant, Pontyclun CF72 8LX. <a href="mailto:safetysouth@southwales-fire.gov.uk">safetysouth@southwales-fire.gov.uk</a>
Public Health	Executive Director of Public Health – Alcohol Licensing Lead, Aneurin Bevan Gwent Public Health Team, St Cadocs Hospital, Headquarters Building, Lodge Road, Caerleon NP18 3XQ. <a href="mailto:publichealth.aneurinbevan@wales.nhs.uk">publichealth.aneurinbevan@wales.nhs.uk</a>
Home Office (Immigration Enforcement)	Home Office Alcohol Licensing Team, Lunar House, 40 Wellesley Road, Croydon CR9 2BY. <a href="mailto:alcohol@homeoffice.gsi.gov.uk">alcohol@homeoffice.gsi.gov.uk</a>
Vessels only	The Consultee is dependent on the waterway that that licence is requested within the County and as such refer to <a href="mailto:licensing@monmouthshire.gov.uk">licensing@monmouthshire.gov.uk</a> for assistance on who to consult.

25.7 The steps for consideration of licensing application, a licensing variation and a club premises certificate are:

- a) If no representations are made to an application, the Authority must grant it in full. Please see our website for further information [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.gov.uk/licensing).

- b) When an application is made, and relevant representation are made to the Authority it must hold a hearing of the Licensing Sub-Committee (unless those who have made representations agree in advance that this is unnecessary).
- c) The Licensing Sub-Committee will then consider the evidence provided by applicants and by those making representations, the legislation and accompanying Guidance, the Statement of Licensing Policy and any other relevant data.
- 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.



- 25.8 Individuals applying for a personal licence must be entitled to work in the UK. The Immigration Act 2016 amended the Licensing Act 2003 with effect from 6 April 2017 so that an application made on or after that date by someone who is not entitled to work in the UK must be rejected. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity. In order to discharge this duty, the Authority must be satisfied that an applicant has the right to work in the UK, to demonstrate that the applicant has permission to be in the UK and that they are permitted to undertake work in a licensable activity. This also applies to individuals who apply for premises licences. The purpose of this is to prevent illegal working in the UK.
- 25.9 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 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.
- 26.7 To assist applicants the authority, please refer to the Authority's Model Pool of Conditions. It should be noted the Model Pool of Conditions does not form any part of this policy and the guidance and examples of control measures are simply given to assist applicants in preparing operating schedules and the on-going running of a licenced premises. The Model Pool of Conditions is not exhaustive and is not to be regarded in any way as standard conditions or mandatory requirements.

## **27. Conditions**

- 27.1 The Licensing Act 2003, as amended, imposes a number of mandatory conditions on licences. The council has the power to impose additional conditions if they consider that they are appropriate for the promotion of the licensing objectives.
- 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 be in support of an application or to express objections to an application being granted. However the Licensing Authority can only accept “relevant representations.” A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the Licensing Objectives
- 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 premise 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.
- 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 Licensing Authority’s website.
- 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 recognises that the police should be its main source or advice on matters relating to the promotion of the crime and disorder licensing objective, but also may be able to make relevant representations with regards to the other Licensing Objectives if they have evidence to support such representations.
- 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 Monmouthshire County Council children's services as being the body that is competent to advise it on the licensing objective of the protection of children from harm.
- 28.14 The Licensing Authority recognises 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 different responsibilities to different licensing officers or other officers within the local authority 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 Licensing Act 2003 requires local authorities to act as the Licensing Authority and to set up a Licensing Committee to be responsible for all matters relating to the Licensing Act 2003. The Licensing Committee further delegate to Licensing Sub Committees (Panels), or by one or more officers acting under delegated authority.

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. One member of staff will be required to administer the application and another member of staff will act as the Responsible Authority making comments on 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.

### 29.4 Schedule of delegation of licensing functions and decisions

Matter to be dealt with	Licensing Committee	Licensing Sub-Committee (panels)	Officers
Application for personal licence		If a police objection	If no objection made
Application for a personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made and not withdrawn	If no relevant representation made or representation withdrawn



Application for provisional statement		If a relevant representation made and not withdrawn	If no relevant representation made or representation withdrawn
Application to vary premises licence/club premises certificate		If a relevant representation made and not withdrawn	If no relevant representation made or representation withdrawn
Application to vary designated premises supervisor		If a police objection	All other cases
Application for a minor variation			All cases
Application to vary a licence on a community premises to include alternative licence condition		If police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Determination of a police or environmental health objection to a		In all cases if not withdrawn.	

temporary event notice			
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 Licensing Act 2003, Licensing Authorities have the power to introduce a cumulative impact policy where there is evidence showing that a significant number of licensed premises concentrated in one area has led to an increase in; Crime and disorder, Public nuisance or to both. Where adopted, a Cumulative Impact Policy creates a rebuttable presumption that applications for new premises licences, or club premises certificates or variations, that are likely to add to the existing cumulative impact will normally be refused
- 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 Having taken into account the Statutory Guidance, an assessment in line with 31.3 above and guidance from Gwent Police, it has been determined to remove Chepstow's Cumulative Impact area from its licensing policy.
- 31.5 The licensing authority recognises 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**

- 32.1 The Authority considered the implications this would have on the night time economy and recognise that the restriction would apply to alcohol sales and not entertainment. It looked at the balance of providing a vibrant community and the negativity of alcohol related crime and disorder and anti-social behaviour. It also looked at the current measure in place to deal with such matters.
- 32.2 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 Authority considered all of the above and resolved not to adopt an EMRO at its Full Council meeting held on 26<sup>th</sup> September 2013. However, the Authority will consider this approach if at any point it becomes appropriate and necessary and will conduct a full consultation before the provision is considered

### **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 (panel) for determination, unless it is agreed by all parties that a hearing is not necessary.
- 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 (panel) of three Elected Members will determine a contentious application and will either grant a licence, grant a licence with amendments or refuse an application. Any party can appeal against the Council's decision to a Magistrates' Court.
- 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,**  
**Newport Magistrates' Court**  
**Usk Way**  
**Newport**

Gwent

NP20 2GE

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

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.

34.6 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. **For more information on the Council's Corporate Enforcement Policy refer to <https://www.monmouthshire.gov.uk/app/uploads/2013/06/Corporate-Enforcement-Policy-Final.pdf>**
- 36.4 In general, action will only be taken in accordance with agreed enforcement principles and in line with the Council's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

## **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 Licensing Act 2003 and regulations made under the Act set out requirements for annual fees and require that the fee is paid on the due date

which is every year on the anniversary of the original grant of the licence. The fee is currently set by regulations, however amendments made by the Police Reform and Social Responsibility Act 2010 will when commenced give the council the ability to set fees locally to recover costs associated with the administration and compliance of the Act.

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

- 39.1 Amendments made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2010 give councils the power to suspend premises licences and club premises certificates where the annual fee required by regulations is not paid.
- 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 premise 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 Licensing Act 2003.



## 40. Late night levies

- 40.1 A Late Night Levy (LNL) is an optional power, introduced by the Police Reform and Social Responsibility Act which allows Licensing Authorities (LAs) to raise a contribution towards the costs of policing the night time economy (NTE) by charging a levy to holders of Premises Licences and Club Premises Certificates authorised to sell alcohol. A LNL must apply across the whole borough and also applies to all on- and off-licences. TENs are not included.
- 40.2 The Authority considered the benefits of a busy night time economy as many residents are either employed within this sector or enjoy the vibrant, social entertainment it provides. They further considered the balance of this to the negative impact the night time economy may bring along with the financial restraints if a levy is adopted.
- 40.3 The Authority considered all of the above and resolved not to adopt a Levy at its Full Council meeting held on 26<sup>th</sup> September 2013. However, the Authority will consider this approach if at any point it becomes appropriate and necessary and will conduct a full consultation before the provision is considered.

## 41. Further Information

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

*The Licensing Section  
Monmouthshire County Council  
Abergavenny Community Education Centre  
Old Hereford Road  
Abergavenny  
NP7 6EL  
Tel: 01873 735420  
Fax: 01633 644878  
E-mail: [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)  
Website: [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.gov.uk/licensing)*

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<p><b>Name of the Officer</b> Linda O’Gorman / David H Jones</p> <p><b>Phone no:</b> 01633 644214 <b>E-mail:</b> <a href="mailto:lindaogorman@monmouthshire.gov.uk">lindaogorman@monmouthshire.gov.uk</a></p>	<p><b>Please give a brief description of the aims of the proposal</b></p> <p>To consider the Licensing Act 2020 Policy Statement</p>
<p><b>Name of Service</b></p> <p>Licensing</p>	<p><b>Date Future Generations Evaluation</b></p> <p>7<sup>th</sup> May 2020</p>

1. **Does your proposal deliver any of the well-being goals below?** Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.






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Well Being Goal	How does the proposal contribute to this goal? (positive and negative)	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<p><b>A prosperous Wales</b> Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p>	<p>Alcohol and entertainment along with late night refreshment can add a vibrancy and wealth to the County. However, we also need to consider the negative impact of alcohol related anti-social behavior. The policy concentrates on measures that are available through legislation, partnership working to deal with crime and disorder, prevention of public nuisance, public safety and protection of children from harm. These are the licensing objectives under the Licensing Act 2003</p>	<p>A range of measures are highlighted in the policy to mitigate the negative impact of this licensing regime.</p>
<p><b>A resilient Wales</b> Maintain and enhance biodiversity and ecosystems that support resilience and</p>	<p>N/A</p>	

Well Being Goal	How does the proposal contribute to this goal? (positive and negative)	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
can adapt to change (e.g. climate change)		
<b>A healthier Wales</b> People's physical and mental wellbeing is maximized and health impacts are understood	The policy recognises the benefits of licensed venues for job opportunities and progression. But also looks at the problematic impacts of alcohol related illness, crime and fear of crime and also the health implications of nuisance, pollution and harm to children.	
<b>A Wales of cohesive communities</b> Communities are attractive, viable, safe and well connected	The policy addresses measures that can be taken by licensees and statutory partners to work towards a cohesive and attractive community and promoting the ethos of the Act to have a café culture.	
<b>A globally responsible Wales</b> Taking account of impact on global well-being when considering local social, economic and environmental wellbeing		
<b>A Wales of vibrant culture and thriving Welsh language</b> Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation	The policy provides guidance and advice, in order to achieve a positive contribution to the culture of our town centres and surrounding areas.	
<b>A more equal Wales</b> People can fulfil their potential no matter what their background or circumstances		

L299-158

**2. How has your proposal embedded and prioritised the sustainable governance principles in its development?**

Sustainable Development Principle	How does your proposal demonstrate you have met this principle?	What has been done to better to meet this principle?
 <p>Balancing short term need with long term and planning for the future</p>	<p>Integrating strategies will look at the long-term effects of licences when dealing with permissions for alcohol sales, entertainment and late night restaurants and takeaways. Looking at the infrastructure of the area when dealing with applications and enforcement.</p>	
 <p>Working together with other partners to deliver objectives</p>	<p>Working in partnership with a number of agencies for example, Police, Fire Service, Public Health, Immigration, Environmental Health, Trading Standards, Social Services and Planning. This is required under the Act.</p>	
 <p>Involving those with an interest and seeking their views</p>	<p>Consultation has taken place with the Police, Public Health, Fire Service, Social Services, Environmental Health, Trading Standards, Planning, Councillors, Licensing Authorities, current holders of licences under this remit along with members of the public and all views have been taken into consideration.</p>	
 <p>Putting resources into preventing problems occurring or getting worse</p>	<p>The policy is to provide guidance to prevent alcohol fueled crime and anti-social behavior.</p>	
 <p>Positively impacting on people, economy and environment and trying to benefit all three</p>	<p>As above.</p>	

**3. Are your proposals going to affect any people or groups of people with protected characteristics?** Please explain the impact, the evidence you have used and any action you are taking below.

Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Age	Protection of children from harm is a licensing objective and is considered in the operation and granting of a licence. The Policy gives guidance on age related measures.		
Disability	Consideration will be given on the granting and management of a licence not only internally but also externally when using street furniture, to ensure safety and accessibility to all.		
Gender Reassignment	The authority and this policy provides guidance to eliminate unlawful discrimination		
Marriage or civil Partnership	“		
Race	“		
Religion or Belief	“		
Sex	“		
Sexual Orientation	“		
Welsh Language	“		

4. Council has agreed the need to consider the impact its decisions has on important responsibilities of Corporate Parenting and safeguarding. Are your proposals going to affect either of these responsibilities? For more information please see the guidance <http://hub/corporatedocs/Democratic%20Services/Safeguarding%20Guidance.docx> and for more on Monmouthshire's Corporate Parenting Strategy see <http://hub/corporatedocs/SitePages/Corporate%20Parenting%20Strategy.aspx>

	<b>Describe any positive impacts your proposal has on safeguarding and corporate parenting</b>	<b>Describe any negative impacts your proposal has on safeguarding and corporate parenting</b>	<b>What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?</b>
Safeguarding	The Protection of Children from Harm is a Licensing Objective under the Licensing Act 2003 and as such, all decisions made and how the Authority will discharge its functions will consider this objective.		
Corporate Parenting			

**5. What evidence and data has informed the development of your proposal?**

Working closely with neighbouring Authorities namely, Torfaen County Borough Council, Caerphilly County Borough Council, Blaenau Gwent County Borough Council and Newport City Council. Also working closely and the provision of data from Public Health, Police and Environmental Health in the drafting of this revised Policy.

**6. SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?**

- Section 5 of the Licensing Act 2003 requires a Licensing Authority to prepare and publish a statement of licensing policy every five years. This is the revised policy. **The proposals within the policy has a positive impact on wellbeing and future generation.**

**7. Actions. As a result of completing this form are there any further actions you will be undertaking? Please detail them below, if applicable.**

What are you going to do	When are you going to do it?	Who is responsible	Progress
Review policy in line with current legislation and guidance.	By 01/07/2021 and annually thereafter	Linda O’Gorman	Any significant changes to the Policy will be referred to Members and Statutory Consultees.

**8. Monitoring: The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.**

The impacts of this proposal will be evaluated on:	By 01/7/2025
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# Monmouthshire County Council Chief Officer's Report; Children and Young People

Thursday 4<sup>th</sup> June 2020, Monmouthshire County Council



# Contents

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- Purpose and context
- Chief Officer's Reflections
- Progress against 2019/20's priority areas
- Student outcomes
- Attendance
- Exclusions
- Attendance
- Exclusions
- Safeguarding
- Finances
- Areas of focus 2019/2020
- Conclusions
- Appendix 1 – full data set



# Purpose

- The purpose of this Chief Officer's report is to inform Council of the progress that the education system has made in the past twelve months.
- This reporting period includes the examination and assessment period that ended in August 2019. This is the first year of the new accountability framework where local authority outcomes are not aggregated, this means that the report of the end of key stage outcomes will look very different to previous years.
- Reports of end of key stages outcomes are routinely taken to the Children and Young People Select Committee every year to allow greater scrutiny (Foundation phase to key stage 3 – 17<sup>th</sup> September 2019 & Key stage 4 – 28<sup>th</sup> January 2020).
- The report seeks to provide members with an assurance of the progress schools are making in their improvement journey and the progress that individual learners are making.



