



**Notice of a public meeting of
Licensing and Regulatory Committee**

- To:** Councillors Melly (Chair), Cuthbertson (Vice-Chair), Baxter, Clarke, Hook, Kilbane, Knight, Mason, D Myers, Nicholls, Ravilious, Smalley, Widdowson, Warters and Wilson
- Date:** Monday, 4 November 2024
- Time:** 5.30 pm
- Venue:** West Offices - Station Rise, York YO1 6GA

AGENDA

- 1. Apologies for Absence**
To receive and note apologies for absence.
- 2. Declarations of Interest** (Pages 1 - 2)
At this point in the meeting, Members and co-opted members are asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see attached sheet for further guidance for Members].
- 3. Minutes** (Pages 3 - 16)
To approve and sign the minutes of the meeting held on 11 June 2024.

4. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

Please note that our registration deadlines are set as 2 working days before the meeting, in order to facilitate the management of public participation at our meetings. The deadline for registering at this meeting is 5:00pm on Thursday 31 October 2024.

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill in an online registration form. If you have any questions about the registration form or the meeting, please contact Democratic Services. Contact details can be found at the foot of this agenda.

Webcasting of Public Meetings

Please note that, subject to available resources, this meeting will be webcast including any registered public speakers who have given their permission. The meeting can be viewed live and on demand at www.york.gov.uk/webcasts.

During coronavirus, we made some changes to how we ran council meetings, including facilitating remote participation by public speakers. See our updates (www.york.gov.uk/COVIDDemocracy) for more information on meetings and decisions.

5. Review of pavement café licensing process (Pages 17 - 46) and guidance

This report presents options for the Committee to review the Council's pavement café licensing process and guidance following the commencement of the pavement licensing provisions laid out in the Levelling Up and Regeneration Act 2023.

6. Street Trading Consent Policy update (Pages 47 - 74)

This report updates Members on the progress towards implementing a Street Trading Policy.

- 7. Gambling Act 2005 - Statements of Licensing Policy** (Pages 75 - 172)
This report advises Members of the review of the Councils Statement of Licensing Policy (the Policy) and the consultation undertaken. The report seeks a recommendation to Council that the Policy be approved. The report also seeks permission to publish the revised Local Area Profile.
- 8. Work Plan** (Pages 173 - 174)
To consider the Committee's Work Plan for the 2024-25 municipal year.
- 9. Urgent Business**
Any other business which the Chair considers urgent under the Local Government Act 1972.

Democratic Services Officer

Angela Bielby

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For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

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Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آبی کی اپنی زبان (ہولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

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Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

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City of York Council

Committee Minutes

Meeting	Licensing And Regulatory Committee
Date	11 June 2024
Present	Councillors Melly (Chair), Cuthbertson (Vice-Chair), Baxter, Clarke, Hook, Knight, Mason, D Myers, Nicholls, Ravilious, Rose, Smalley, Widdowson And Warters (until 21:02)
In Attendance	Matthew Boxall (Public Protection Manager) Sandra Branigan (Senior Lawyer) David Cowley (Taxi Licensing Manager)
Apologies	Councillor Kilbane

CHAIR'S OPENING REMARKS (17:34)

The Chair opened the meeting and explained that the Council's Director of Governance had provided legal advice that it was appropriate for the Committee meeting to go ahead that day to determine the application by Uber for a private hire operator's licence. She explained that the Director of Governance had made his decision with reference to the Code of Recommended Practice on Local Authority Publicity, published by central government, and the associated guidance provided by the Local Government Association (which notes that "*you are allowed to ... continue to discharge normal council business (including budget consultations or determining planning applications, even if they are controversial)*").

The Chair added that in the Director of Governance's legal opinion there was no reason for the meeting not to continue as scheduled. The Director of Governance had noted that the key focus of the pre-election period restrictions is publicity issued by the Council, rather than the business of the Council itself. Whilst matters directly impinging on local or national policy should be avoided (to ensure the decisions do not impact on the outcome of the election), the ordinary 'day-to-day' decisions of the Council should continue, even if those decisions may be controversial.

The Chair reminded anyone watching that when making their decision on the Uber application, the Committee needed to

consider national legislation and the Council's taxi licensing policy. She explained that the decision to be made lawfully could not be political or include considerations of matters such as market competition or support for local businesses or trade unions. She added that the decision could only be made within the regulatory framework on whether Uber was "fit and proper" to hold an operator's licence.

A Member noted that his opinion differed to that of the Monitoring Officer and asked whether the Committee could go into private session to make its determination. The Senior Lawyer advised that hearings for applications for premises licenses operated under a different legal framework which allow a sub-committee to deliberate in private and the taxi application was governed under separate legislation for committee meetings. She added that the Committee could only go into private session for specified reasons, and she could not see why the committee could go into private session in this case.

The Chair then read out the procedure for the determination of the application for a Private Hire Operators Licence.

50. DECLARATIONS OF INTEREST (17:41)

Members were invited to declare any personal interests not included on the Register of Interests, any prejudicial interests, or any disclosable pecuniary interests that they might have in respect of business on the agenda. Cllr Nicholls noted that he knew Matthew Freckelton (Uber Head of Cities, UK) and had not spoken with him regarding the Uber application. There were no further declarations of interest.

51. MINUTES (17:41)

Resolved: That the minutes of the meeting held on 16 January 2024 be approved and signed by the Chair as a correct record.

A Member asked for an update on hackney carriages vehicle licence waiting list. The Taxi Licensing Manager explained that there were six vehicles in operation, two vehicles had confirmed delivery and three applicants were sourcing vehicles. He added that there would be an update report at a future meeting and that the taxi licensing consultation ended on 14 July 2024.

52. PUBLIC PARTICIPATION (17:43)

It was reported that there had been eight registrations to speak at the meeting under the Council's Public Participation Scheme.

Flick Williams spoke under the general remit of the committee on progress towards getting additional wheelchair accessible vehicles on the road. She noted that in June 2022 there was a report to committee including information on wheelchair accessible taxis and that she had spoken at previous meetings on the matter. She was disappointed to see that it had not been included on the agenda and noted that there should be another unmet demand survey this year. She added that approving the Uber application would make the situation worse for disabled people and she explained how inequity for disabled people had worsened. He noted her inequality concerns with disabled people being refused taxis. She urged refusal of the Uber application.

The remaining seven registrations to speak were on agenda item 4 Application for a Private Hire Operator's licence - Mr Neil McGonigle on behalf of Uber Britannia Limited ('Uber').

Suba Miah urged the committee to consider the Local Government (Miscellaneous Provisions) Act 1976. He noted that it was almost seven years since the previous Uber application was refused. He raised a number of concerns regarding out of town Uber vehicles. He noted that the out of town Uber drivers had not completed the York safety test and he noted his concerns about their insurance. He asked the committee to ensure a fair playing field to allow all already licensed in York, including hackney carriages, to apply for an Uber licence.