# Why are we here? *Our purpose*

## How do we do it? *Our Plans*

### Our purpose

- 'Building sustainable and resilient communities'

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### Monmouthshire's Wellbeing Plan

- 'Provide children and young people with the best possible start in life'

### Monmouthshire's Corporate Plan

- 'The best possible start in life'

### The Chief Officer's Report

- Reviews the past year and identifies priorities for the coming year

### The EAS Business Plan

- Captures the regional ambition and delivery; aligning to Monmouthshire's priorities for the year

### Service Improvement Plans

- Sets out the delivery of the priorities



# The shape of our place

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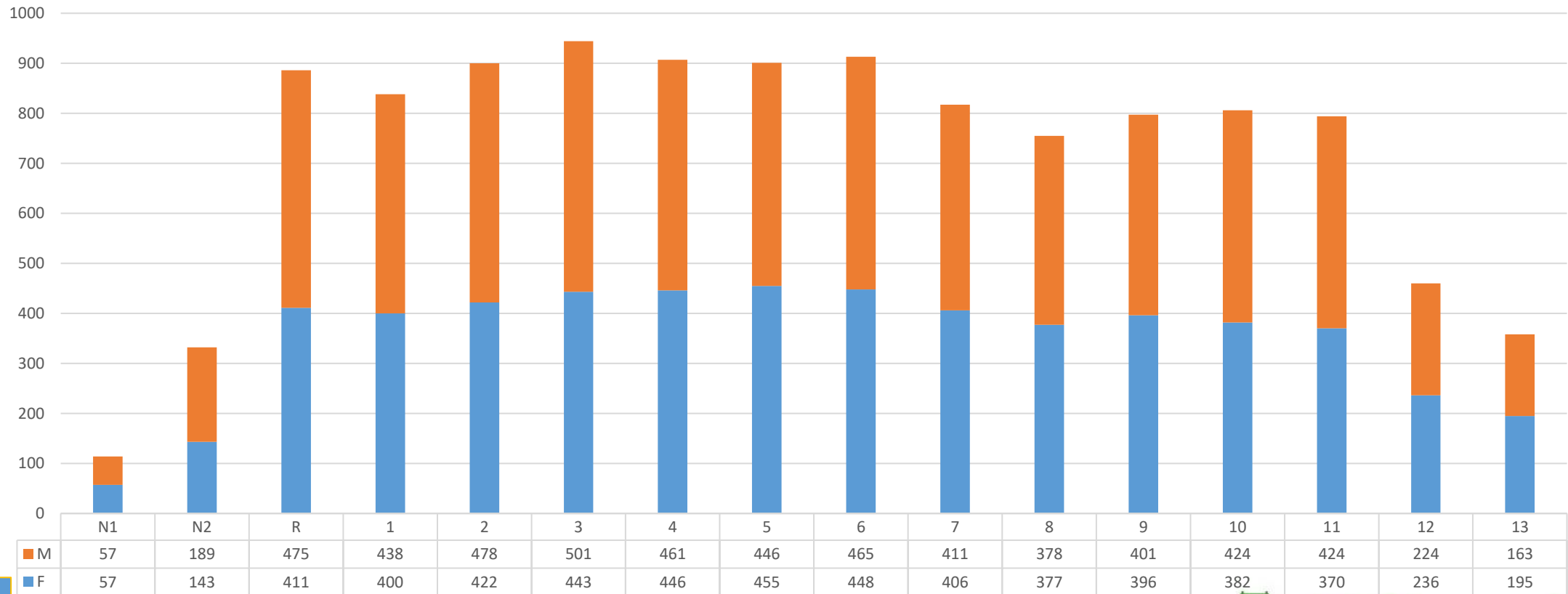
- # pupils
  - 6313 Primary (39 in Special Needs Resource Bases (SNRB))
  - 4718 Secondary (53 in SNRBs)
  - 15 Special
  - 15 Pupil Referral Unit (PRU)
- # schools
  - 30 Primary
  - 4 Secondary
  - 12 Maintained nurseries
  - 25 Non-maintained settings
  - 1 Special (*until August 2020*)
  - 1 PRU
- # Staff
  - 165 (99 *full time equivalents (fte)*) Internal
  - 1,899 (1046.19 *fte*) School based



# Age & Gender Population Profile

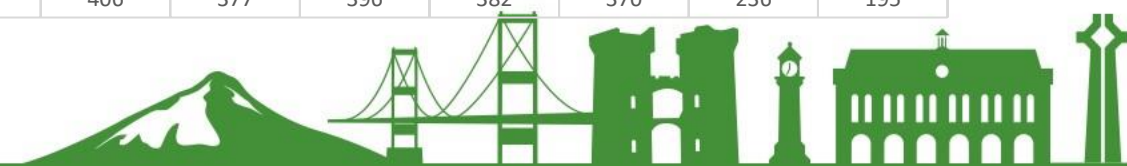
PLASC 2020 - Pupil Numbers by Gender

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Male

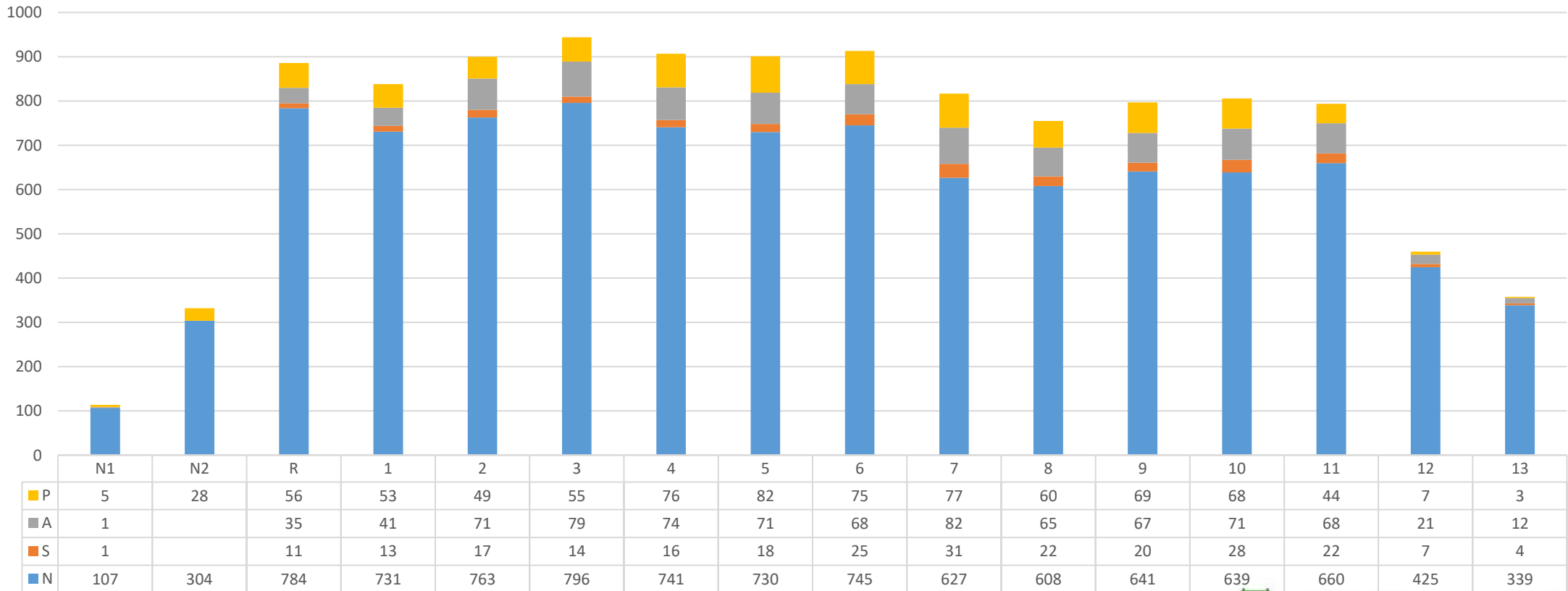
Female



# ALN Population Profile

PLASC 2020 - Pupil Numbers by SEN Type

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Statement

School Action Plus

School Action

No Additional Need



# Chief Officer's Reflections on 2019/20

This is the fourth Chief Officer's report that I have written during my time at Monmouthshire. In many ways it has been the hardest to write. Not because the outcomes that have been achieved in our schools are not at our expected level or because we have seen our direction of travel (and improvement) nudged off course but because many of the traditional measures of success are no longer used. As the government has sought to introduce a new accountability framework that does not focus on 'high stakes' end of phase assessment.

For 2019/20 we have had to recast our reporting of school performance and how we provide assurance to Members and our broader stakeholders. For some this may be a step too far, an erosion of accountability but in fact it is an enabling tool that allows us to focus on the experiences of learners in our schools and to use different measures such as progress rather than simply end of key stage outcome measures. This allows us to ask better questions about the standards of teaching and learning in our schools.

This year represented another key step in the changing education system in Wales as we make our contribution to ensuring that the '*National Mission*' becomes a reality.

Local authorities and their partners in the middle tier are a key part of that reforming agenda and we have sought to be an effective and supportive conduit between the aspirations of the reform agenda, key stakeholders and delivery at a school level.





# Chief Officer's Reflections on 2019/20

2019/20 was a year that saw the education system in Monmouthshire reach some important platforms.

- There has been sustained performance at a high level in a range of measures across our schools and improvements in identified schools. This gives me confidence that many of our schools are on a secured and continuous improvement journey.
- The authority has a strong track record in moving schools through the *Schools Causing Concern* process and securing sustained improvements
- Outcomes of Estyn inspections are improving as the proportion of good or better judgements increase and adequate decreases. However, I know that there are still not enough excellent judgements.
- Schools engage positively with the authority – there is a real sense of a shared purpose and authenticity
- There has been successful development of cluster working, promoting a collective responsibility for learners
- The relationship with the region is strengthened and closer than ever – this understanding allows us to maximise impact in our schools
- Schools are beginning to be self sustaining in supporting their own development
- Our leaders are now contributing to and supporting leadership across the region, we are becoming a contributor not solely a beneficiary of collaborative working



# Chief Officer's Reflections on 2019/20

## Estyn's Inspection of Monmouthshire County Council February 2020

The inspection in Monmouthshire concluded that the authority's education service does not give cause for significant concern and there are a number of positives within the report and the summary of the report draws these out. In particular, it recognises the vision and focus of leaders in ensuring the 'best possible start in life' alongside high expectations for all learners. It also identifies the commitment to partnership that has resulted in a good track record of improvement. Furthermore, it recognises the distance travelled since 2012 particularly regarding safeguarding where it notes the authority's exemplar safeguarding procedures. Estyn has asked the authority produce a case study in this area, for publication, setting out its safeguarding processes and the impact these have had.

There are, of course, areas for development and the report clearly identifies these. The report identifies the lack of 'excellent' judgements for standards, the performance of children eligible for free school meals and a lack of clarity in how we plan to strengthen further our services for learners with special educational needs. The report identifies that at times the self-evaluation undertaken needs to be diagnostic and more detailed to help inform improvements.

These areas for development led Estyn to include four recommendations for the authority:

- R1 Improve outcomes for pupils eligible for free school meals
- R2 Further strengthen the focus on increasing the number of pupils achieving excellent standards
- R3 Articulate a clear strategy for SEN provision
- R4 Strengthen the use of information gathered through self-evaluation to better inform improvement planning



# Chief Officer's Reflections on 2019/20

In 2019/20 we again saw our children attend our schools more often than other authorities. With attendance rates of 95.4% for our primary schools and 95.0% for our secondaries we know that our children have the opportunity to experience excellent teaching and learning – it remains our key role to ensure that they do experience this..

Lessons learnt:

The 'Areas of focus' in the 2018/19 Chief Officer's Report were not sufficiently specific. In 2020/21 we will utilise the C-SMART approach; all targets and aspirations will be *Challenging, Specific, Measurable, Achievable, Relevant* and *Timed*.



# Areas of focus for 2019/20

Where we will focus our work	How will we know we have been successful?	Have we been successful?
<p>Improve outcomes of vulnerable groups, including FSM learners, particularly at key stage 4</p>	<p>Across all four secondary schools FSM performance improves</p>	<p>There has been an improvement in the attainment gap across the Capped 9, L2 (inc. Lit) and L1 benchmarks however, all of these are still great than the Welsh 'gap'. <b>This must remain an area of focus.</b></p>
<p>Reduce variance in outcomes, teaching and leadership, particularly at key stage 4, using the Excellence in Teaching and Learning Framework as a tool for improvement.</p>	<p>Outcomes in all key accountability measures improve</p>	<p>Across the four compulsory key stages of education mathematics and science perform in line with expectation when compared to the regional performance. <b>However, there remains too much variation across schools and across phases.</b></p>
<p>Strengthen leadership capacity in identified schools.</p>	<p>Leadership is more stable in Monmouthshire schools and does not feature as an area of concern in future school based accountability models</p>	<p>Yes, we have seen significant developments in the leadership cadre across Monmouthshire. We have committed to ensuring that new models of school leadership are considered and have seen successful appointments to executive headship in four schools. Two within the authority, one where the leadership capacity is brought in from another authority and another where we support another school.</p>



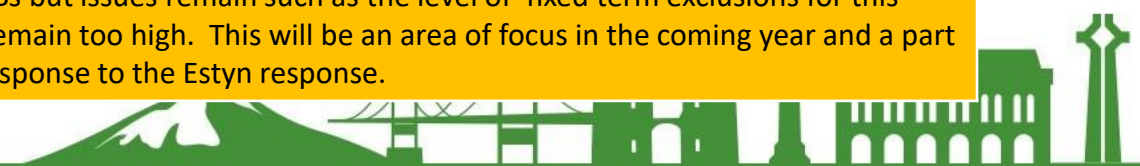
# Areas of focus for 2019/20

Where we will focus our work	How will we know we have been successful?	Have we been successful?
<p>Secure appropriate progress for learners across the full range of cognitive abilities of pupils.</p>	<p>In a range of measures we will be able to track the progress of individual learners and groups of learners. These should reflect appropriate rates of progress across their learning stages.</p>	<p>All Early Years learners with and their families are effectively supported to make successful transition into school, this is a key foundational process. Analysis of progress of pupils with additional learning needs shows that most pupils make appropriate progress in relation to their needs. Many learners from vulnerable groups make good progress in our schools. Progress for English as an acquired language (EAL), Gypsy Roma Travellers (GRT) and Children who are looked after (LAC) learners compares well with regional and national averages. For example, over the last three years all Year 11 LAC pupils and young carers have achieved a recognised qualification and L1 performance has been 100% for two of these years.</p> <p>The progress of pupils in the PRU is good and in line with expectations, this is because for the last three years, attainment in English and mathematics in combination has been at least 58%.</p> <p>The progress of pupils towards achieving higher levels at the end of the Foundation Phase, Key Stage 2 and Key Stage 3 compares well with regional and national averages and continues the three-year trend. However, the proportion of pupils achieving 5 A*/A grades in 2019 is slightly lower than in the two previous years</p>
<p>Reduce the amount of fixed-term exclusions.</p>	<p>The number of fixed term exclusion will reduce</p>	<p>No – there was a sharp rise in the number of fixed term exclusions at the secondary phase in 2018-19 (the reporting period for this measure). This sustained increase led to the development of PRU ‘in-reach’ services across all secondary schools.</p>



# Areas of focus for 2019/20

Where we will focus our work	How will we know we have been successful?	Have we been successful?
<p>Enhance the wellbeing of children and young people to become healthy confident learners who feel safe, secure and are emotionally robust and develop key attitudes to learning and behaviour which will help them to learn throughout their life</p>	<p>There are a range of indicators that can be used to capture progress in these areas.</p> <ul style="list-style-type: none"> <li>• Estyn Inspection Outcomes</li> <li>• Engagement with wider stakeholders and partners</li> <li>• Extra-curricular activities</li> </ul>	<p>Yes, school inspection reports between September 2017 and August 2019 say that many pupils enjoy coming to school and have positive attitudes to learning, and they feel safe in school.</p> <p>Estyn also reported that many children are active participants in decision making in the school and can evidence improvements that have taken place because of their input.</p> <p>All Monmouthshire schools participate in the Healthy Schools programme and 97% have achieved Phase 3 and four schools achieving the National Quality Award.</p> <p>An increasing number of schools (22) participate in the Daily Mile scheme in partnership with sports development.</p> <p>Overall, childhood obesity levels in Monmouthshire show a three-year improving trend, remaining below the rate across the ABHB region and Wales during this period.</p>
<p>Promote equity in our schooling system for all learners especially our most vulnerable</p>	<p>Learners with additional learning needs and other specific cohorts of learners are well supported within our education system.</p>	<p>Whilst the progress of many groups is strong the performance of our learners eligible for free school meals is still not at the level we want it to be. This will remain a focus for us. For learners with ALN we see them make good progress in out SNRBs but issues remain such as the level of fixed term exclusions for this cohort remain too high. This will be an area of focus in the coming year and a part of the response to the Estyn response.</p>



# Areas of focus for 2019/20

Where we will focus our work	How will we know we have been successful?	Have we been successful?
Fully participate in regional preparations for the implementation of the ALN & Tribunal Act and maximise the role and contribution of ALNCOs across clusters and the broader county	We will play a key part in the preparations regionally and the plans will be timely and appropriate	Yes, the ALN team have been a key part of the regional preparations and developments for the new legislation. Recent confirmation from the Welsh Government that the implementation will retain its original timeline ensure that this will remain a focus for us. Key developments have been the development of the Additional Learning Needs Coordinators (ALNCOs) network across the County and the development of the SNRB network to capitalise on expertise in the County. This was recognised by Estyn.
Accelerate the development of the Abergavenny Educational investment by completing the Full Business Case (FBC) and aligning other strategic plans such as the Welsh in Education Strategic Plan (WESP)	The completion of the relevant developmental documentation will be completed in line with the programme outline.	The delivery of this complex project has inevitably been constrained recently by some of the changes brought about by COVID-19. However, the key strands of work; the Outline Business Case (OBC) and the statutory consultations regarding the governance of the new school are progressing to new deadlines. The programme will completed its combined OBC and Strategic Outline Case (SOC) in the autumn of 2020, inline with funding expectations
Review of the Catchment and Nearest School Policy	The catchment, admissions and transport policies are fit for purpose	We concluded a review of the Monmouth and King Henry VIII Secondary School catchment area in March 2019 (Cabinet April 3 <sup>rd</sup> 2019). There remain areas of the County that require catchment reviews but these are unable to be progressed at the moment.