Daniel Smith explained that Uber broke section 6 of the Local Government (Miscellaneous Provisions) Act 1976 adding that Labour had promised to change that law. He noted that Uber were not fit and proper to have a York licence. He gave examples of the practices of Uber drivers which included picking up illegal passengers at ranks. He stated there was a lack of the monitoring of it and that York operators did monitor this. He expressed concern that how safe the cars used by Uber were and that the Uber office would be empty and not manned. He added that public safety was a huge risk with Uber drivers.

Arfan Asif explained that Uber operated in York and not under York rules. He added that all Uber drivers will be able to apply for a York licence and could work for York operators. He asked a number of

questions about Uber and urged the committee to refuse the licence to reaffirm its commitment to just and fair and making it safe for visitors.

Muhammad Sulaman noted that Uber did not have a licence and operated in York. He explained that he had passed his taxi knowledge test and added that when the outside drivers were seen this made York taxi drivers feel low. He noted that he was unsure why Uber drivers work in York and break so many rules. He noted that since Uber had come to York, York drivers worked extra hours and could not spend time with their families.

Darren Avey (Director of York Station Taxis and Chair of YPTA) urged the committee not to grant the licence and work in grey areas. He gave examples of how Uber worked, and the fines imposed to settle claims across the world. He noted the safety of passengers and added that there were too many reports of accidents by Uber drivers. He noted that their business model was unethical, and he highlighted the impact on local drivers. He explained the increase in Uber drivers on race days and the impact of it. He noted it was imperative to prioritise the wellbeing of local communities.

Gary Graham (Member of YHCA and YTAD) explained the reasons why Uber should not be granted a licence and why it was not fit and proper. He noted that Uber was a middle man and facilitator. He noted the unfair working practices by Uber and its pricing. He added that if York taxi companies were run like that, they would have their licences removed. He noted that if the licence was granted, the council would not be fit and proper.

Arshad Mahmood (Chairman of York City Taxi Association) noted that there were 84 wheelchair users. He added that the report was misleading and did not include out of town drivers operating illegally. He explained that Uber ruined the livelihoods of York hackney carriage drivers and that wheelchair access hackney carriages were not available. He asked why York should trust Uber and asked for conditions to stop using out of town vehicles and use York hackney carriages.

Written representations had also been received from Phil Atkinson (Head of Operations, York Racecourse) and Mariya Miteva.

53. APPLICATION FOR A PRIVATE HIRE OPERATOR'S LICENCE - MR NEIL MCGONIGLE ON BEHALF OF UBER BRITANNIA LIMITED ('UBER') (18:10)

Members considered a report that sought their determination of an application for a private hire operator's licence by Mr Neil McGonigle on

behalf of Uber Britannia Limited ('Uber'), operating from Tower Court, Oakdale Road, Clifton Moor, York, YO30 4XL.

In coming to their decision, Members took into consideration all the information and submissions that were presented, and determined their relevance to the issues raised including:

1. The application form and the papers before it.
2. The Public Protection Manager's report and comments at the meeting
3. The oral representations made at the meeting by the applicant and the public speakers.

The Public Protection Manager outlined the report. He explained that the Local Government (Miscellaneous Provisions) Act provides that the council should, upon receipt of an application, grant a private hire operator's licence... unless it considers the applicant was not a 'fit and proper person' to hold such a licence or is disqualified by reason of their immigration status. He noted that the applicant was not barred by reason of their immigration status and that the committee was determining whether the applicant is fit and proper to hold a licence. He then provided background information on the application.

The Public Protection Manager detailed a number of aspects of taxi licensing case law in the context of the application. He explained that it had long been established that private hire operators could only dispatch vehicles and drivers that were re licenced by the same local authority as the operator. This is known as the 'triple licensing rule' and by similar phrases. He cited the case of *Shanks v North Tyneside Council, 2001* in which it was established that *the operator can use the vehicles within his organisation for journeys both inside and outside of the local authority in which he was licensed and, indeed, can use such vehicles and drivers which ultimately have no connection with the area in which they are licensed*'. He added that under those under these provisions, Uber had been lawfully enabling passengers to take journeys in York using vehicles and drivers from other licensing authorities in York. He highlighted that granting the application would not prevent them using 'out of town drivers' in York and that refusing the application would not prevent them carrying on and using out of town drivers in York and that the application was enable Uber to recruit York licensed drivers on to their platform, which they currently could not do.

The Public Protection Manager detailed the location of the premises at Clifton Moor (the operating address) noting that it had planning permission. He noted that customers and drivers would interact with Uber via the app and not by visiting the premises. He added that Uber provided a 24/7 emergency line for council officers in the event of any concerns, and he detailed the hours of operation to be 24 hours every day of the week. He detailed the annexes and advised Members that they should grant the licence unless they considered that the applicant was not fit and proper to have one. He explained that 'Fit and Proper' was not specifically defined in the Act and detailed Button's suggestions on the questions Members should ask as detailed in his textbook on Taxi licensing Law, Button on Taxis. He then detailed the options available to the committee in their determination of the application.

In addition to the Public Protection Manager, the Taxi Licensing Officer was in attendance to answer questions from Members. They were asked and explained that:

- The applicant was Neil McGonigle on behalf of Uber. Clarification was given on all the licences listed.
- The outcome of the decision was not a precedent and if the applicant appealed the decision it would go to Magistrates Court. It was noted when a different application went to appeal recently, the Magistrate granted the licence with standard conditions.
- Uber would be able to clarify the employment status of Uber drivers.
- All taxi drivers were self-employed and were given workers' rights through a set to case.
- The taxi office had to be a physical space.
- York carried out enhanced standard tests.
- Regarding whether the 31 complaints regarding Uber was standard, this number fluctuated.
- The applicant was an individual on behalf of Uber Britannia Limited. In York it was a requirement for an individual to apply.
- Officers were not aware of any additional conditions imposed by other authorities.
- The council was not involved with Uber data breaches as Uber was not licensed in York.
- Taxi complaints went through the operators and the council had access to the complaints records for taxi operators licensed in York.
- Taxi fares were brought to the committee to determine and fare tables were displayed.
- Customers would know what the fare was as it would be displayed on the app.

- If a decision was made to grant the licence, Uber would be able to operate in York.
- The different offences recorded in complaints made was explained.
- Uber were responsive to complaints from its own drivers.
- Regarding whether the business model for pricing could be considered as part of the test, Members would need to go back to the test. Button's comments were noted, and it was highlighted that business models were not specified by Button. The Senior Lawyer advised that Members needed to approach the test by looking at the purposes of legislation.
- It was confirmed that the two conditions regarding fare charts could be complied with.
- When complaints were made to police, they were passed onto the authority at which the operator was licensed.
- Fare charts were displayed at the operator's premises and in the vehicle.
- Magistrates could grant a licence for 5 years.
- All offences were listed in complaints.

Regarding the political manifesto referred to by a public participant, the Senior Lawyer advised that the Monitoring Officer had given legal advice on the meeting. The Chair noted that the Labour, the Conservatives and the Green Party had not published their manifestos.

[The meeting adjourned from 18:48 to 19:02]

4. The oral representations made by Matthew Freckelton (Uber Head of Cities, UK), who spoke on the application on behalf of the applicant. He was joined by colleagues Paul Kane (Head of Safety), Scott Preswick (Counsel) and Neil McGonigle (Applicant on behalf of Uber Britannia Limited ('Uber') and Head of Driver Operations), to give a presentation on the application as detailed at Annex 6 of the published report.

During their presentation they explained:

- They explained how the Uber app works.
- The Uber app, noting that there was an in app emergency button.
- Uber had a partnership with the Crisis Prevention Institute for de-escalation training and work with the Survivors Trust on sexual misconduct.
- If any driver failed the real time hybrid check they would be investigated.

- Uber only used licensed drivers. It was explained that driver and vehicle on boarding included an in person ID check, document uploading, and document checking, and drivers would only be eligible when all checks had been completed.
- An explanation given on booking records.
- The safety complaints process was detailed noting how it operated in the app, the process for complaints and how complaints were investigated, including those from licensing authorities.
- The technology for enhanced pick up and drop offs was outlined, noting that this included hackney carriage ranks.
- Regarding complaints, Uber had a dedicated team that responded to requests for information from law enforcement and public health officials.
- The use of electric vehicles on the platform as explained.
- It was the third anniversary of the Uber and GMB signing the first national union recognition agreement in the gig economy.
- Regarding drivers, they were guaranteed the national living wage, holiday pay and a pension fund.
- Marketplace health was detailed. Noting that dynamic pricing played a significant role.
- The growing ridership of Uber included the launch of new services like Uber Reserve, Pet and Assist. Uber were also adding other items onto the app.

Members then asked Matthew Freckelton, Paul Kane, Scott Preswick, and Neil McGonigle several questions to which they responded that:

- Uber drivers were classified as workers. Plying for hire or picking up from taxi ranks was the responsibility of drivers. Uber had gone to some councils to ask for more detailed complaint reporting and they could not think of one council that did not use the standard conditions.
- Data breaches were reported to the ICO and Uber operated under GDPR.
- Regarding whether data breaches were passed onto local authorities, that would depend on the particular conditions of that particular licensing authority.
- Most complaints came through the app and number of complaints in York could be provided in a letter to the Chair after the meeting. They did not have an estimate of the number of complaints and 99.9% of trips operated without complaints.
- Regarding the business model of having a staffed booking office for driver welfare, drivers were not wed to visiting an operator

base. They may have partnerships with other groups regarding conveniences and restrooms.

- Driver use of the app was built with safety in mind. The app was compatible with Apple carplay and other navigations apps. It was noted that the navigation apps were audible. Touches in the app were minimised to remove distractions.
- All hackney carriage ranks were geofenced and they had been working with York Racecourse on pick up and drop offs.
- Regarding Uber's commitment to wheelchair accessible vehicles, Uber did not own the vehicle, the driver did. Wheelchair accessible vehicles were a challenge across the country.
- The emergency button for safety contacted 999, the emergency services.
- The ride check was automated.
- Regarding how many times the rejection of a driver would spark concern, this would depend on the type of complaint and the history of the driver. If a rider made a complaint about a driver, Uber would unmatch them.
- Regarding FAQs on being blank about the living wage, it should be populated. Wages were based on HMRC expense rates.
- Regarding Electric Vehicles (EVs) and there being less wheelchair accessible vehicles, this was not unique to Uber, the supply of electric vehicles was lagging behind. Uber would take a pragmatic approach to electric wheelchair accessible vehicles.
- They did not have the information on how many of the 16,000 vehicles were wheelchair accessible. It was noted that electric vehicles tended to be smaller, and they would take a pragmatic approach towards 2030. Asked GMB's view on this, Uber worked closely with the GMB on a national level, and they could not comment on the local approach to York. They had made progress with drivers over the worker benefits that Uber provides.
- After the emergency button was pressed, they would contact the rider and driver.
- If the licence was granted, they would look to take on York drivers. When they were licensed recently in Stockton on Tees, drivers from outside had applied and they looked to on board local drivers.
- Concerning complaints about picking up from taxi ranks and them being geofenced, an explanation was given on how geofences were set up and it was believed that they work. They were happy to discuss geofences with licensing officers. They explained how the technology worked noting drivers could not physically be stopped from sitting on a rank.

- Uber acted on complaints made to them and where required would report to the local authority, investigate, and take action if necessary. [At this point an officer noted that this was in the authority that the operator was licensed in].
- Uber had a programme to aid drivers to obtain driver licences, including financial support.
- Regarding unmet demand, they did not want to create oversupply. If licensed in York they could look at this with licensing officers. A explanation of how dynamic pricing works was given, noting that multiple factors were taken into account for it in getting the optimum price for the rider and the driver. From a safety perspective it was worse if a person could not get home.
- Regarding what would happen if a person could not walk to the pickup, in York city centre the driver and rider could communicate in the app or ring (anonymously) to arrange a collection point.
- There was a guide dog policy.
- Regarding private hire vehicles having access to the city centre to pick up blue badge holders, Uber did not ask riders to identify if they had a disability. They could work with licensing officers on this. [At this point officers confirmed that Uber were consulted on blue badge access to the city centre].
- Rides to blue badge holders were not denied, they did not discriminate and did not sub contract bookings. Uber Access was noted, and it was noted that they were aware of the Equality Act.
- All cities that had Uber Access were linked to Uber X.
- Drivers could not pick and choose riders unless there was a medical exemption to take passengers with an assistance dog or a wheelchair user. They could investigate if passengers with assistance needs had journeys turned down and they noted the steps taken should this happen.
- They had a dedicated team to investigate allegations. They would contact the rider and driver regarding their version of events, and take action and report to the licensing authority.
- There was a whole range of scenarios regarding drivers being revoked and it was noted that it depended on the nature and severity of the allegation.
- Greyball was not used in the UK. Uber in 2015/16 was a different company and it now enjoyed positive relationships with all 61 authorities. It was an on shore business and paid all UK taxes.
- It was confirmed that they would be happy to display charges and surge pricing, which were in the app.

[At this point a Member asked if the committee could condition the applicant to make sure the operating model was not disenfranchised by

blue badge access. Officers advised that they could work with the applicant and that if the licence was granted they would operate under York (licensing authority), including the York knowledge test and there wouldn't need to be a condition. The applicant noted that they would need to look at how the technology on the blue badge side. A Member asked if drivers had equalities training. Officers advised that all new applicants had training on equalities and safeguarding through the local knowledge test. The applicant explained that all new drivers watched videos on that and they could look at this with officers].