# Understanding the performance of our schools

Triangulating achievement and attainment, Estyn and categorisation





# Changes to accountability

Communication from the Welsh Government, the WLGA and Estyn to Chairs of Scrutiny, Cabinet Members, Directors of Education, Chief Executive Officers, Managing Directors of Regional Education Consortia, stated that:

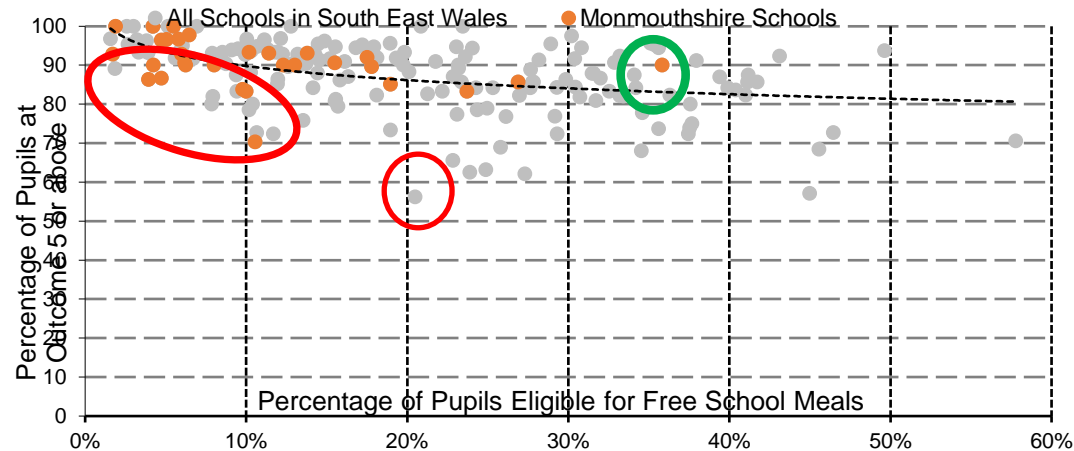
*It is counter-productive for schools to be placed under disproportionate pressure on the basis of individual measures. It is not in the interest of school improvement and risks undermining the ongoing change in culture that we are working together to achieve. We expect local authorities and regional consortia to support schools to make appropriate decisions about their curriculum to avoid narrowing choice for learners.*

*Collectively, we have agreed that this is the right approach to take and strongly advise you to use a broad range of **un-aggregated data** and information to enable you to discharge your duties when reporting on school performance. Evaluating the performance of individual schools rather than generating aggregated data at local authority level will be more helpful to supporting and challenging individual schools with their improvement.*



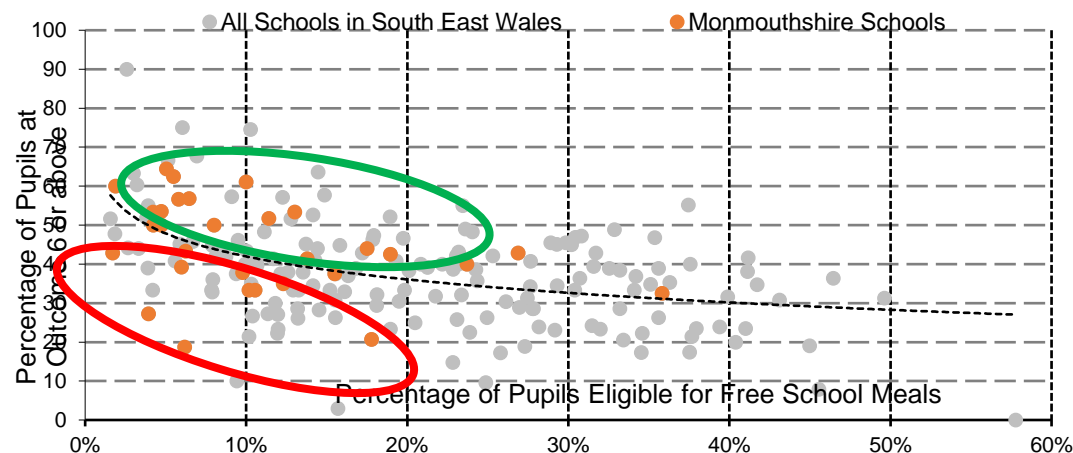
# Foundation Phase Language, literacy and communication (LLC)– Outcome 5 & Outcome 6

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Overall performance at Outcome 5+ (O5+) is slightly above the region as a whole.

- For Monmouthshire schools that are relatively more disadvantaged (>20% FSM), there are very few schools below expectation.
- There is one school with a low level of FSM (10%) where attainment is > 10% away from the expectation.



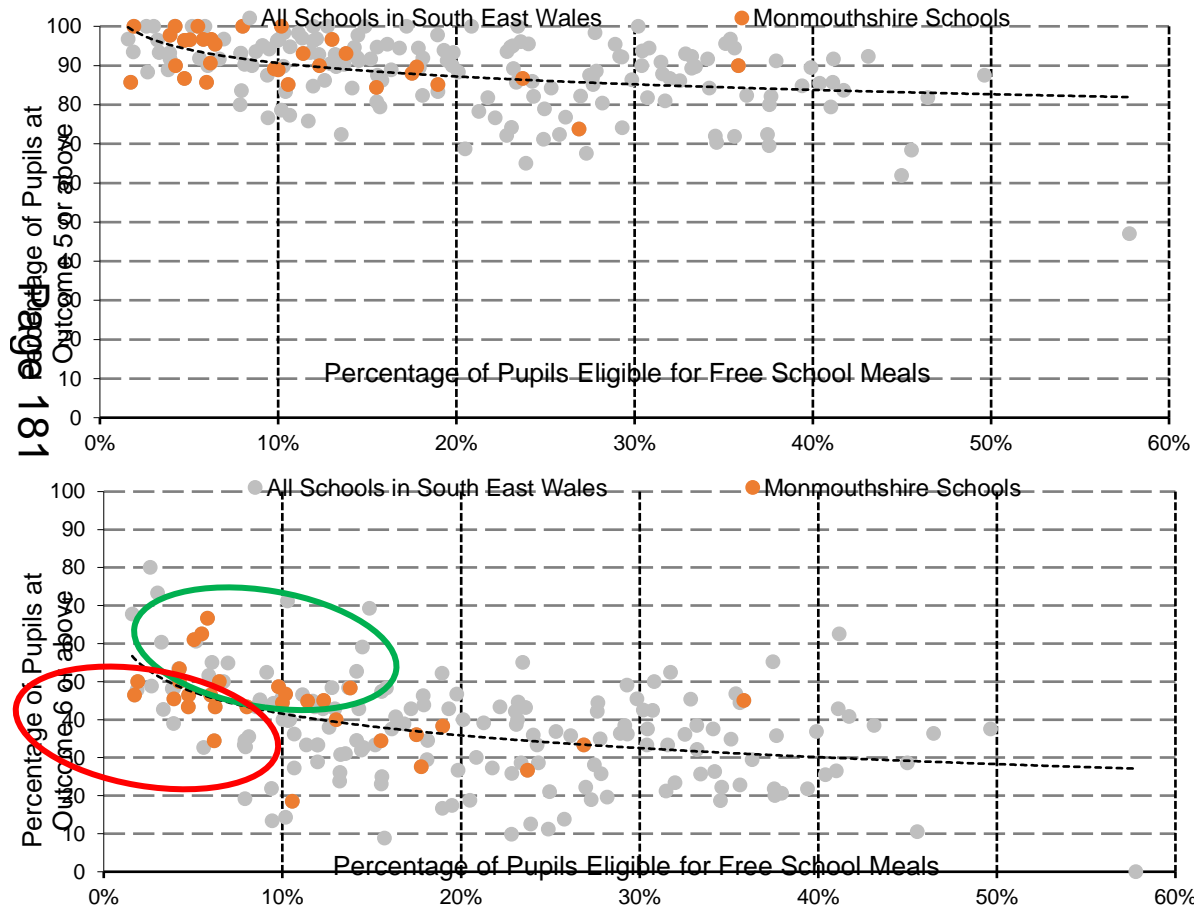
Overall performance at Outcome 6+ (O6+) is in-line with the region as a whole.

- Variability in individual school performance increases significantly at O6+, but this is in line with variability across the region as a whole.
- There are schools, with FSM in the range 0-20%, where performance is significantly below expectation.

Full details of FP to KS3 can be found in Select report 17<sup>th</sup> September 2019



# Foundation Phase Mathematical Development (MD) – Outcome 5 & Outcome 6



- Overall performance at Outcome 5+ is slightly above the region as a whole, particularly for less disadvantaged schools.
- There is one school in the 20-30% FSM range where attainment is >10% away from the expectation.
- Overall performance at Outcome 6+ is in-line with the region as a whole.
- Variability in individual school performance increases at O6+, but this variability is less than the variability across the region as a whole.
- There are however 4 schools, with FSM in the range 0-25%, where performance is below expectation, one significantly.

Full details of FP to KS3 can be found in Select report 17<sup>th</sup> September 2019



In order to make this year's report more succinct I have included the full range of performance outcome tables at Appendix 1.



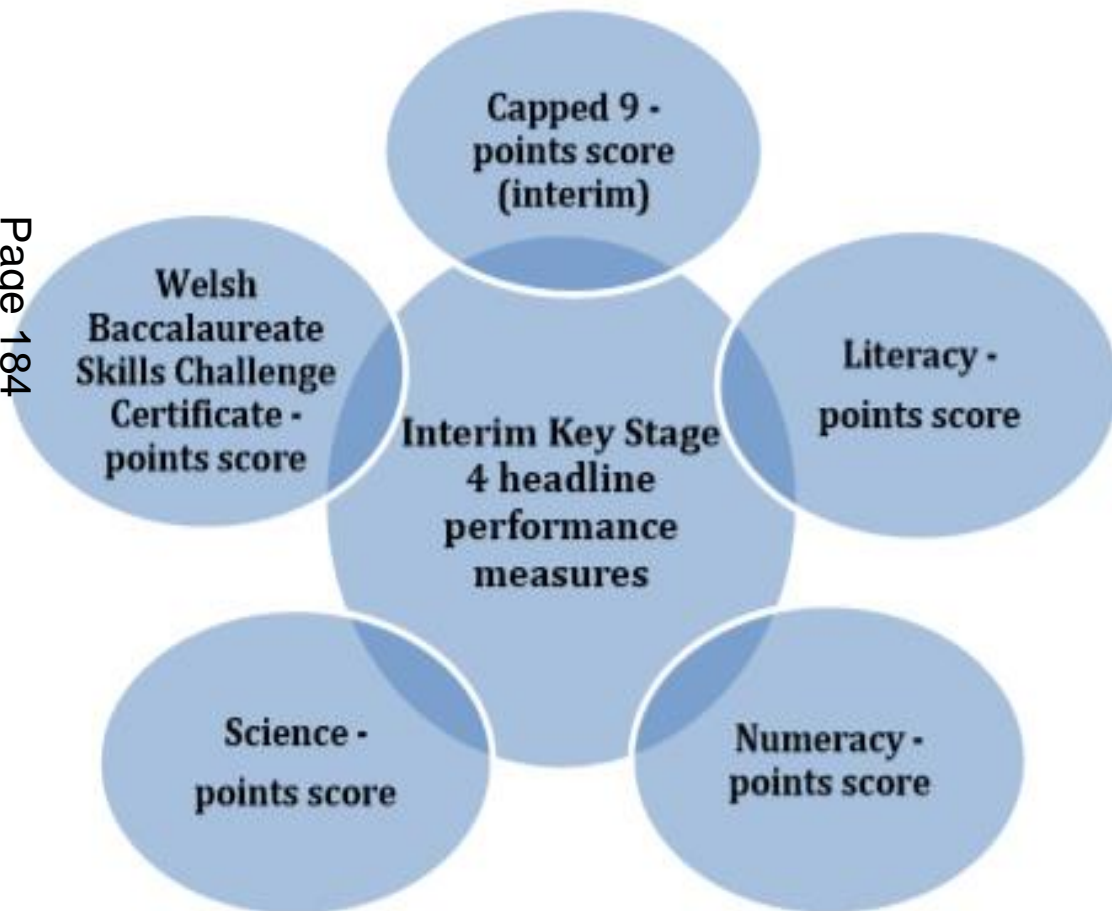
# Key stage 4 – families of schools

For every school in Wales a data pack is produced that compares schools from a similar ‘family’. This is based upon: % eligible for Free School Meals; % living in areas classed in the most 20% deprived areas in Wales; % with special educational needs; % whose first language is not English or Welsh



# The new family of measures

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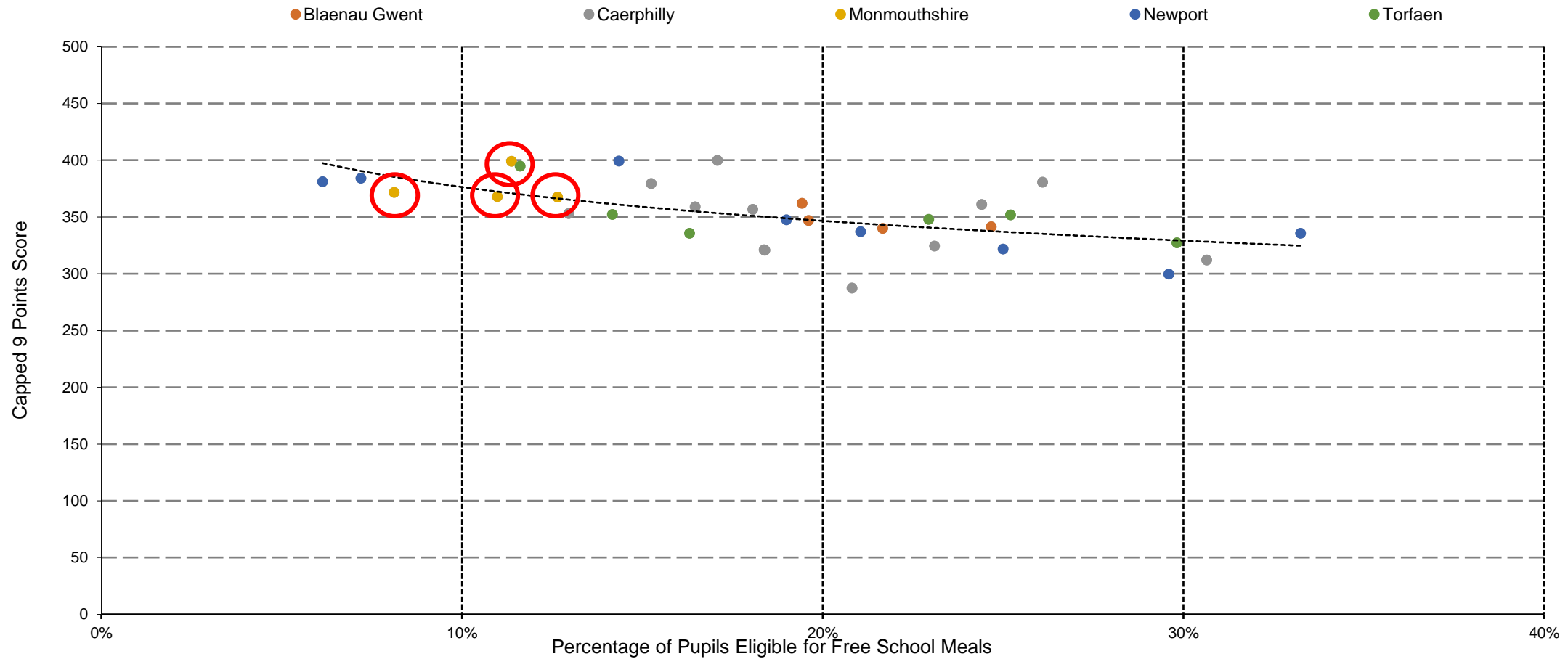


No*	Slot	Requirement	
1	Literacy slot	Subject specific requirements** (GCSEs only)	Best result of first awarding of: Welsh first language or English language or Welsh literature or English literature
2	Numeracy slot		Best result of first awarding of: mathematics – numeracy or mathematics
3	Science slot		Best result of first awarding of (currently limited to awards in the WJEC suite of science GCSE qualifications available to learners): biology, chemistry, physics, science (double award) applied science (double award) and applied science (single award)
4 5 6 7 8 9	'Other six' (GCSEs or equivalent volume of qualifications)	Best six remaining qualification awards***	All qualifications approved/designated for pre-16 delivery in Wales can count, subject to usual discounting rules and excluding Essential Skills Wales qualifications.  The Welsh Baccalaureate Skills Challenge Certificate qualification can count towards one of these slots where it features in a learner's best remaining awards.

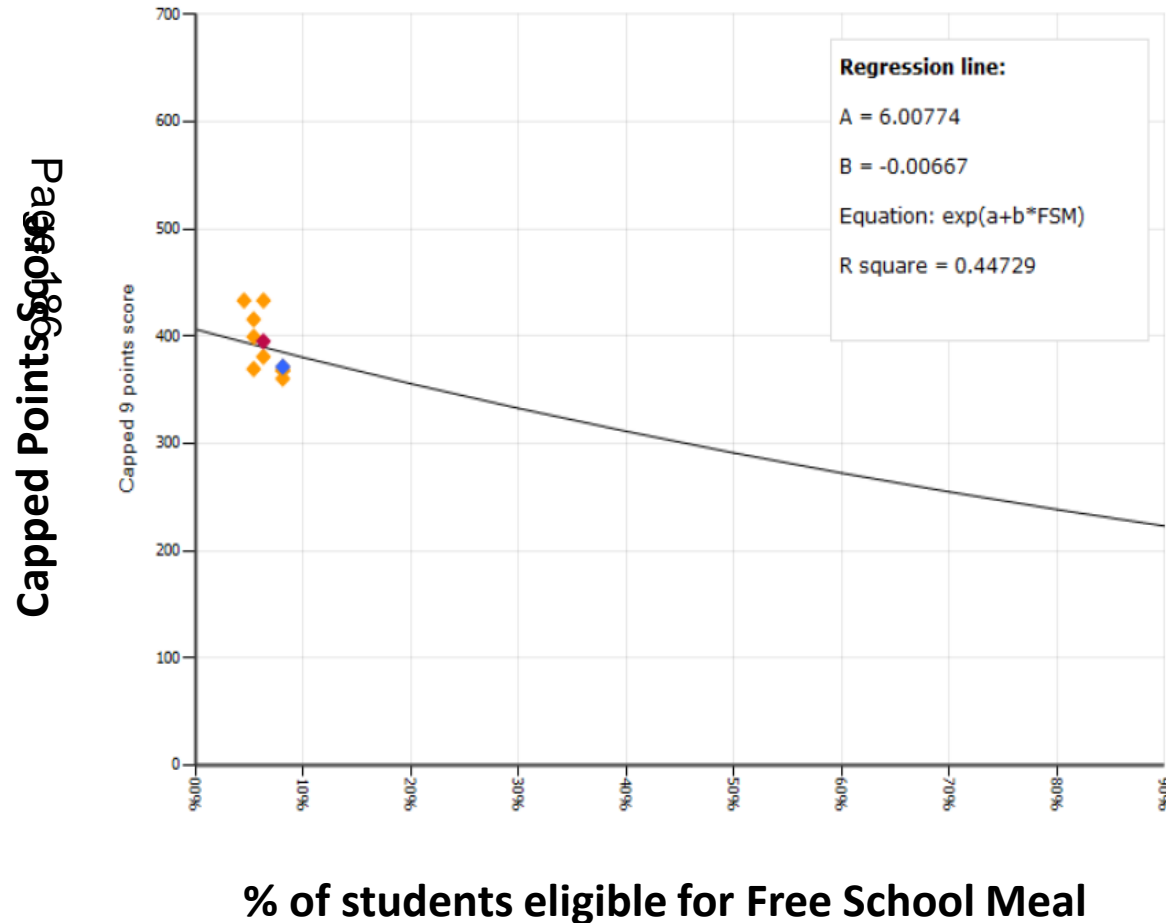


# Key Stage 4 – Capped 9: the regional picture

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# Comparing 'like' schools



- Every school still receives a data pack – *'All Wales Core Data Set'*
- This reports on key indicators and will continue to do so. It will include both in year performance and trend
- Key part of the analysis is comparison against a family of schools
- There is a 'placing' of schools in a ranked family
- The line of regression indicates an 'appropriate' level of performance





# Performance against the family of schools

Indicator	Above	Inline	Below
Capped 9 (interim)	1	0	3
Literacy points score	1	0	3
Numeracy points score	2	1	1
Science points score	1	0	3
Welsh Baccalaureate	4	0	0
5 A*/A	2	0	2



# Standards across the system

## Strengths

### Foundation Phase

- Expected level +1
- Gender gap
- eFSM gap

### Key Stage 2

- Expected level +1
- Gender gap
- eFSM gap
- Progress at expected level
- Many eFSM learners make expected progress

### Key Stage 3

- Strong overall performance
- Expected level +1 and +2
- Gender gap
- Improving eFSM performance
- eFSM gap the same as Wales
- eFSM progress in Science and English

### Key Stage 4

- Performance across all benchmarks
- Performance across all of the point score indicators
- Performance of both boys and girls continues to be above the Wales average.
- Some indications of improved eFSM performance but still significant work required.



# Standards across the system – Areas for development in identified schools

## Foundation Phase

- Improve provision and outcomes for girls at O5+ and O6+
- Improve LLC & PSD outcomes and provision for boys at O6+
- Improve the progress and outcomes for eFSM learners

## Key Stage 2

- Accelerate the progress of eFSM learners
- Improve the progress and outcomes for eFSM learners

Accelerate the progress that is made by vulnerable learners across KS3 and KS4 so that they compare more favourably to non-FSM learners in a number of indicators.

## Key Stage 3

- Improve the progress and outcomes for eFSM learners
- Improve the performance of boys in English at L6+

## Key Stage 4

- Increase the percentage of pupils achieving at least 5A\*/A
- Improve the progress and outcomes for eFSM learners, closing the gap between FSM and non-FSM Capped 9 scores (interim)



# Categorisation & Estyn outcomes

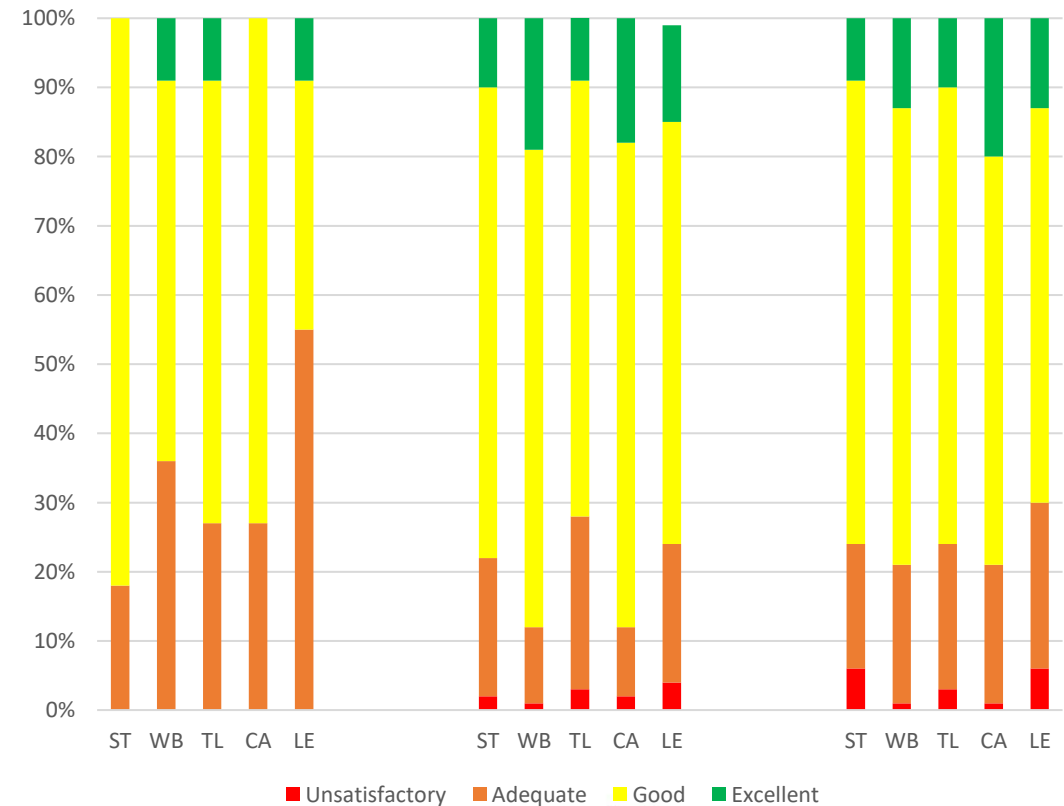
In 2014 Monmouthshire had only 3 green schools and two red schools.

In 2020 we have the highest ever number of green primaries (47%) and a green secondary (25%).

78% of all schools are yellow or green.

There are no red schools in Monmouthshire in 2020

Comparative Estyn Performance over the last 2 years



# Primary Attendance

- Monmouthshire's primary attendance was 95.4% in 2018/19. This was an increase of 0.2 percentage points on 2017/18.
- Attendance rates in Monmouthshire of primary aged pupils (4-11 years) have been consistently high over the past 5 years when compared with the rest of Wales.
- When using Welsh Government statistical data releases to compare our performance with our statistical neighbours the following table shows that Monmouthshire has had the best primary attendance over the last 5 years.

Statistical Neighbour	2014 /15	2015/ 16	2016/ 17	2017/ 18	2018/19
Ceredigion	95.7 %	95.4%	95.3%	95.0%	95.2%
Pembrokeshire	95.0 %	95.0%	94.9%	94.8%	95.0%
<b>Monmouthshire</b>	<b>95.8 %</b>	<b>95.7 %</b>	<b>95.6%</b>	<b>95.2%</b>	<b>95.4%</b>
Powys	95.6 %	95.7%	95.4%	95.0%	95.2%
Vale of Glamorgan	95.3 %	95.3%	95.1%	94.7%	94.7%
Wales	94.9 %	94.9%	94.9%	94.5%	94.6%



# Secondary Attendance

- Monmouthshire's secondary attendance was 95.0% in 2018/19. This is a rise of 0.2 percentage points on 2017/18.
- Attendance rates in Monmouthshire of secondary aged pupils (11-16 years) have been consistently high over the past 5 years when compared with the rest of Wales.
- When using Welsh Government statistical data releases to compare our performance with our statistical neighbours the following table shows that Monmouthshire has had the best secondary attendance in 3 of the last 5 years.
- Monmouthshire's secondary attendance is 1.2 percentage points above the Welsh average in 2018/19. Monmouthshire was the top performing Welsh Local Authority in 2018/19. Monmouthshire has consistently been in the top 2 performing Local Authorities in 4 of the last 5 years.

Statistical neighbour	2014/15	2015/16	2016/17	2017/18	2018/19
Powys	94.6%	94.9%	94.5%	94.5%	94.0%
Ceredigion	94.5%	94.6%	94.9%	94.5%	94.3%
Pembrokeshire	93.2%	93.3%	93.8%	93.7%	93.8%
Vale of Glamorgan	94.7%	95.0%	95.0%	94.5%	94.7%
<b>Monmouthshire</b>	<b>94.6%</b>	<b>94.7%</b>	<b>95.0%</b>	<b>94.8%</b>	<b>95.0%</b>
Wales Average	93.8%	94.2%	94.1%	93.8%	93.8%



# Primary Exclusions 2018/19

- Fixed term exclusion rates in primary schools increased slightly, by 2.5 days from 151.5 days to 154 days
- The number of pupils excluded from primary schools decreased from 49 in 2017/18 to 38 in 2018/19, a fall of 22.4%. The number of episodes lost due to fixed term exclusion also fell from 112 in 2017/18 to 95 in 2018/19, a fall of 15.2%.
- There is no national comparative data available and comparisons are difficult as there is a variation in provision across Local Authorities.
- Just over a third 34.2% of the primary aged pupils who were subject to FTE in 2018/19 came from 3 schools. These 3 schools accounted for 45.2% of all episodes of FTE and 54.54% of the total number of days lost to FTE.
- In one of these schools a pupil who was fixed term excluded is now in specialist provision and officers and support services worked closely with schools to provide support and intervention. Another child underwent a successful managed move to a neighbouring school.
- The number of pupils that have been excluded from primary provision has doubled since 2012/13 and the number of episodes has increased from 34 to 95 over the same period. The days lost per episode has increased from 1.49 to 1.62.
- This is an area in which we need to develop provision. The development of primary intervention strategies and provision is being actively worked on. The aim is to enable schools to meet a wider range of pupils' needs particularly where underlying factors can result in challenging behaviour being presented in an educational context.
- During the above period (2012/13 to 2018/19) the number of children being supported by the Pupil Referrals Service at Primary phase has increased from 4 to 14.
- There were not any (0) primary permanent exclusions in 2018/19



# Primary Exclusions

	Permanent Exclusions	Pupils subject to FTE	Episodes of FTE	Days lost due to FTE	Days lost to FTE per Pupil	Days lost to FTE per episode
2012/2013	0	19	34	50.5	2.68	1.49
2013/2014	0	21	40	60	2.86	1.5
2014/2015	1	20	25	41	2.05	1.64
2015/2016	0	22	67	111	5.04	1.66
2016/2017	1	29	95	184.5	6.36	1.94
2017/2018	1	49	112	151.5	3.1	1.35
2018/2019	0	38	95	154	4.05	1.62





# Secondary Exclusions

- There was 1 secondary permanent exclusion in 2018/19.
- Fixed term exclusion rates in secondary schools rose considerably from 495 days to 779 days a rise of 57.3%.
- The number of pupils excluded from secondary schools increased from 146 in 2017/18 to 205 in 2018/19 a rise of 40.4%. The number of episodes lost due to fixed term exclusion also increased from 335 in 2017/18 to 522 in 2018/19 a rise of 55.8%.
- There is no national comparative data available and comparisons are difficult as there is a variation in provision across Local Authorities.
- The Local Authority worked closely with school to provide both support and challenge and the PRU provided full time provision for 22 young people in 2018/19.
- The number of pupils that have been excluded from secondary provision has increased by 69.4% since 2012/13 and the number of episodes has increased by 146% over the same period.
- PRU outreach provision has been agreed and has been fully operation in 2 secondary schools since September 2019 and will be in place in each secondary school by September 2020.
- This will enable schools to provide earlier intervention and enable a more proactive response rather than provide when the pupil is at risk of permanent exclusion or has been permanently excluded from school.
- During the above period (2012/13 to 2018/19) the number of children being supported by the Pupil Referrals Service at Secondary phase has increased from 24 to 32.



# Secondary Exclusions

	Permanent Exclusions	Pupils subject to FTE	Episodes of FTE	Days lost due to FTE	Days lost to FTE per Pupil	Days lost to FTE per episode
2012/2013	1	121	212	481	3.97	2.27
2013/2014	0	100	188	278.5	2.78	1.48
2014/2015	0	117	245	371.5	3.17	1.52
2015/2016	5	127	288	475.5	3.74	1.65
2016/2017	2	134	331	522.5	3.9	1.58
2017/2018	0	146	335	495	3.4	1.48
2018/2019	1	205	522	779	3.8	1.49



# Leadership – the key aspect of improved school performance



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- In many areas Monmouthshire has had to seek new leadership capability and talent
- Between 2016 and by September 2020 – 20 new headteachers (56%)
- Sometimes this has been achieved through active engagement with headteachers
- Schools have progressed under new leaders
- New headteachers in schools causing concern are making immediate impact
- Innovative models of delivery
  - Intra-authority federations
  - Inter-authority federations



# Safeguarding

- The local authority has clear corporate policies and procedures, which set out well the responsibilities of all staff as well as those with lead safeguarding roles.
- The role of the Whole Authority Safeguarding Group (WASG) provides an effective forum within which safeguarding is monitored, managed and evaluated.
- The establishment of strong working relationships across the local authority for the effective delivery of safeguarding
- We have continued to develop strong working arrangements between the authority and schools to ensure that learners are safe and their wellbeing is supported.
- The local authority has a robust quality assurance process for safeguarding. The SAFE process is embedded in policy and practice and is supported and monitored via the Safeguarding and Quality Assurance Unit and WASG.
- Safe recruitment procedures are robust – for both paid and unpaid workers.



# Finances 2019/2020

## Schools

- At the start of the year (1/4/2019) the schools had a deficit balance of -£232k.
- There were 15 schools in a deficit, 3 secondary and 12 primary.
- Year end collective deficit of £435k (month 10 forecast £879k).
- 18 schools in a deficit, 4 secondary, 13 primary and the pupil referral service.

## Corporate Finances

- Year end corporate overspend of £480k (month 10 forecast £947k).
- The main pressures remain:
  - Reduction in ALN income from other LA's.
  - Support for pupils to remain in their local school.

This remains a key area of focus as we further develop the inclusion review.



# Emerging Risks

- The next year presents some unparalleled risks for the directorate and for our schools:
  - The ongoing COVID-19 pandemic will present challenges to schools and learners. The significant time away from school will have affected the learning trajectory of many learners and this is not likely to be a uniform impact with disadvantaged pupils likely to be impacted upon more significantly.
  - At the moment students are learning through a range of distance or remote learning approaches. These have evolved since the closure of schools on the 20<sup>th</sup> March and are now more sophisticated but their impact is invariably untested as yet.
  - As this paper is being prepared we do not know what the return to school will look like in Wales however, any return to school is likely to be heavily phased and a blended approach to learning (both physical attendance at school and distance learning approaches) is likely to be in place for an extended period.
  - The examination system will have undergone significant change for the 2020 & 2021 cohorts. In 2020 candidates will have 'centre assessed grades' a process whereby individual examination centres (schools) submit outcomes to the examination board. The challenge for 2021 is likely to be even greater.
  - Because of these unprecedented times there will be significant changes to the way in which performance information is used in future years.