- Since 2017 Uber had changed its third party risk analysis and it was explained how personal data was protected. Meetings were held to review data protection breaches. They noted that everyone was empowered to report a breach in data protection, and it was confirmed that they were there to develop a regulatory relationship with York.
- Cities with Uber Access was based on sufficient supply of wheelchair accessible vehicles. Regarding Uber X, this was the cheapest Uber product in the UK which was why Uber Access was tethered to it.
- There was Uber Access and Uber Assist to request wheelchair accessible vehicles.
- Regarding the role of local knowledge, for example road closures, Uber had its own mapping technology and if the driver saw that the route needed to change, they could change the route. If the driver wanted to take a different route to the mapping technology, they could, and the price could change.
- The technology used was industry leading and Uber could investigate reports of different drivers using a vehicle.
- The driver driving the vehicle was in the driver profile given to the rider. It was explained how trips were accepted by the rider.
- The actions taken if a trip was rejected was explained. They did not want drivers to cancel trips and there was a threshold for the cancellation of trips that worked across all products. There were different thresholds for Uber Access and Uber Assist.
- Drivers were paid a higher fare to take Uber Access.
- Regarding wheelchair accessible vehicles it would be for the driver to have a wheelchair accessible vehicle. They did not have sufficient supply of wheelchair accessible vehicles in York.
- In the cities with Uber Access there was sufficient supply of the availability of those drivers.

[A Member asked if the committee could stipulate the number of wheelchair accessible vehicles in a fleet. Officers advised that in the policy being consulted on included was the largest operator supplying

one wheelchair and if this was not possible, they had to give a reason why. Officers were not sure if the committee could stipulate the number of wheelchair accessible vehicles. At this point the Senior Lawyer reminded Members that their questioning should not turn into cross examination of the applicant].

- Concerning a driver breaking the law for access reasons there was no set reporting condition for to have a consequence for a specific breach.
- Uber did not have the ability for the rider to accept a driver licenced in the York area.

[Cllr Warters left the meeting at 21:03]

[The meeting adjourned from 21:03 until 21:11]

The applicant made closing remarks, thanking the Chair and Councillors. They noted that they had been questioned and answered questions extensively and believed that they met the fit and proper test. They added that they had been licenced in 60+ authorities.

The Chair reminded anyone watching that when making their decision on the Uber application, the Committee needed to consider national legislation and the Council's taxi licensing policy. She explained that the decision to be made lawfully could not be political or include considerations of matters such as market competition or support for local businesses or trade unions. She added that the decision could only be made within the regulatory framework on whether Uber is "fit and proper" to hold an operator's licence.

Having regard to the above information, the Committee considered the steps which were available to them to take under Sections 55 and 57 of the Local Government (Miscellaneous Provisions) Act 1976:

Option 1: Grant a private hire operator's licence as requested, with the standard conditions attached for a period of one year.

Option 2: Grant the private hire operator's licence with the standard conditions and any additional conditions considered reasonably necessary for a period of one year.

Option 3: Refuse the application providing the grounds for refusal.

Members debated the application at length. During debate a Member asked if the committee could add a condition relating to the geofencing

of hackney carriage ranks. The applicant expressed that they did not feel that it needed to be a condition but if it was a condition, they would meet with officers to discuss the matter. A Member noted that they would like a confirmation that information on blue badge users was filtered to drivers. Members were advised that the wording of such a condition would need to be looked at.

During debate Cllr Myers proposed refusal of the licence on the grounds of Uber failing the “fit and proper” test from the scale of the files released in 2022 and the data breach being worse than seven years ago, along with the lack of welfare provision (handwashing and toilet facilities) in the office facilities. This was seconded by Cllr Baxter. Officers were asked and noted their concerns regarding some of the reasons put forward noting the reasons needed to be reasonable and proportionate, and that it would be a struggle if challenged on the reasons for refusal. Members were advised that that there would need to be reason as to how public safety would be addressed and that it was a legal requirement to give reasons. On being put to the vote with three voting in favour, eight against, and one abstention, the motion fell.

Cllr Rose proposed Option 2, to grant the private hire operator’s licence with the standard conditions and an additional conditions considered reasonably necessary for a period of one year. The additional conditions were for geo fencing around hackney carriage ranks and to take action against drivers in breach of parking at hackney carriage ranks. Members were advised that it would be the council that took action against taxi drivers parking in hackney carriage ranks.

Cllr Mason then proposed Option 2, to grant the private hire operator’s licence with the standard conditions and any additional conditions considered reasonably necessary for a period of one year. The additional conditions related to the geofencing of hackney carriage ranks to prevent parking at hackney carriage ranks and Uber cascading information regarding blue badge access to support disabled users’ access to the city centre. This was with the wording of the conditions delegate to the Chair and Vice Chair in conjunction with Officers. The proposal was seconded by Cllr Nicholls. On being out to the vote with ten Members voting in favour and three against, it was;

Resolved: That approval be given to Option 2, to grant the private hire operator’s licence with the standard conditions and any additional conditions considered reasonably necessary for a period of one year. The additional conditions related to the geofencing of hackney carriage ranks to prevent parking at hackney carriage ranks and Uber cascading information regarding blue badge access to support disabled users’

access to the city centre. This was with the wording of the conditions delegate to the Chair and Vice Chair in conjunction with Officers.

Reasons:

- (i) The Committee were satisfied that:
 - a. The applicant was a fit and proper person to hold an operator's licence.
 - b. The Committee considered that two additional conditions are reasonably necessary in order to ensure that there was a reduction in the number Uber vehicles standing / waiting / picking up on designated hackney carriage ranks and at other inappropriate locations within the authority's area and to demonstrate that the operator ensures that its drivers have an understanding of the city centre pedestrian zone in order to assist Blue Badge holders with their booking requirements and to promote equalities in service delivery.

Cllr Melly, Chair

[The meeting started at 5.30pm and finished at 9.45pm].



Licensing and Regulatory Committee**4 November 2024**

Report of the Director of Transport, Environment and Planning

Review of pavement café licensing process and guidance**Summary**

1. This report presents options for the Committee to review the Council's pavement café licensing process and guidance following the commencement of the pavement licensing provisions laid out in the Levelling Up and Regeneration Act 2023.
2. The provisions included in the 2023 Act introduce a permanent pavement licensing regime to replace the temporary provisions introduced by the Business and Planning Act 2020. The new legislation retains most of the features of the temporary regime but introduces some changes and is supported by updated government guidance.
3. The differences between the temporary regime and the new permanent regime, including options for the local authority to tailor the permanent regime to their specific circumstances, are presented in this report, with recommendations on changes to be made to the local process and guidance.

Recommendations

This section should set out clearly the author's recommendation for a particular option and the reasons why.

4. The Committee is asked to approve Option 1 by:
 - 1) Noting the legislative changes to the pavement café licensing regime and the budget decision made by Council in February 2024 (concerning the pavement café licence fees and licence duration under the permanent regime);

- 2) Approving the following changes to the CYC local guidance:
- a. Continue to implement the local guidance where a minimum available width of 1.5m is generally required on footways (with an exception for level surface streets in the footstreets area, where cafes can be licensed to occupy the full width of a footway during pedestrianised hours);
 - b. Applications to be treated as new licence applications (at the cost of £500/year) where there is a different licence holder, different premises and/or different terms;
 - c. Update the guidance to state that where internal seating is provided, toilets should be available for customers but accepting that exceptions can be made for premises which serve drinks and food as take away premises, without internal seating and without the ability to provide customer toilets;

Reasons: To ensure that the Council's pavement café licensing guidance is in line with the new legislation and to clarify some aspects of the guidance where required.