# Emerging Risks

- Notwithstanding the direct risks associated with COVID-19 there continue to be a range of factors that the system will need to address if we are to be well placed to continue to deliver an excellent education for our learners.
  - The development and roll out of significantly increased professional learning to prepare for the launch of the new curriculum in **2022** could be impacted by reductions in regional grants
  - The timeline for the implementation of the new ALN and Tribunal Act remains in place and as before the pandemic – this will present significant challenges



# The next period:

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- Improving the rates of progress:
  - Of different groups of children; eFSM and ALN in particular
  - Of our schools and the very best schools in Wales – aiming to be consistently above family average in key interim measures in many of our schools
- Provision fit for the future for our most vulnerable learners
  - Maximise the investment in the SNRBs that exist in the county
  - Define, discover, design and deliver new services for our learners with the most complex needs
- Providing schools with greater support to meet the needs of future generations
  - The delivery of the new curriculum and its delivery through schools will force the Authority to think about its role differently.
  - Shape our county's response to the changing world in which we live
  - Provide better, earlier interventions to support vulnerable learners
- Delivering Excellence
  - Our schools achieve excellent judgements across all inspection areas and deliver excellent teaching and learning from embedded highly effective provision





# Areas of focus for 2020/21

Where we will focus our work	Driver for change	Linked Risks	Milestones	How will we know we have been successful?
<p>1. Ongoing focus on Vulnerable learners and their progress in their learning</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 203</p>	<ul style="list-style-type: none"> <li>• 22 for 22</li> <li>• 2018/19 outcomes remain too variable and eFSM performance is not at the expected level</li> <li>• <b>Estyn Recommendation - R1.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The impact of the COVID-19 pandemic</li> <li>• The eFSM cohort is not a homogenous group, as individuals they have other challenges and learning needs</li> </ul>	<ul style="list-style-type: none"> <li>• Literature review</li> <li>• Engagement with eFSM learners to understand barriers to learning</li> <li>• Engagement with school leaders and partners to establish and implement the most effective interventions</li> <li>• Development of renewed strategy for eFSM learners</li> </ul>	<ul style="list-style-type: none"> <li>• The performance of vulnerable learners improves and the performance gap between learners decreases</li> <li>• Individual learners achieve outcomes inline with expectations</li> </ul>
<p>2. Continue to raise standards in education including STEM subjects. Our schools are above the average in their family</p>	<ul style="list-style-type: none"> <li>• 22 for 22</li> <li>• 2018/19 outcomes remain too variable and eFSM performance is not at the expected level</li> <li>• <b>Estyn Recommendation - R1 &amp; R2.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The impact of the COVID-19 pandemic</li> <li>• The ability to ascertain the quality and quantity of learning being undertaken</li> </ul>	<ul style="list-style-type: none"> <li>• Continue to focus with school leaders on setting the highest expectations for learners</li> <li>• Work with partners to develop approaches to distance learning that maximise impact and minimise the impact of deprivation</li> </ul>	<ul style="list-style-type: none"> <li>• There will be improved performance across a range of indicators, particularly in STEM Subjects, and the majority of schools will be above the regional comparative and in the top third of schools.</li> </ul>



# Areas of focus for 2020/21 (Contd.)

Where we will focus our work	Driver for change	Linked Risks	Milestones	How will we know we have been successful?
<p>3. Clearly define the future for ALN in Monmouthshire and establish a viable strategy to deliver a highly effective service</p>	<ul style="list-style-type: none"> <li>• 22 for 22</li> <li>• The MCC provision needs to be update to improve learner experiences and prepare for the new legislation</li> <li>• <b>Estyn Recommendation - R3.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The impact of the COVID-19 pandemic</li> <li>• The preparation for the new legislation</li> <li>• External market place</li> </ul>	<ul style="list-style-type: none"> <li>• Literature review</li> <li>• Engagement with ALN learners</li> <li>• Engagement with school leaders and partners to establish most effective approach</li> <li>• Continued professional development for January 2021</li> <li>• Development of the profession across Monmouthshire</li> <li>• Development of renewed strategy for ALN learners scrutinised and agreed</li> </ul>	<ul style="list-style-type: none"> <li>• There is a secure pathway for all ALN learners from early identification to the end of their education.</li> <li>• Provision is secure for a range of learners</li> <li>• All schools are better placed to deliver improved learning experiences for all learners through a programme of professional development</li> </ul>
<p>4. More learners achieve excellent standards</p>	<ul style="list-style-type: none"> <li>• 22 for 22</li> <li>• <b>Estyn Recommendation - R2.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The impact of the COVID-19 pandemic</li> </ul>	<ul style="list-style-type: none"> <li>• Continued high expectations for all learners across all settings</li> <li>• Engagement with learners</li> <li>• Engagement with school leaders and partners to establish most effective approach</li> <li>• Engagement with partners across the region and beyond</li> </ul>	<ul style="list-style-type: none"> <li>• The numbers of learners achieving the highest levels across all key stages increases and learners make strong progress from their own starting points</li> </ul>

# Areas of focus for 2020/21 (Contd.)

Where we will focus our work	Driver for change	Linked Risks	Milestones	How will we know we have been successful?
5. Review of all self-evaluation activity and improvement planning, particularly the use of data to inform future decisions in all areas.	<b>Estyn Recommendation – R4.</b>	Without clarity of evaluation and clear understanding as to the drivers of performance we will not plan effectively for future improvements	Review of all planning and evaluation activities to be undertaken and taken to Children and Young People’s Select Committee	There is a clear link between evidenced evaluative activity across all aspects of the service and better improvement planning for the service
Page 20 Conclude key access arrangements: Review of the Catchment and Nearest School Policy and a review of Home to School Transport	<ul style="list-style-type: none"> <li>• 22 for 22</li> <li>• As the County sees development we need to ensure our schooling provision is appropriate</li> </ul>	<ul style="list-style-type: none"> <li>• The impact of the COVID-19 pandemic in undertaking meaningful public engagement</li> <li>• If we do not conclude catchment reviews there is a risk to managing admissions to secondary schools</li> <li>• The costs associated with home to school transport are significant and we should seek to minimise these costs</li> <li>• The lack of viable alternatives to bus transport negates the opportunity for learners to use active travel safely</li> </ul>	To be determined when regulation around consultations become clearer during the pandemic response	A review of the Home to School Transport policy is concluded promoting active travel to school and a safe infrastructure Costs associated with Home to School Transport are managed Relevant and necessary catchment reviews are completed and actioned in alignment with the Code of Practice.
7. Progress the Abergavenny School reprovision	22 for 22	<ul style="list-style-type: none"> <li>• The impact of the COVID-19 pandemic in undertaking meaningful public engagement</li> </ul>	To be determined when regulation around consultations become clearer during the pandemic response Autumn submission of OBC	The plans for the development of the Abergavenny 4-19 school are submitted approved in a timely manner. The statutory consultation has concluded

# Providing the detail

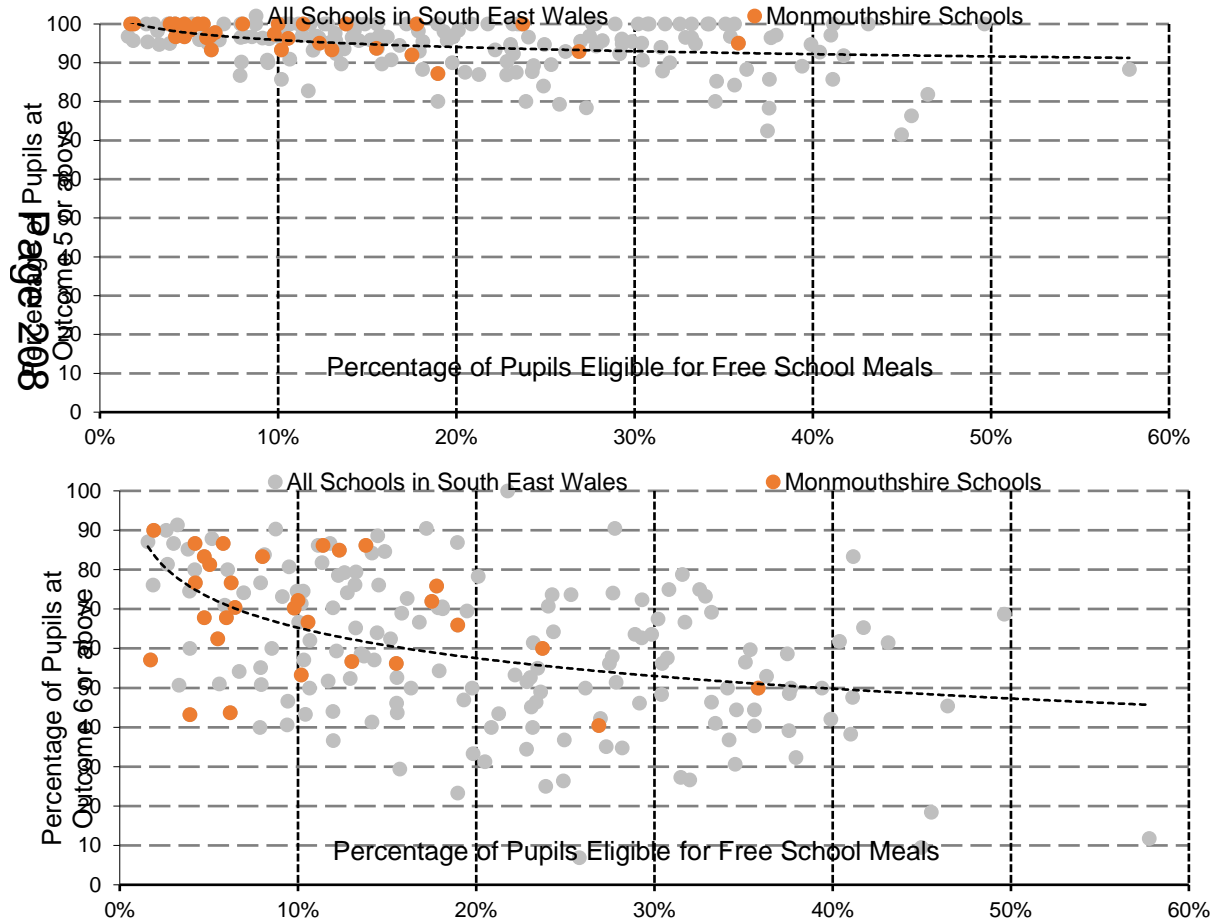
- The 'Areas for Focus' have been set out at a very high level however, they cover the range of areas that have emerged from our ongoing self evaluation and the Estyn inspection of February 2020.
- The details of actions, milestones, owners & risks can be found in the CYP Service Improvement Plans (SIPs).
- The key developments that feature in response to the Estyn recommendations will be taken through to Children and Young People Select on a timely basis.



# Appendix 1: Data sets for Foundation Phase to Key Stage 3



# Foundation Phase Personal and social development, wellbeing and cultural development (PSB) – Outcome 5 & Outcome 6



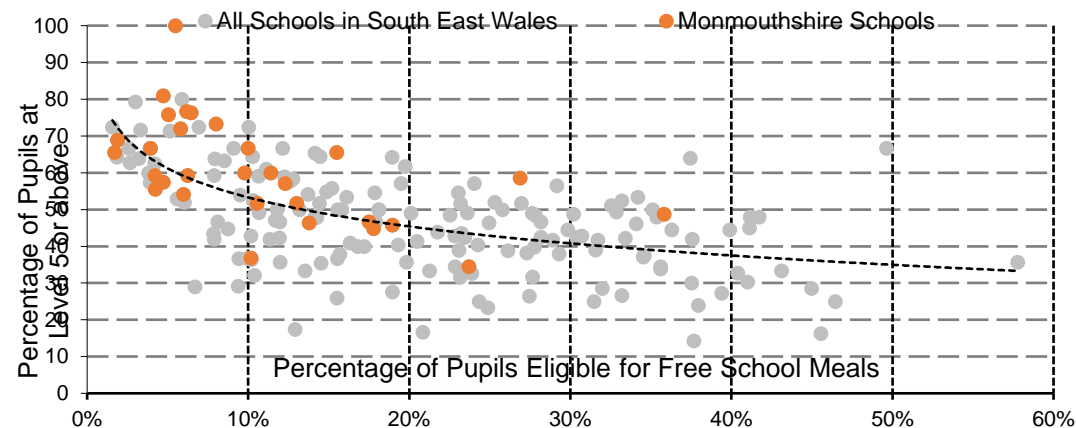
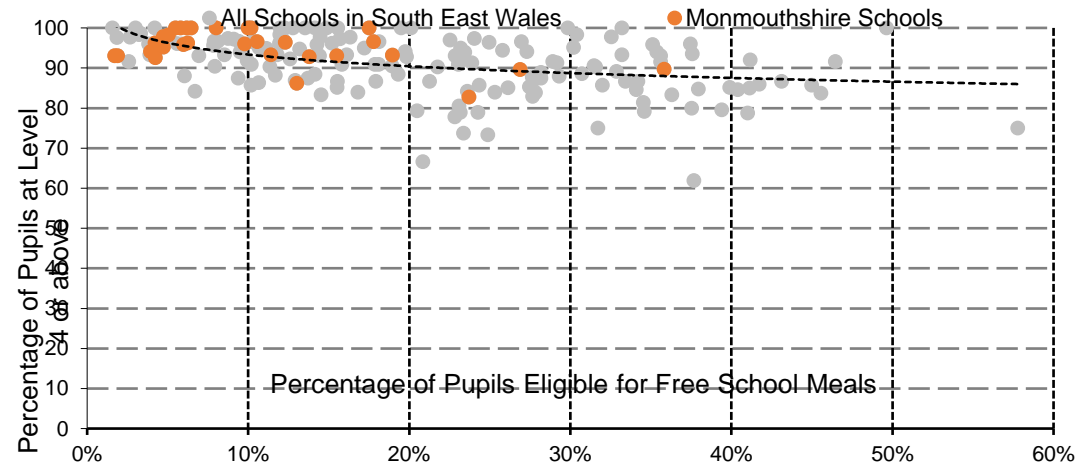
- Overall performance at Outcome 5+ is well above the region as a whole.
- There are more schools than expected where 100% of learners achieve Outcome 5+
- Overall performance at Outcome 6+ is also above the region as a whole.
- Performance at Outcome 6+ is significantly more variable, but this variability is in line with the region as a whole.
- There are however a number of schools, particularly in the range of 0-20% where performance is significantly below expectation.

Full details of FP to KS3 can be found in Select report 17<sup>th</sup> September 2019



# Key Stage 2 English– Level 4 & 5

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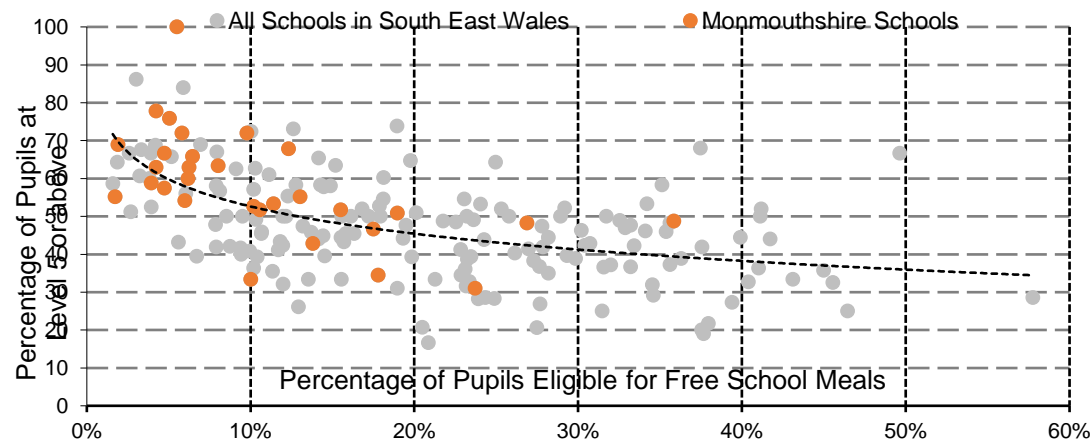
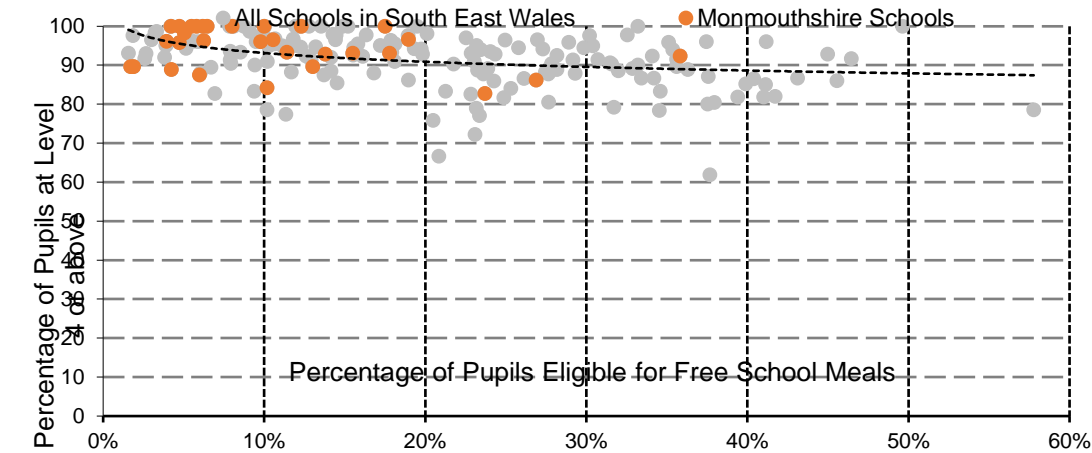


- Overall performance at Level 4+ (L4+) is above the region as a whole, particularly for those schools with <20% FSM.
- Overall performance at Level 5+ (L5+) is also above the region as a whole.
- There are however 2 schools, with FSM in the range 0-30%, where performance is below expectation, but not to a significant extent.