Background

5. The current pavement café licensing process and guidance was initially implemented as a temporary scheme under emergency government legislation (Business and Planning Act 2020) during the Covid pandemic. This emergency legislation deregulated the process for pavement cafes and removed the requirement for planning permission, which ordinarily was used to assess proposals and gather feedback from interested parties through the planning consultation process. Where planning consent was granted, annual licences were then issued by the highway authority under Part VIIA of the Highways Act 1980.
6. The Business and Planning Act 2020 removed the requirement for planning permission for removable furniture temporarily placed in the highway adjacent to hospitality sector premises (such as cafes, restaurants, and bars). The Act streamlined the process by reducing the consultation and determination periods, making it easier and cheaper for businesses to obtain pavement café licences.

7. The Council's licensing process and guidance was last updated in 2022 through an Executive decision (22 November 2022, available here, under item 48: <https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MId=13292>) followed by Council approval on 15 December 2022 (available here: <https://democracy.york.gov.uk/ieListDocuments.aspx?CId=331&MId=13697>).
8. The Levelling Up and Regeneration Act 2023 introduced a permanent pavement licensing regime in England to replace the temporary provisions introduced by the Business and Planning Act 2020. The pavement licensing provisions laid out in the 2023 Act commenced on 31 March 2024.
9. The options included in this report were presented to the Executive Member for Transport on 19 July 2024. The Executive Member then decided to recommend that the proposed changes are made to the local guidance, and presented to the Licensing Committee for approval, as changes to the pavement café licensing guidance have been delegated to the Licensing and Regulatory Committee by Council (see the Executive Member's decision under Item7, here: <https://democracy.york.gov.uk/ieListDocuments.aspx?CId=1061&MId=14883>).
10. As these provisions introduce some changes to the licensing regime and are accompanied by updated Government guidance (available here: www.gov.uk/government/publications/pavement-licences-guidance), the Council now needs to consider updates to its pavement café licensing process and guidance.
11. Key changes to be considered are:
 - a. **Licence fees** – Local authorities are free to decide the level of pavement café application fees up to a cap which is set nationally. Under the temporary regime, the fees were capped at £100. The 2023 Act has increased the cap to £500 for first time applications and £350 for renewal applications. This increase in fee cap is intended to allow local authorities to recover the costs of processing, monitoring and enforcing licences.

Under the previous licensing regime, pre-Covid, applicants had to secure planning consent and then pay for an annual licence fee to cover the authority's costs. In York, the fee was set at £660/year.

The fees, set at £500 for first time applications and £350 for renewal applications, were approved by Council at the Budget meeting for 24/25 which took place on 22 February 2024 (additional information is available here, under item 80, the fees are set out in Annex 3:

<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MId=13934&Ver=4>).

- b. **Licence duration** – The 2023 Act enables local authorities to grant pavement licences for a length of their choosing up to a maximum of two years. The government’s updated guidance encourages local authorities to grant businesses the maximum two years unless there is a good reason to do otherwise.

Under the previous licensing regime, before Covid and under the temporary licensing regime, CYC granted licences for a maximum duration of one year.

The recommended approach is to continue with annual licences as this provides an opportunity to regularly review the pavement café licences against any issues or complaints which may have been identified/received, check that licence holders have the required insurance cover, and that they have undertaken up to date Counter Terrorism training.

Annual fees were approved by Council at the Budget meeting for 24/25 which took place on 22 February 2024 (additional information is available here, under item 80, the fees are set out in Annex 3: <https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MId=13934&Ver=4>).

- c. **Consultation and determination period** - The seven-day consultation and seven-day determination periods provided under the temporary regime, have been extended to 14 days for each. This is a legislative change and will be implemented automatically.
- d. **Enforcement** – The 2023 Act grants local authorities new enforcement powers. If furniture continues to be placed on the highway, in contravention of a notice served by the local authority, the authority may remove and store the furniture and refuse to return the furniture until the removal and storage costs have been paid. If the costs are not paid within three months of the notice being served, the authority can dispose of the furniture by sale or

other means and retain the proceeds. This is a legislative change and will be implemented automatically.

The current CYC guidance states that up to two letters (notices) will be sent to licence holders asking for breaches to be addressed. If two letters have been sent for the same issue(s) and the licence is still not being complied with, the licence will be revoked. Once a licence is revoked, the furniture placed in the highway becomes an unauthorised obstruction with limited enforcement options available to the local authority under the Highways Act 1980.

Although the new enforcement powers are welcome, staff and storage resources will be required to remove and store the furniture without any guarantee of cost recovery. It is likely that these powers will therefore only be used where compliance has not been possible to achieve through discussions with the businesses and the furniture causes significant safety and/or accessibility issues for highway users.

- e. **Remaining available width for pedestrians** – The updated government guidance (Section 4.1) states that *“Section 4.2 of Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other”*.

Current CYC guidance states that *“a 1.5 metres (1500mm) corridor needs to remain free of obstructions for people to get past the pavement café area. This will be increased to 2 metres (2000mm) in high footfall areas (for example at busy junctions or near bus stops)”*.

The recommended approach (included in Option 1) is to continue with the current local guidance where a minimum available width of 1.5m is required on footways (increased to 2m in some areas). The local guidance also provides an exception for level surface streets in the footstreets area, where cafes can be licensed to occupy the full width of a footway during pedestrianised hours.

- f. **Cumulative impact** - The updated government guidance states that authorities should be mindful of the cumulative impact of multiple pavement licences and the potential impact this could have on disabled pavement users.

The recommendation is to continue with the current approach where applications are considered in the order that they are received and validated (once all the required information has been submitted – first come, first served approach). As new applications are received and validated in a street/area, officers consider the cumulative impact and the impact of licences on all highway users, including disabled people.

- g. **Permitted furniture** – The guidance clarifies that licences granted under this provision are exclusively for the use of removable furniture pertaining to the consumption of food and drinks, for example, tables and chairs. Other furniture, such as advertising boards, are not included.

The recommended approach is to continue with the existing local guidance as the current list of furniture included in the guidance matches that included in the revised legislation and national guidance.

12. In addition to these changes, two items which require further clarification in the updated guidance have been identified:

- a. **Definition of renewal versus new licence** – As noted in the section on Licence fees above, the 2023 Act has increased the fee cap to £500 for first time applications and £350 for renewal applications and Council has approved these fees on an annual basis for 2024/25.

The national guidance, when explaining transitional arrangements from the temporary to the permanent process, states: *“Businesses who have had a licence under the previous regime and are seeking a new licence should be treated as a renewal application if it is made by the licence-holder, it is in respect of the same premises and it is on the same terms as the expired licence”* (see Section 3.4, available here:

www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance).