# Key Stage 2 Maths– Level 4 & 5

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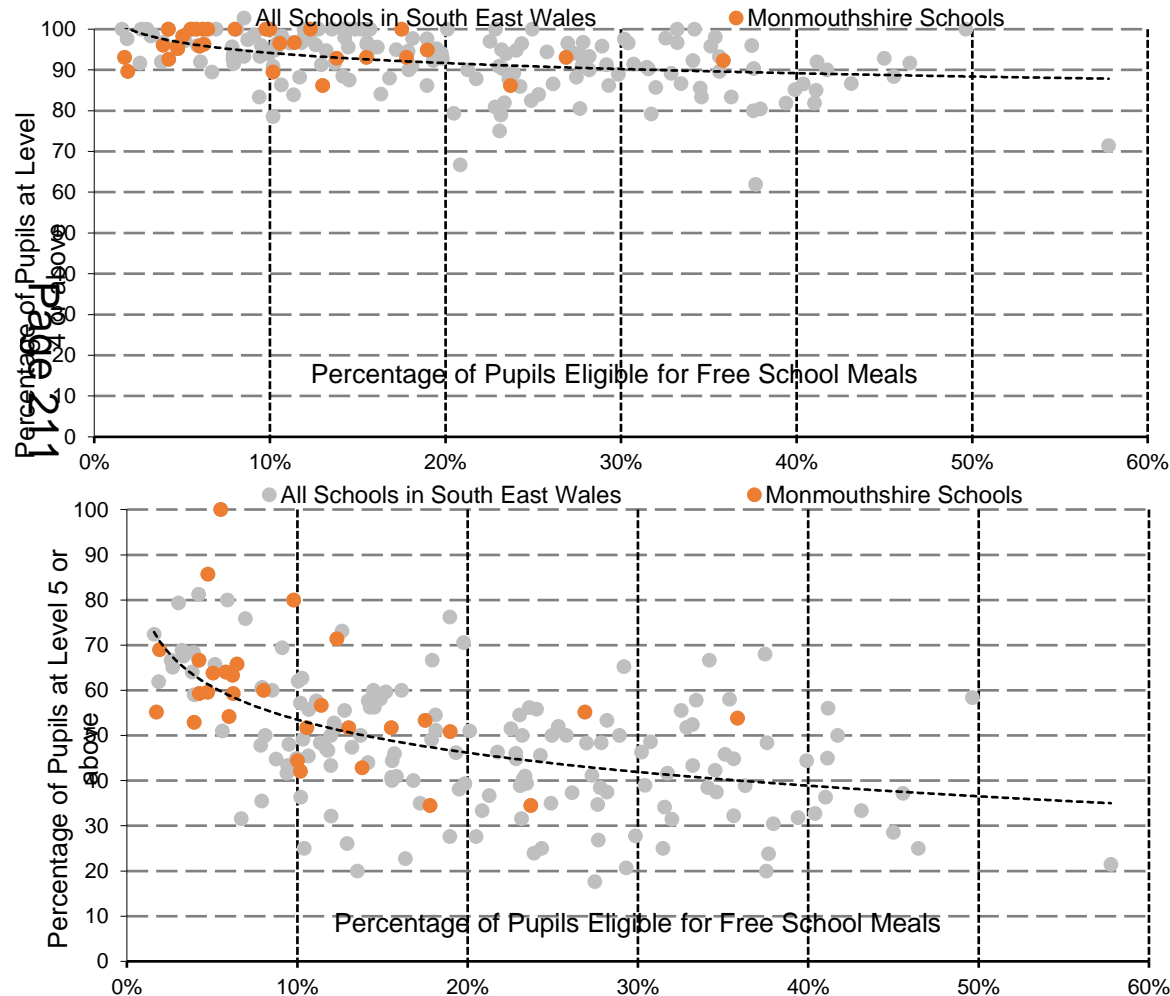


- Overall performance at Level 4+ is above the region as a whole, particularly for those schools with <20% FSM.
- Overall performance at Level 5+ is also above the region as a whole.
- There are a few schools, with FSM in the range 0-30%, where performance is below expectation, one to a significant extent.





# Key Stage 2 Science – Level 4 & 5

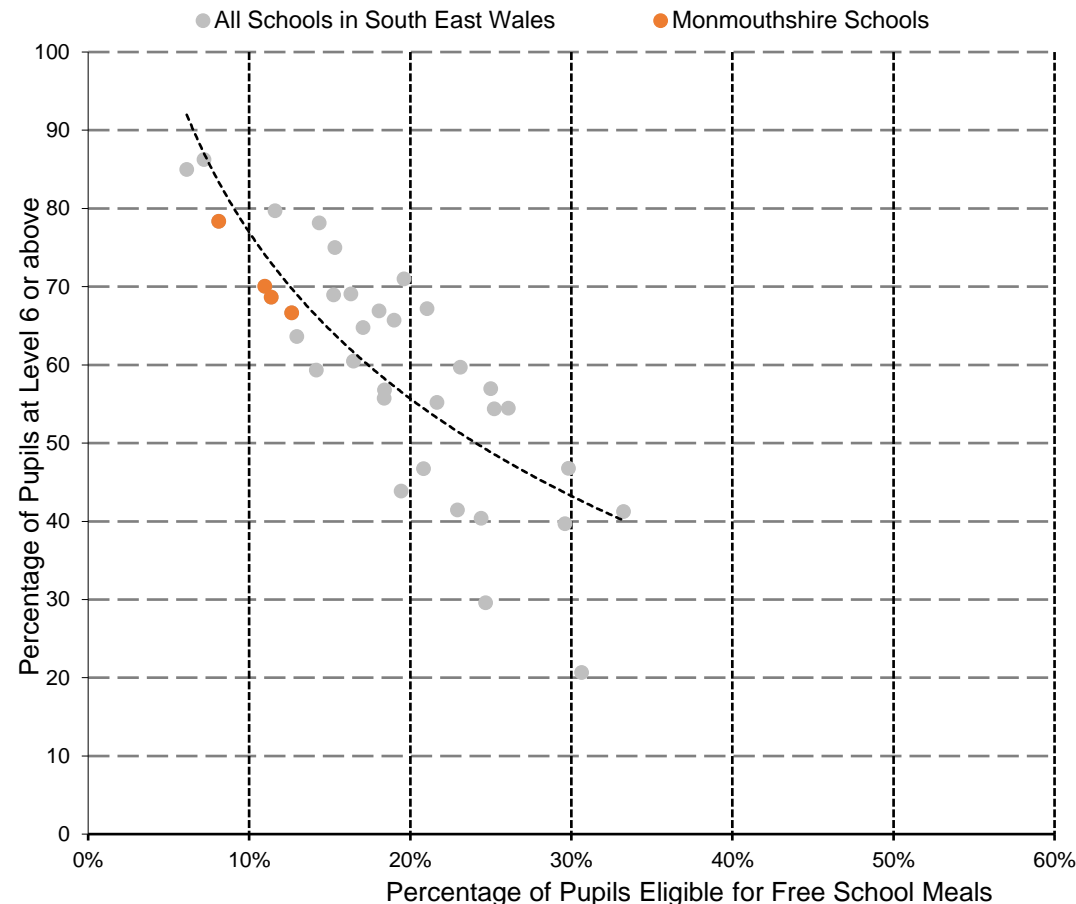
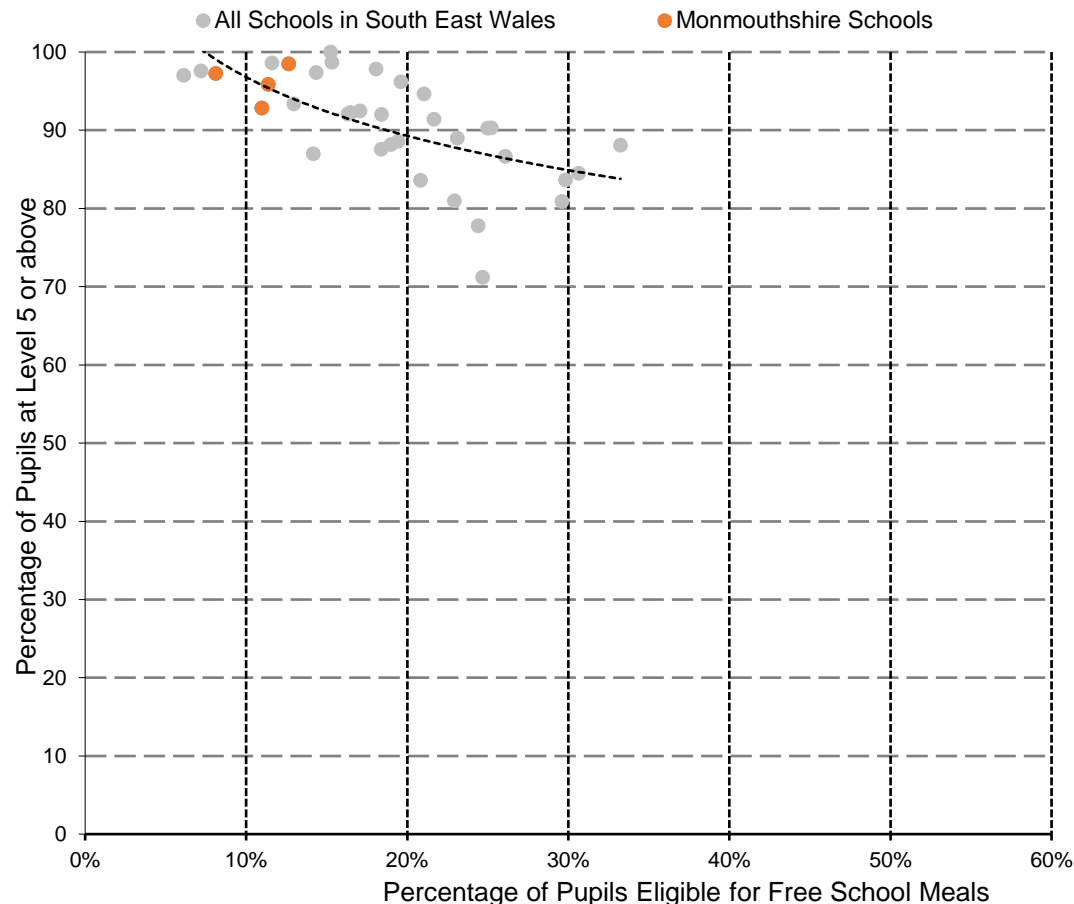


- Overall performance at Level 4+ is above the region as a whole, particularly for those schools with <20% FSM.
- Overall performance at Level 5+ is also above the region as a whole.
- There are however a few schools, with FSM in the range 0-30%, where performance is below expectation, but not to a significant extent.



# Key Stage 3 English – Level 5 & 6

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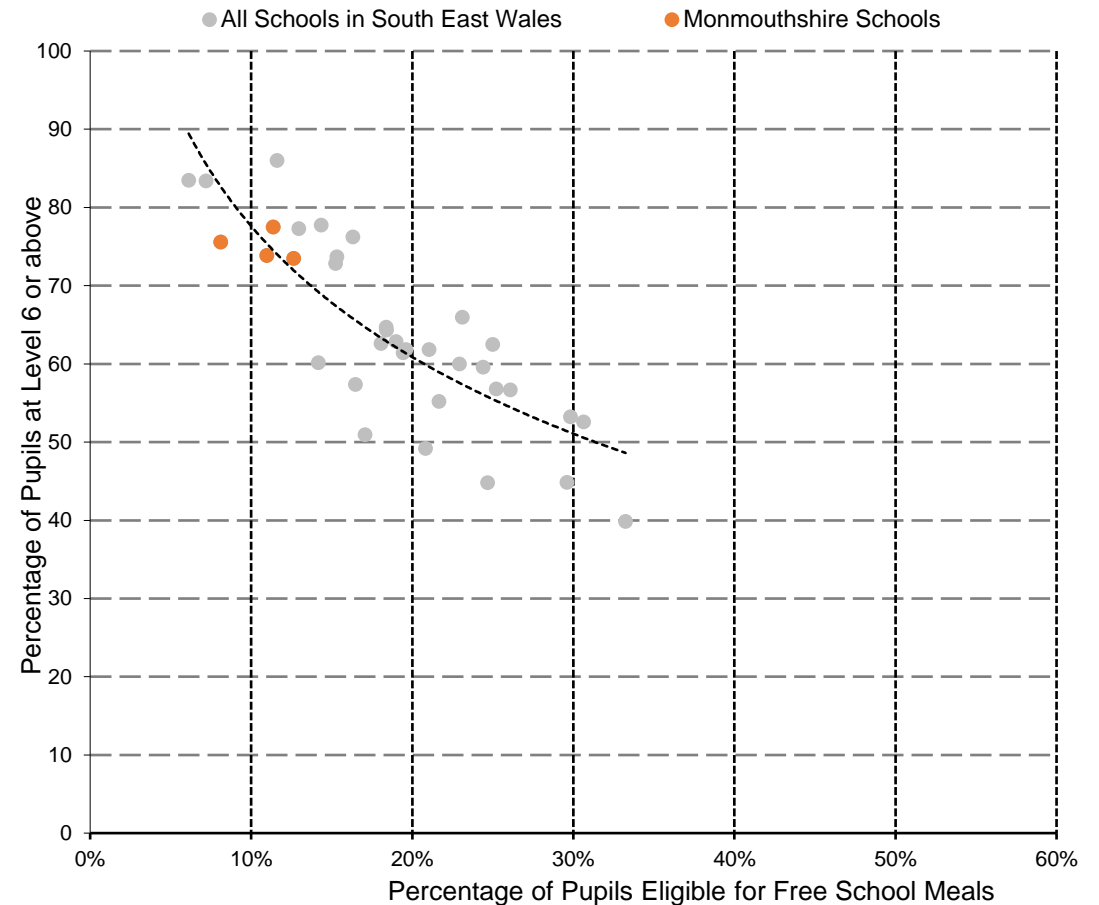
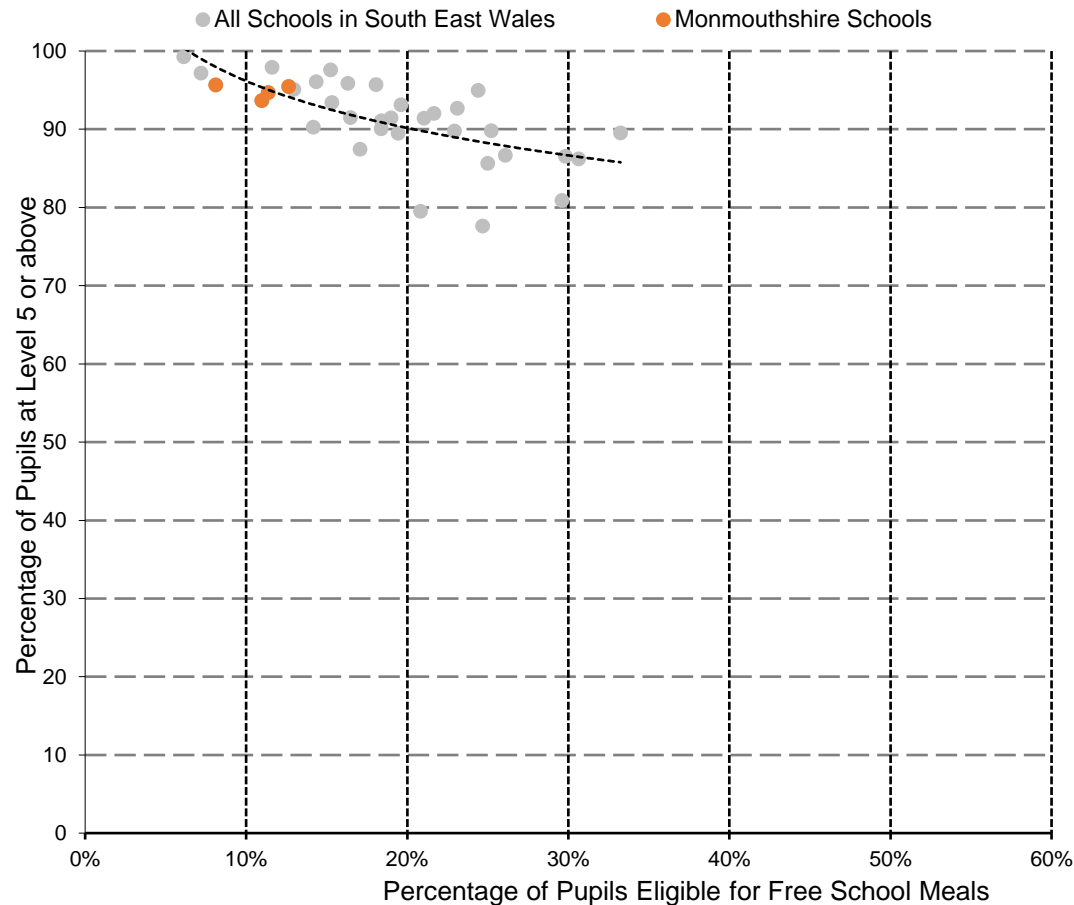


Full details of FP to KS3 can be found in Select report 17<sup>th</sup> September 2019



# Key Stage 3 Maths – Level 5 & 6

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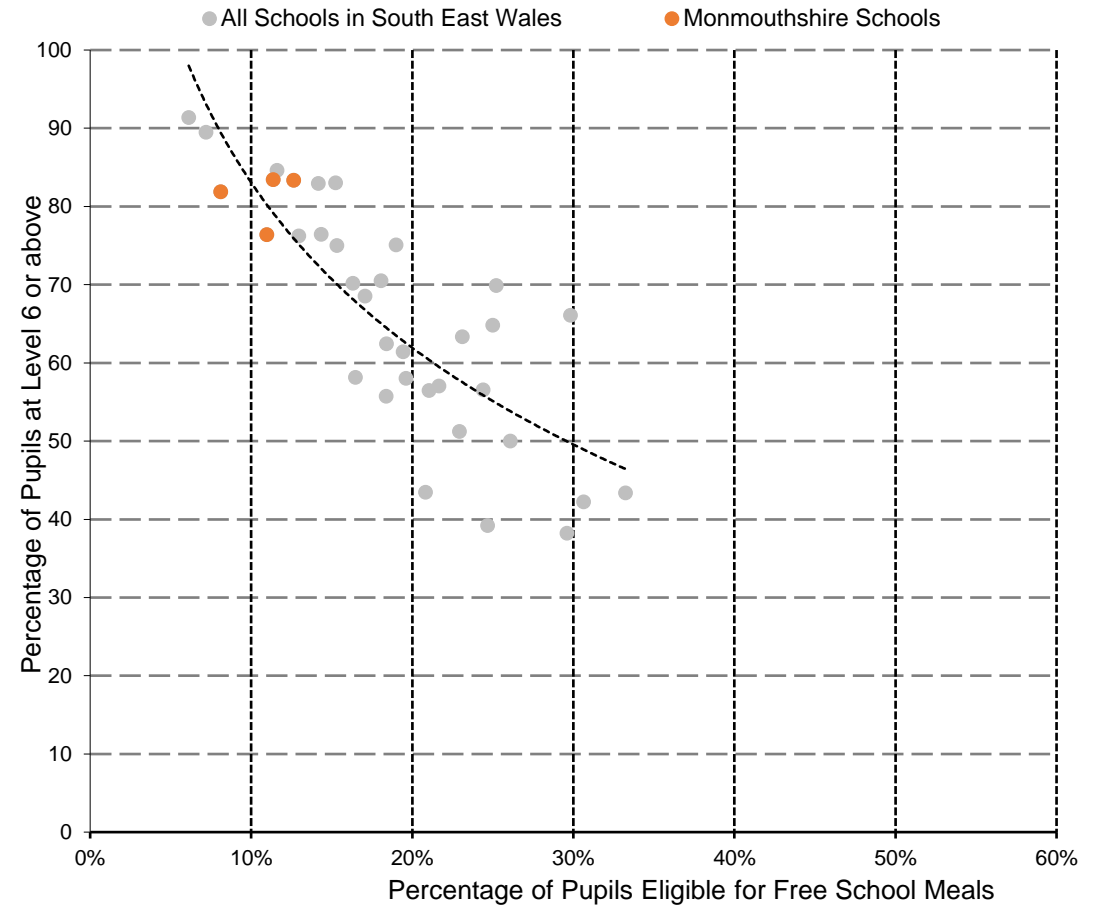
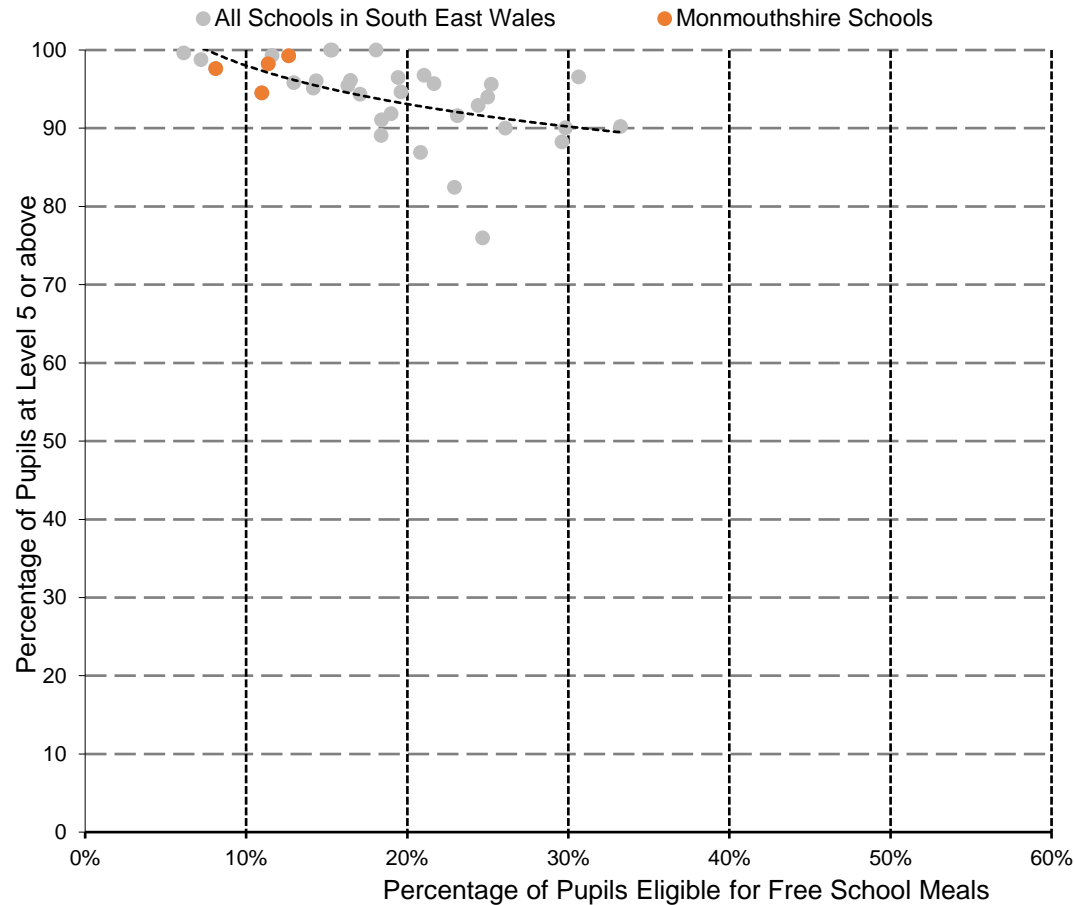


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# Key Stage 3 Science – Level 5 & 6

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Full details of FP to KS3 can be found in Select report 17<sup>th</sup> September 2019



# Public Document Pack Agenda Item 11

## MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of County Council held  
at Council Chamber - Council Chamber on Thursday, 5th March, 2020 at 2.00 pm**

**PRESENT:** County Councillor S. Woodhouse (Chairman)  
County Councillor S.B. Jones (Vice Chairman)

County Councillors: P. Clarke, D. Batrouni, J.Becker,  
D. Blakebrough, L.Brown, A.Davies, D. Dovey, L.Dymock,  
A. Easson, R. Edwards, M.Feakins, P.A. Fox, R.J.W. Greenland,  
M.Groucutt, L. Guppy, R. Harris, J. Higginson, G. Howard,  
S. Howarth, R.John, D. Jones, L.Jones, P. Jones, S. Jones,  
P. Jordan, M.Lane, P. Murphy, P.Pavia, M. Powell, J.Pratt, R.Roden,  
V. Smith, B. Strong, F. Taylor, T.Thomas, J.Treharne, J.Watkins and  
A. Webb

### **OFFICERS IN ATTENDANCE:**

Matthew Phillips	Head of Law/ Monitoring Officer
Paul Matthews	Chief Executive
Peter Davies	Chief Officer, Resources
Will McLean	Chief Officer for Children and Young People
Frances O'Brien	Chief Officer, Enterprise
Julie Boothroyd	Chief Officer Social Care, Safeguarding and Health
Matthew Gatehouse	Head of Policy and Governance
Sally Thomas	HR Manager
Jane Rodgers	Head of Children's Services
Mark Hand	Head of Place-making, Housing, Highways and Flood
Wendy Barnard	Democratic Services Officer

### **APOLOGIES:**

County Councillors D. Evans, A. Watts and K. Williams

The Chairman requested that Council observe a minute silence in remembrance of members of staff, Gwen Phillips (Children and Young People Directorate) and Christine Jones (Passenger Transport Unit).

The Chairman thanked Canon Mark Soady for his service as Chairman's Chaplain, and presented him with a gift.

#### **1. Declarations of interest**

The Leader, County Councillor P. Fox, declared a personal, prejudicial interest in item 12 – Monmouthshire Replacement Local Development Plan Preferred Strategy and Revised Delivery Agreement as his farm is situated within one of the sites under consideration. He withdrew from the meeting during consideration of this item.

#### **2. Public Questions**

No members of the public raised questions.

#### **3. Chairman's announcement and receipt of petitions**

Council received the Chairman's announcement.

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of County Council held at Council Chamber - Council Chamber on Thursday, 5th March, 2020 at 2.00 pm

The Chairman referred to the impact of the recent serious flooding in the County and paid tribute to the Chief Executive and many officers, especially those on the front line, the emergency services and to the people of Monmouthshire who helped however they could.

The Chair of the Recovery Co-Ordination Group, Matthew Phillips, provided an update that contact has been made by 370 residences, businesses and community assets (includes 159 residences, 42 businesses and 9 locations where a statutory report must be submitted); numbers are likely to increase.

It was announced that the work on the Llanwenarth Bund has been completed. The A466 Tintern is also a key priority plus other bunds, roads and bridges. The cost of damage is likely to be significant.

Members were impressed with the swift response to the crisis of the Council and thanked all staff and the emergency services involved accordingly.

County Councillor B. Strong presented a petition on behalf of more than 800 residents of Usk who object to the proposed re-routing of the A472 through the residential streets of Usk.

County Councillor J. Higginson, on behalf of County Councillor D. Evans, presented a petition from 324 residents of Caldicot who object to the proposed removal of both squash courts from Caldicot Leisure Centre.

#### **4. Members Questions:**

#### **5. From County Councillor S. Howarth to County Councillor P. Fox, Leader of the Council**

*Would the leader of the council please say whether he feels happy with the outcomes of the concerns from Monmouthshire residents with reference to the Heads of the Valley A465 Road scheme operated by the Welsh Government and contracted to build and design by Costain Group plc?*

The Leader responded by explaining that this Welsh Government project is being undertaken by Costain. Costain employs a Public Liaison Officer for this scheme who works closely with the local community as well as MCC. In addition, Costain holds monthly meetings for Traffic Management with MCC and other organisations such as the emergency services, quarterly meetings with Members and the Local Community Council, as well as holding ad hoc public exhibitions and meetings on progress of the works etc. Costain employs local people and runs an apprentice scheme, as well as engaging with local schools and other community groups, offering visits and talks about the scheme and in particular on local heritage interest.

Due to the unforeseen ground conditions and engineering difficulties, the number of planned road closures has been much higher than originally foreseen and this has been a challenge in terms of managing disruption on the local roads and a major concern from residents. However the Welsh Government is working closely with MCC officers, and listening to local members and residents in order that they can minimise disruption; there will be far fewer closures this year, with a maximum of eight expected.

To help ensure that the works are carried out with as little disruption to the local community as possible, our engineers are in discussions with WG on the handing back of the side roads, which includes maintenance arrangements for embankments and drainage systems.

## **MONMOUTHSHIRE COUNTY COUNCIL**

### **Minutes of the meeting of County Council held at Council Chamber - Council Chamber on Thursday, 5th March, 2020 at 2.00 pm**

For the duration of the scheme, there has been ongoing positive proactive engagement between Environmental Health officers and Costain representatives. The complexity of many aspects of the scheme have merited regular monthly meetings, with further detail generally discussed on a weekly basis. This has been to try to ensure that all appropriate noise and dust mitigation measures have been considered and implemented, and that residents in the proximity of works undertaken outside normal working hours are properly notified. The contractor has been requested and undertaken noise and dust monitoring.

It is regrettable that Costain and Welsh Government are currently in dispute since last year, which has undoubtedly prolonged the finish of the scheme, now estimated to be 2021, but as we know this seems to be a moving feast often changing.

The previous Project Manager, left last Summer and has been replaced. The position will be supported by an Arcadis employee to manage the Legacy of the Project. Having said all of that, it is fair to say that the continued suffering of the local residents is becoming intolerable; especially in Maesygartha and surrounding lanes on both sides of the valley, which are seeing traffic volumes not intended for their use, where residents parking is often on the street, making passing difficult especially at the weekends when the road is closed.

MCC Officers are currently looking at ways in which we could possibly improve the situation in Clydach and Maesygartha, including discussions with the Police to support any restrictive orders that are being considered to improve the situation. You will recall that in January last year at our meeting with the Minister, Ken Skates, it was agreed that there would be greater police support plus Costain Staff positioned at the Brynmawr end to deter non-residents from entering the narrow lanes and getting stuck in a jam; encouraging them to use the official diversion route instead. This action was welcomed by the residents but I know you and a community council member had concerns about the legality of these measures and as a result this no longer takes place however Operatives are still present to deter HGV's.

The residents of the bungalows at Dan Y Coed in Clydach have suffered a great deal following changes to the design of the footbridge. As you are aware MHA, MCC and locally elected members are still in discussions to secure a solution that provides greater privacy and security at the back of the affected properties.

The final part of the road construction is now taking place which will shortly include a switchover to the higher road. Two plans are currently being considered and we are waiting for the Welsh Government decision regarding this. Locally elected members have been consulted and are confident that the scheme will keep the traffic moving whilst the road over the gorge is constructed.

Residents, businesses and locally elected members want the road finished as soon as possible and, following recent discussions with Costain and Welsh Government, have impressed upon them to keep traffic moving so that it will not be advantageous to use the side lanes; and to minimise the weekend closures which cause the most disruption.

The roundabouts at Saleyard and at the old Costain Offices are due to be removed shortly and this will help to speed up the flow of traffic. MCC will continue to work closely with Costain and Welsh Government and their representatives to minimise further disruption whilst we look forward to the completion of the road.

It would not be correct to say that we are happy, especially as the scheme is currently two years behind and £100 million over budget, however we have had to deal with circumstances beyond our control such as the dispute between Welsh Government and Costain, and the challenges

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of County Council held at Council Chamber - Council Chamber on Thursday, 5th March, 2020 at 2.00 pm

faced by the Contractor in this challenging topography, which probably could have been better managed by the Welsh Government who are ultimately responsible for the Project.

MCC looks forward to the benefits of the completed scheme; currently expected to be in the Spring of 2021. Although there are times when local members and community remain frustrated by these works, it would be fair to say that WG and Costain are listening to the concerns of the local residents and are working closely with MCC to address problems that arise.”

As a supplementary Councillor Howarth reminded Council of a petition received from residents of Danycoed and assurances of a full investigation, questioned progress and requested that Council urge the Minister to resolve the situation.

The Leader appreciated the concerns raised and will meet with the Chief Executive to review progress.