Based on this guidance, the recommended approach (included in Option 1) is to consider the following applications as new applications:

- i. Different licence holder;
 - ii. Different premises;
 - iii. Different terms, including change of area location, area size, furniture, hours/days of operation.
- b. **Provision of toilets** – Current CYC local guidance states “Toilet facilities must be available for customers to use on the premises”. In practice, some applicants have not been able to meet this requirement where they operate mainly as a take-away business (for example take away beverage stalls or shops such as bubble tea shops or take away food stalls).

The recommended option (included in Option 1) is therefore to update the guidance to state that where internal seating is provided (without the pavement café area), toilets should be available for customers, but that exceptions can be made for premises which serve drinks and food as take away premises, without internal seating and without the ability to provide customer toilets.

Consultation

13. The most recent consultation related to pavement café licensing and accessibility issues was carried out by consultants Mima who were appointed as independent access consultants by the Council to carry out a series of workshops in March and May 2024 for York residents and city centre businesses. The aim of the research was to:
- a. Understand what short-term improvements could be made to improve city centre access;
 - b. Review the process to reinstate Blue Badge holder access in the city centre and provide recommendations for improvement;
 - c. Identify longer term options to make the city centre more accessible.
14. Additional consultation feedback has been considered including: the Blue Badge Postcard Survey, results from the online Blue Badge access consultation Phase 1 and Phase 2, and data from the Local Transport Strategy consultation, as well as feedback from businesses (including the

responses to the consultation carried out in 2022 when the licensing guidance was last updated).

15. There are clearly differences of opinion between some businesses and some highway users on what priority should be given to pavement café licences versus clear carriageways and footways for people to travel on.
16. Feedback from Blue Badge holders and disabled people generally requested further vehicular access into the city centre and additional areas for vehicles carrying a Blue Badge to park. Many also requested more public seating and resting places (which may reduce the space available for pavement cafes).
17. The consultation responses highlighted that for disabled people, pavement cafes can be a barrier when not implemented in an accessible manner. For example, they can impact visually impaired people navigating the space safely and can narrow pavement widths for wheelchair users and other mobility aid users.
18. In contrast, businesses highlighted that these spaces were important for business and generate an income, particularly in the spring and summer months.

Options and analysis

19. This section considers the options available to the Committee in more detail. It does not consider the changes which are required due to the change in legislation (no options are available to the Committee for these) nor the changes which were agreed by Council (fee levels and licence duration).
20. **Available footway width** - The text included in the Government guidance on pavement café licensing has changed with the update to the guidance in April 2024. The updated guidance states: *“Section 4.2 of Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other”*.

21. Option 1 is to continue with the approach set out in the Council local guidance where a remaining available width of 1500mm is always required (except in footstreets where the carriageway and footways are level during pedestrianised hours) and this is increased to 2000mm in specific areas (for example near a high footfall junction).
22. This is the recommended option as it has been in place in York since 2023 (following the Council decision in December 2022) and has generally worked well, enabling a significant number of licences to be issued (in line with the objectives of the Council's "My City Centre Strategy"), whilst enabling disabled people and other highway users to access streets and premises as required. 73 premises currently hold a pavement café licence in York (the majority of these are in the city centre).
23. Alternatively, the Committee could ask for a further review (Option 2). The review could consider adopting a stricter approach to the implementation of Inclusive Mobility guidance and require a minimum available footway width of 2000mm in most cases. As most of the city centre streets have relatively narrow footways, this would mean that many of the businesses currently licensed to use part of the footway would not be able to have a licence any longer. An initial assessment of existing licences shows that approx. 20 pavement café licences would need to be revoked and 11 licensed areas would need to be reduced.
24. **New/renewal applications** - The Government guidance indicates that applications should be treated as new licence applications (£500/year) where there is a different licence holder, different premises and/or different terms.
25. The recommended option (Option 1) is to directly apply this guidance as any changes in these characteristics require the Council to undertake additional checks (for example on insurance cover, counter-terrorism training, and suitability of the area requested or furniture proposed). As the cost of a new licence is higher than a renewal, this means that the Council will be closer to achieving cost recovery.
26. Under Option 2, the Committee could ask officers to review the list of changes, which result in an application being treated as a new application, to reduce the cost to the businesses (for example, where only the name of the licence holder is changing) but this would reduce cost recovery for the Council.

27. **Toilet provision** - The current local guidance document requires licence holders to provide toilets for their customers. In recent months, officers have received applications for pavement cafes from premises, which do not have customer toilets currently, as they operate mainly as take away premises (for example bubble tea shops and food trailers). These premises can be eligible for a pavement café licence under the current legislation but may not be able to provide customer toilets.
28. The recommended option (Option 1) is therefore to amend the local guidance document to state that where internal seating is provided, toilets should be available for customers but that exceptions can be made for premises which serve drinks and food as take away premises, without internal seating and do not have the ability to provide customer toilets.
29. The recommended option enables officers reviewing licence applications to ensure that customer toilets are provided wherever possible but also provide some flexibility where this is not possible.
30. Alternatively, under Option 2, the Committee could decide to keep the current requirement for customer toilets to be provided for any premises with a pavement café licence. This would preclude some of the businesses from being granted a pavement café licence.

Council Plan

31. The proposals included in this report relate to the Council Plan for 2023-27 commitments, specifically:
 - a. Equalities and Human Rights, which states *“We will create opportunities for all, providing equal opportunity and balancing the human rights of everyone to ensure residents and visitors alike can benefit from the city and its strengths”*; and
 - b. Health, which states: *“We will improve health and wellbeing and reduce health inequalities, taking a Health in All Policies approach, with good education, jobs, travel, housing, better access to health and social care services and environmental sustainability. We will achieve better outcomes by targeting areas of deprivation, aiming to level opportunity across the city”*.
32. They also relate to the Council’s *“My City Centre Strategy”* (2021-2031) which aims to *“support outdoor eating and café culture in the city centre”* (objective 3C) and to *“improve accessibility through a wide range of measures including more dropped kerbs, improved surfaces and seating and better facilities for disabled people”* (objective 6D).

33. At the national level, they relate to the following legislation, policies and guidance:
- a. Levelling Up and Regeneration Act 2023, Business and Planning Act 2020, Part 7A of the Highways Act 1980; Equality Act 2010;
 - b. Pavement licences: guidance published by the Department for Levelling Up, Housing & Communities (available here: www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance);
 - c. Inclusive mobility: making transport accessible for passengers and pedestrians, by the Department for Transport (available here: www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians).

Implications

34. The following implications have been identified for the recommended options:
- a. **Financial:** Before Covid, the council had a budget of £24k for income from café licences. At that point we were charging £660 per licence. During Covid the charge for a café licence was capped at £100/year, and income was below the budget, although compensated in part by a government grant. The new charges will be £350 for renewals and £500 for new licences. Total income from the fees will be dependent on the total number licences issued but based on the current number of licences, the income should be similar to pre-Covid levels. We will monitor the impact on this throughout the year.