#### **5.1. From County Councillor D. Batrouni to County Councillor P. Jones**

*Can the Cabinet Member give Council an update on any plans being made around the potential spread of the Coronavirus in Monmouthshire?*

The Cabinet Member for Social Care, Safeguarding and Health stated that an internal COVID – 19 (Coronavirus) Emergency Response Group has been established, chaired by The Chief Officer, Social Care, Safeguarding and Health. The Group is meeting weekly to keep the situation under review. Appropriate and proportionate action is being taken as necessary with reference to the Public Health Wales website which is updated daily. Any required response is prioritised around vulnerable groups.

Planning is underway regarding the potential impact on business continuity. Mitigation plans are being developed to keep services running. Various options, including redeployment of staff, will be explored if and when required. Weekly cross directorate meetings and briefings for staff and members have commenced.

People Services are dealing with queries on a case by case basis and Pandemic Flu Plans are in place; these can be adapted to respond to an outbreak if, and when, required.

Councillor Batrouni asked a supplementary on plans and actions for more publicity to reassure residents, and also enquired if there are any concerns concerning interruption to supply. It was agreed that there was a need to keep residents informed and the Cabinet Member would talk to officers about doing more advertising especially to take on board government advice to wash hands frequently. No issues with supplies have been identified to date.

## **6. COUNCIL TAX RESOLUTION and REVENUE AND CAPITAL BUDGETS FOR 2020/21**

Council was presented with the report as it is bound by Statute to specific timescales for Council Tax setting and is also required to make certain defined resolutions. The recommendations that form the major part of this report are designed to comply with those Statutory Provisions.

The recommended resolutions also draw together the Council Tax implications of precepts proposed by the Office of Police and Crime Commissioner for Gwent and Town and Community Councils, thereby enabling the County Council to establish its headline Council Tax levels at the various property bands within each Town or Community area.

The Leader of the Liberal Democrats expressed relief that the proposals to reduce school budgets and impose VAT on Sports Clubs were discarded. Concern was noted about increasing pressures on Children’s Services in view of the upward national trend in children being taken



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into care. Councillor Watkins called on the Conservative and Labour Groups to communicate with their parties to call for improved funding to address the root causes.

The Leader of the Opposition commented that the budget could have been better planned and, referring to the lowest settlement in Wales, queried what rigorous challenge had been made. There was an unexpected £4.8m received from Welsh Government which allowed the proposal to cut school budgets to be abandoned, and suggested that schools were panicked unnecessarily. Additionally, fines of up to £180,000 for not achieving recycling targets are predicted.

Councillor D. Batrouni proposed, as an amendment to the recommendation, to include a Council Tax increase of 150% on second homes vacant for 6 months. The amendment was seconded by Councillor T.Thomas.

A Member sought clarification on the number of such homes. The Cabinet Member for Innovation, Enterprise and Leisure stated that other councils consider that second homes qualify for business rates, and claim small business rate relief from them. Councils that put the proposal into operation previously lost money. Councillor Batrouni referred to a report that stated the opposite; that all councils made money.

**Upon being put to the vote, the amendment to the recommendations was defeated.**

Concerns were expressed about the late withdrawal of a 2% cut to school budgets, cuts to the Youth Service and also about a proposal that schools can take out loans to cover deficit budgets.

It was welcomed that no services will be discontinued. Council was reminded that an offer was declined of help from the Labour Group to speak to Welsh Government about the low settlement in Monmouthshire

The Cabinet Member for Infrastructure and Neighbourhood Services responded to criticisms levied at Waste Services that services have been improved, and there should be no fines thanks to a successful advertising campaign. During the flood crisis, waste has been accepted from other counties. The Cabinet Member urged Councillor Batrouni to contact her direct with concerns about waste services.

The Leader of the Independents observed that we are agreeing a deficit budget and referred to the additional costs arising from the recent floods and promises to provide funding for damaged infrastructure. Pressures in Social Care and Children's Services were also commented upon. Support was given to an unified approach to Welsh Government about the low settlement.

The Cabinet Member for Children and Young People explained that this budget protects schools by fully funding pay and pension increases (£2.9m). The proposal to cut £800,000 from school budgets was not a preferred option. Schools with deficits are being worked with. Schools that plan investment are able to utilise loans. £1.5m has been added for additional learning needs. The school estate is being renewed in both secondary and primary phases. Budget is committed to local services that improve physical activity and wellbeing. The Cabinet Member agreed that it is disappointing that Welsh Government has failed to introduce a funding floor but thanked the Leader for making robust representations.

It was suggested that Welsh Government consider more appropriate recycling targets.

The Leader referred to his attendance at a forum of local councillors held to make the case again for better funding for Monmouthshire to Rebecca Evans, Minister for Finance, and Julie

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James, Minister for Local Government but there are no current plans for the distribution formula to be reviewed. The rise in Council Tax of 4.95% is regrettable.

The Chair of the Economy and Development Select Committee agreed public tolerance of Council Tax increases is at a limit and that the funding formula needs to be reviewed. All Members are invited to a Economy and Development Select Committee Workshop on 31<sup>st</sup> March 2020 at 2.00pm with the Welsh Local Government Association to examine the funding formula in detail. He supported the provision of more information to residents to explain how money for services is spent throughout the year.

**Upon being put to the vote, Council resolved to accept the recommendations as per section 2 of the report.**

#### **7. TREASURY POLICY AND STRATEGY 2020-21**

Council received the Treasury Policy and Strategy Report in order to agree the 2020-21 Treasury Policy and Strategic Framework for officers to follow. This is to ensure that an appropriate level of care is taken of the Authority's funds and that a prudent budget is set to cover these activities.

The Leader of the Opposition observed that the report does not take into account the financial markets in the Coronavirus crisis as the stock market is in chaos, and questioned how the strategy will cover such major issues.

The Cabinet Member for Resources responded that there is a flexible management strategy that is carefully scrutinised by Arlingclose (the County's Treasury advisers). The Chief Officer for Resources added that some of the response to market volatility has led e.g. the US to reduce interest rates. The Council, as a borrower, keeps investments minimal.

**Upon being put to the vote, Council unanimously resolved to agree the recommendations:**

**That Council approves the following reports endorsed by Audit Committee on the 13<sup>th</sup> February 2020:**

- a) **the proposed Treasury Management and Minimum Revenue Provision Policy Statement for 2020/21 (Appendix 1); and**
  - b) **the proposed Treasury Management Strategy 2020/21 (Appendix 2) including the Investment & Borrowing Strategies, be approved together with the Treasury Limits as required by section 3 of the Local Government Act 2003.**
- 2.1 To approve the Prudential Indicators supplied in Appendix 3 and that will be used in the performance monitoring of the treasury function during 2020/21.**
- 2.2 That Council agrees that Audit Committee should continue to review the Council's treasury activities on behalf of the Council by receiving & scrutinising the mid-year report and year-end report and also scrutinising the Treasury Policy & Strategy before passing to Council for approval.**

#### **8. CORPORATE PLAN 2017-22: MID-TERM REFRESH**

The Council received a report containing a mid-term refresh of the Corporate Plan. This articulates the authority's purpose and values, alongside an update of the ambitious programme

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that will continued to be delivered during the course of the current Council, which runs until the local elections in May 2022.

The Leader of the Opposition commented that it was not easy to see how the authority is performing from the plan providing the example that it is difficult to identify comparison and trends from the report.

The Leader explained that the Plan demonstrated the drive for continuous improvement. The Head of Policy and Governance clarified that the Plan is forward setting and not a monitoring report; detailed performance is considered by Select Committees in June /July each year. The brightly coloured boxes throughout give an indication of highlights and the appendix provides more detail.

**Upon being put to the vote, Council resolved to agree the recommendations as follows:**

- a) **To approve the Corporate Plan.**
- b) **To approve the adoption of the objectives contained in the plan as the Council's Well-being Objectives and Improvement Objectives in accordance with the requirements of the Well-being of Future Generations Act and the Local Government (Wales) Measure 2009.**

#### **9. STRATEGIC EQUALITY PLAN 2020-24**

Council received the report to seek approval of the Strategic Equality Plan and Strategic Equality Objectives in accordance with the requirements of The Equality Act 2010 and to show actions that will be taken to address issues of inequality identified in the county.

The Leader of the Opposition voiced his concerns about housing and homelessness and questioned why the focus was on young people, and not in general. The Councillor also questioned how we define poverty in order to accurately measure the impact of actions. There was no reference to British And Minority Ethnic (BAME) children nor evidence of liaison with the BAME Community in the Plan, and the promised better reporting system to record race related incidents in schools has not occurred. He questioned if Wales Audit Office best practice guidance to devise recommendations through consideration of weaknesses in the plan, and previous plans, is taken into account.

The Chair of the Strong Communities Select Committee responded by commending the work with the Armed Forces, Monmouthshire Youth Service Diversity Festival, My Mates, Disability Sports Wales etc.

Members asked for more clarity between proposals, actions and outcomes plus details of how outcomes would be monitored.

The Cabinet Member for Social Justice responded that uniquely, the Council includes poverty as an indicator in impact assessments. Work at a forthcoming event will look at the detail of a definition to measure and define poverty. Regarding race crime and incidents, the Cabinet Member and officers are working hard to stamp out racism in our communities and schools. It was agreed that it would be useful to reflect on previous plans and reports, and confirmed that annual monitoring reports are compiled. Actions and outcomes in the Plan will be strengthened. Regarding housing and homelessness, the focus on young people comes from a Gwentwide strategy. It was shared that there is cross party work in progress in one ward on children's issues and the Cabinet Member reached out to all Members with an offer of collaboration.

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Upon being put to the vote, the Council resolved to approve the Strategic Equality Plan 2020-2024.

*Councillor V. Smith left at 16.38*

### **10. SAFEGUARDING EVALUATION REPORT APRIL 2018 - MARCH 2019**

The Council received the report:

- To evaluate the progress of Monmouthshire County Council's key safeguarding priorities during 2018/19, highlighting progress, identifying risks and setting out clear improvement actions and priorities for further development.
- To inform Members about the effectiveness of safeguarding in Monmouthshire and the work that is in progress to support the Council's aims in protecting children and adults at risk from harm and abuse.
- To inform Members about the progress made towards meeting the standards in the Council's Corporate Safeguarding Policy approved by Council in July 2017, amended January 2019 (see appendix 4).

The Leader of the Opposition asked 1) if any adverse scenarios were predicted for the coming year and 2) when the inspection report will be available.

The Cabinet Member for Social Care, Safeguarding and Health, in response to members' concerns about scores of 3 for safe working and safe services, responded that the self-evaluation group is sparing with scores. Additionally, a process change is in progress to collect all information in one new database. Regarding safe services, contractors are required to have the same high safeguarding standards as the authority.

The Chief Officer, Social Care, Safeguarding and Health confirmed that it is not possible to assume nothing else will happen but referred to the rigour arising from the learning from inspections. There is a whole authority workshop approach where each directorate has to complete a thorough safe audit. This process has identified areas to address. The Estyn inspection report is expected on 21<sup>st</sup> April 2020. The Care and Social Services Inspectorate (Wales) reports are not published but will be sent to Members and Cabinet. The Wales Audit Office report is already published and forms part of action plan.

**Upon being put to the vote, Council unanimously resolved to receive the Annual Safeguarding Evaluation Report and Action Plan.**

### **11. URGENT ITEM OF BUSINESS**

The Chairman agreed to consider the following item of business regarding the flood emergency response.

### **12. BUDGET DECISION - FLOOD RECOVERY RESPONSE**

Council received this report at short notice in accordance with Constitutional rules following an urgent decision, taken in consultation with the Leader and relevant Select Committee Chairs, to allocate funding outside of the budget framework to deal with ongoing recovery work following the recent flooding.

The Chief Officer, Resources, explained that this is abnormal and unbudgeted expenditure for urgent initial works and predicated on receiving full funding from Welsh Government. There will

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be much more extensive costs going forward and the Council is in discussions with Welsh Government accordingly.

Members highlighted that funding is available to request from Central Government as well as Welsh Government.

**Upon being put to the vote, Council unanimously resolved:**

1. **To note this report and the decision made; and**
2. **Requested that a further report be brought back to Council in due course once the wider implications of the recent flooding is known and understood to the County, Council and its residents and businesses. Together with recovery action taken and planned and the resultant financial consequences for the Council.**
13. **MONMOUTHSHIRE REPLACEMENT LOCAL DEVELOPMENT PLAN PREFERRED STRATEGY AND REVISED DELIVERY AGREEMENT**

*The Leader left the meeting at this point*

The Cabinet Member for Enterprise, Innovation and Leisure introduced the report. The purpose is to inform Council of the preparation of the Replacement Local Development Plan (RLDP) Preferred Strategy and to seek Council's endorsement of the Preferred Strategy to be issued for statutory consultation/engagement and stakeholder involvement. The responses received will inform the next key stage of the RLDP process, the Deposit Plan.

The Report also seeks Council's agreement of the RLDP Revised Delivery Agreement, which amends the project timetable for Plan preparation, for submission to the Welsh Government for the Cabinet Secretary's approval.

*Councillor L. Dymock left at 17.00*

Councillor Taylor questioned the weightings used for settlements to determine sustainability and resilience, hoped that the recent flooding informs strategy going forward and in proposing development, that protection of outside recreational spaces should be taken into account.

*Councillor F. Taylor left at 17.10*

The Cabinet Member for Infrastructure and Neighbourhood Services reported on a successful meeting with the Chair of the SE Wales Transport Commission where it was stated that the Commission wanted to support work already in progress. The Commission has been informed that our priority transport schemes and projects are:

1. Abergavenny Railway Interchange;
2. Severn Tunnel Junction;
3. Magor Walkway Station;
4. Declassification of M48;
5. B4245; and
6. Improved public rail and bus transport.

The Commission's report will be available in December 2020.

The Leader of the Opposition welcomed the 50:50 split for affordable homes but questioned why the poverty factor not added as an impact. An indication of Social Rent as opposed to Intermediate Rent was requested. Infrastructure must follow housing development and account

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must be taken of recent flooding. Action should be taken to get empty homes back into use and to ensure that local people have access to affordable housing.

The Leader of the Liberal Democrats expressed dismay that 8232 new homes are to be built, and that those in the south of the county are likely to be commuter homes and also noted that there had been no evidence of ability to create jobs. There should be no growth without plans to improve road infrastructure, and no developments on flood plains.

Members had concerns about the number and types of houses, deliverability and demands on the roads from housing development within and outside the county. A suggestion was made that the County should build its own housing to meet needs and that land should be identified where sustainable jobs can be created for existing residents.

*Councillor D. Blakebrough left at 17.35*

*Councillor G. Howard left at 17.45*

Members raised questions about the accuracy of the definition of a main village and emphasised the need to provide employment as well as residential areas noting that too many young people are living with their parents.

The Cabinet Member for Enterprise, Innovation and Leisure responded that we will insist that the Metro is brought as far into the county as possible and agreed that improvements to road infrastructure are necessary to support development. The Edge Analytics reports will be available for Members. Regarding the protection of open spaces, it is planned to identify those spaces as part of this process. Affordable housing was agreed as essential, however to deliver 50:50 affordable houses there will have to be input from Welsh Government and the authority to make it reality. It was confirmed that there has not been building on flood plains in the county other than in very exceptional circumstances. Processes later in the development of the plan will identify how we build sustainable houses. Infrastructure needs in the south of the county are noted and infrastructure will be considered very carefully for housing development in all areas. It was accepted that sites for jobs were not previously placed in the right places and this will be considered again.

The Head of Placemaking, Housing, Highways and Flood responded that the LDP is a land use plan, and will be accompanied with an infrastructure plan and local transport plan to be considered with the economic ambition strategy and inward investment strategy. It was confirmed that the next stage will provide more detail on the types of housing to be built, climate emergency and protection of amenities. It was confirmed that the Council works closely with its neighbours including Forest of Dean District Council, Blaenau Gwent County Borough Council, Brecon Beacons National Park and Torfaen County Borough Council. Regarding affordable housing, the differences between Social Rent, Intermediate Rent and Low cost home ownership were explained and there is commitment to provide opportunities for everyone.

**Upon being put to the vote, Council resolved to:**

- 1. endorse the RLDP Preferred Strategy for statutory consultation/ engagement and stakeholder involvement for a six week period.**
- 2. agree the Revised Delivery Agreement, which amends the project timetable, for submission to the Welsh Government for the Cabinet Secretary's approval.**

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**14. PUBLICATION OF PAY POLICY STATEMENT AS REQUIRED BY THE LOCALISM ACT**

*Councillor B. Jones left at 18.25  
All Officers bar the HR Manager and Democratic Services Officer*

Council received the report to approve the publication of Monmouthshire County Council's Pay Policy, in compliance with the Localism Act.

**Upon being put to the vote, Council resolved to approve the Pay Policy for the year 1st April 2019 to 31st March 2020.**

**15. To confirm the minutes of the meeting held on 16th January 2020**

The minutes of the previous meeting were confirmed and signed subject to the following amendment:

P. 6 Remove C.C. R. John as leaving the meeting at that point.

**The meeting ended at 6.30 pm**

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