There is a Network Management budget of £878k for 2024/25. This will cover expenditure relating to the changes in regularising the uses in the privately maintained highways. This report expects an increase in expenditure depending on what action is required. Also additional income is expected from the licences.

Not considered that will go above the budget to provide this service.

No enforcement related financial implications identified as this report does not consider any increase in compliance monitoring and enforcement.

The legislation does not permit pavement café licence fees to be linked to the number of tables and chairs or to the size of the area covered by the licence. Some businesses therefore get much higher returns from their investment in a pavement café licence, where it enables them to use a large area (for example on Parliament Square).

The financial impact on businesses is mixed. Where businesses are able to operate with a pavement café licence, business owners/managers generally state that this helps with their business's revenue and viability. Where licences have been revoked or licence areas reduced, businesses have stated that this has had a significant impact on their revenue.

- b. **Human Resources (HR)** – no implications identified as this report does not consider any increase in compliance monitoring and enforcement.
- c. **Legal** - The relevant legislation is referred to in the report.

There is no statutory requirement to have a pavement licensing policy; however, it is good practice to do so. A policy guides applicants and assists with consistent and transparent decision making. However, each case must be considered on its own merits with the decision maker being prepared to make exceptions to the policy in appropriate circumstances. In formulating its policy, the Council should have regard to the provisions of the Human Rights Act 1998 and the Public Sector Equality Duty.

- d. **Procurement** – no implications identified.
- e. **Health and Wellbeing** – no implications identified apart from the link to the Council Plan's wider Health commitment.
- f. **Environment and Climate action** – no implications identified
- g. **Affordability** – no implications identified
- h. **Equalities and Human Rights**, See impacts identified in the EQUIA
- i. **Data Protection and Privacy** – no implications identified
- j. **Communications** – Where changes to the local guidance for pavement café licensing are recommended and then approved by the Licensing Committee, the relevant webpages will be updated

and licence holders will be sent the relevant information as required (communications with the businesses are generally via email).

- k. **Economy** - As highlighted in the report, the Council has worked with partners, including the city centre business community over the past few years to develop the “Our City Centre Vision”, which strives to create a vibrant city centre for all. The Vision highlights the importance of outdoor seating in creating an attractive and active city centre, as well as encouraging investment in public spaces, squares and our shopping areas. However, the vision for the city also strives to improve accessibility in the city centre, which this report considers.

The recommendations in this report will have mixed impacts on the local economy. For those businesses which have come to rely on the use of pavements and the highway to boost income, where licences can no longer be granted, there will be negative impacts, as set out in the petition. However, more broadly, ensuring that the city centre is accessible to all produces a positive impact to the city centre as a whole.

The council will continue to work with city partners to deliver the Our City Centre Vision, creating a vibrant city centre that supports business which is welcoming and accessible to all.

Risk Management

- 35. There are no significant risks identified for the update of the licensing guidance and process as it addresses a change in legislation and other small changes to an established process.

Contact Details

Author:

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Head of Highway Access and
Development

Chief Officer Responsible for the report:

James Gilchrist
Director of Transport, Environment and
Planning

Report **Date** 16 October 2024
Approved

Wards Affected:

All

All wards, although Guildhall ward will be impacted the most for the review of the licensing process and guidance as the majority of pavement café licences are issued for city centre businesses.

For further information please contact the author of the report

Background Papers:

No additional background papers. All relevant papers are listed in the report.

Annexes

Annex A: Equalities Impact Assessment (EIA)

City of York Council
Equalities Impact Assessment

Who is submitting the proposal?

Directorate:	Place		
Service Area:	Transport		
Name of the proposal :	Review of pavement café licensing process and guidance		
Lead officer:	Helene Vergereau, Head of Highway Access and Development		
Date assessment completed:	4.07.24, reviewed 16.10.24		
Names of those who contributed to the assessment :			
Name	Job title	Organisation	Area of expertise
Helene Vergereau	Head of Highway Access and Development	CYC	Transport and highways
Darren Hobson	Traffic Management Team Leader	CYC	Transport and highways
Annemarie Howarth	Traffic Projects Officer	CYC	Transport and highways

Step 1 – Aims and intended outcomes

1.1	What is the purpose of the proposal? Please explain your proposal in Plain English avoiding acronyms and jargon.
	<p>The proposal is to review the Council’s pavement café licensing process and guidance following the commencement of the pavement licensing provisions laid out in the Levelling Up and Regeneration Act 2023. The recommended options are:</p> <ul style="list-style-type: none">• To note the legislative changes and the changes to the fees approved by Full Council in February 2024• To recommend the following changes to the local guidance to the Licensing Committee:<ul style="list-style-type: none">○ Continue to implement the local guidance where a minimum available width of 1.5m is generally required on footways (with an exception for level surface streets in the footstreets area, where cafes can be licensed to occupy the full width of a footway during pedestrianised hours);○ Applications to be treated as new licence applications (£500) where there is a different licence holder, different premises and/or different terms;○ Update the guidance to state that where internal seating is provided, toilets should be available for customers. Exceptions can be made for premises which serve drinks and food as take away premises, without internal seating and without the ability to provide customer toilets.

1.2	Are there any external considerations? (Legislation/government directive/codes of practice etc.)
	<p>Levelling Up and Regeneration Act 2023, Business and Planning Act 2020, Part 7A of the Highways Act 1980; Equality Act 2010</p> <p>Pavement licences: guidance published by the Department for Levelling Up, Housing & Communities (available here: www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance)</p> <p>Inclusive mobility: making transport accessible for passengers and pedestrians, by the Department for Transport (available here: www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians)</p> <p>BS 8300-1:2018 Design of an accessible and inclusive built environment</p> <p>Protect Duty - draft Terrorism (Protection of Premises) Bill</p>
1.3	Who are the stakeholders and what are their interests?
	<p>All highway users (residents and visitors), including people with protected characteristics</p> <p>Blue Badge holders accessing the city centre with a vehicle</p> <p>Hospitality businesses which hold a pavement café licence or may apply in the future, their staff and customers (including people with protected characteristics)</p> <p>Businesses and residents in areas where pavement café licences are issued</p>
1.4	What results/outcomes do we want to achieve and for whom? This section should explain what outcomes you want to achieve for service users, staff and/or the wider community. Demonstrate how the proposal links to the Council Plan (2023-27) and other corporate strategies and plans.
	<p>The proposals aim to implement the changes to pavement café licensing brought by the new legislation and update the local pavement café licensing guidance and process. The report also aims to regularise furniture and similar uses in privately maintained highway areas as many of them have not been licensed historically.</p> <p>The proposals relate to the Council Plan for 2023-27 commitments, specifically:</p>

	<p>a) Equalities and Human Rights, which states <i>“We will create opportunities for all, providing equal opportunity and balancing the human rights of everyone to ensure residents and visitors alike can benefit from the city and its strengths”</i>; and</p> <p>b) Health, which states: <i>“We will improve health and wellbeing and reduce health inequalities, taking a Health in All Policies approach, with good education, jobs, travel, housing, better access to health and social care services and environmental sustainability. We will achieve better outcomes by targeting areas of deprivation, aiming to level opportunity across the city”</i>.</p> <p>They also relate to the Council’s <i>“My City Centre Strategy”</i> (2021-2031) which aims to <i>“support outdoor eating and café culture in the city centre”</i> (objective 3C) and to <i>“improve accessibility through a wide range of measures including more dropped kerbs, improved surfaces and seating and better facilities for disabled people”</i> (objective 6D).</p>
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Step 2 – Gathering the information and feedback

2.1	What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights? Please consider a range of sources, including: consultation exercises, surveys, feedback from staff, stakeholders, participants, research reports, the views of equality groups, as well your own experience of working in this area etc.	
	Source of data/supporting evidence	Reason for using
	Feedback received through the existing licensing process	The team licensing pavement cafes has received considerable amounts of feedback from a wide range of people since the temporary licensing regime was first put in place in 2020. This includes feedback from people with protected characteristics or groups representing such communities as well as feedback from businesses and other stakeholders. This feedback has been used to inform the proposals.
	Consultation feedback gathered by CYC and consultants in 2022-24	The most recent consultation on this subject has been carried out by consultants Mima who were appointed as independent access consultants by the Council to carry out a series of workshops in March

2.1	<p>What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights? Please consider a range of sources, including: consultation exercises, surveys, feedback from staff, stakeholders, participants, research reports, the views of equality groups, as well your own experience of working in this area etc.</p>
	<p>and May 2024 for York residents and city centre businesses. The aim of the research was to:</p> <ol style="list-style-type: none"> Understand what short-term improvements could be made to improve city centre access; Review the process to reinstate Blue Badge holder access in the city centre and provide recommendations for improvement; Identify longer term options to make the city centre more accessible. <p>Additional consultation feedback has been considered including: the Blue Badge Postcard Survey, results from the online Blue Badge access consultation Phase 1 and Phase 2, and data from the Local Transport Strategy consultation.</p>
<p>Evidence gathered by the access consultants for the last review of the local licensing guidance and process (the consultant's report was published for the Executive decision session on 22 November 2022 – see Annex A).</p>	<p>In 2022, the consultants undertook a site visit and organised two panel discussions with disabled people, which informed their recommendations.</p>
<p>Surveys and traffic data (where available)</p>	<p>Provides data on usage level, reasons for access, etc</p> <ul style="list-style-type: none"> Footstreets and Blue Badge Parking Survey 2020 (https://data.yorkopendata.org/dataset/footstreets-and-blue-badge-parking-survey-2020) Blue Badge access consultation Phase 1 (www.data.gov.uk/dataset/46baba66-b35a-428a-95b4-be3ef8c4e6d2/blue-badge-access-consultation-phase-1)

2.1	<p>What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights? Please consider a range of sources, including: consultation exercises, surveys, feedback from staff, stakeholders, participants, research reports, the views of equality groups, as well your own experience of working in this area etc.</p>
	<ul style="list-style-type: none"> Blue Badge City Centre Access Points Usage (www.data.gov.uk/dataset/ff581ba6-3a8f-43b2-ba37-cf4eca818791/blue-badge-city-centre-access-points-usage)
Research papers, published evidence and news items on the impact of cafes and street furniture on accessibility	<p>Research and evidence available online, including publications such as:</p> <ul style="list-style-type: none"> “Who put that there! The barriers to blind and partially sighted people getting out and about”, RNIB “Evaluating the impact of the introduction of pavement café licensing on the mobility of disabled people and older people in Northern Ireland”, IMTAC UK Disability Survey research report, June 2021 The path to inclusive footways, Sustrans and Transport for All, commissioned by the LGA, February 2024 Disabled Citizens’ Inquiry, Sustrans, February 2023
My City Centre consultation	<p>A wide-ranging consultation and engagement exercise was carried out to develop the vision. Information available here: www.york.gov.uk/city-centre-york-6/city-centre-yorkyouve-told-us-far and reports published with the 18/11/2021 Executive decision to adopt the “My City Centre Strategic Vision”, for example, Annex 4, page 29 (https://democracy.york.gov.uk/ieDecisionDetails.aspx?AllId=60466)</p>

Step 3 – Gaps in data and knowledge

3.1	What are the main gaps in information and understanding of the impact of your proposal? Please indicate how any gaps will be dealt with.	
Gaps in data or knowledge		Action to deal with this
No gaps identified for this report		

Step 4 – Analysing the impacts or effects.

4.1	Please consider what the evidence tells you about the likely impact (positive or negative) on people sharing a protected characteristic, i.e. how significant could the impacts be if we did not make any adjustments? Remember the duty is also positive – so please identify where the proposal offers opportunities to promote equality and/or foster good relations.
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Equality Groups and Human Rights	Key Findings/Impacts	Positive (+) Negative (-) Neutral (0)	High (H) Medium (M) Low (L)
Age	Impacts identified for older people are similar to those described under the Disability category below. This is because older people are more likely to live with one or more health condition or illness reducing their ability to carry out day-to-day activities. For children, the impacts identified are similar to those identified under the Disability category below, when considering access for small children and their carers using prams and/or pushchairs (where dropped kerbs or raised crossing are required or preferred).	Mainly positive impacts identified Limited negative impacts identified	Medium

Equality Groups and Human Rights	Key Findings/Impacts	Positive (+) Negative (-) Neutral (0)	High (H) Medium (M) Low (L)
Disability	<p>Changes to consultation period from 7 days to 14 days – This is a legislative change requiring the local guidance to be updated. This change should have a positive impact for disabled people and groups representing them as it will give more time for individuals and groups to raise concerns with or object to pavement café licence applications.</p> <p>Continued application of the 1.5m available width rule on footways (except for level surface streets in the footstreets area, where cafes can be licensed to occupy the full width of a footway during pedestrianised hours) - This had generally been identified as a sufficient minimum width to enable disabled people to use the footways whilst providing some space for pavement cafes through the consultation and consultant’s recommendation when the local guidance was last updated (documents are available here, under item 48: https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MId=13292).</p> <p>Feedback from disabled people on the provision of pavement cafés presents a range of views. Some disabled people or groups express the view that footways should be clear of all furniture, whilst others support café licensing where a minimum of 1.5m remains available for people to get past. Some disabled people also identify some benefits from pavement cafes for those who prefer to sit outside or want to eat/drink at a venue which would otherwise have been</p>	Mainly positive impacts identified Limited negative impacts identified	Medium

Equality Groups and Human Rights	Key Findings/Impacts	Positive (+) Negative (-) Neutral (0)	High (H) Medium (M) Low (L)
	<p>inaccessible to them (for example for historic buildings with stepped access which are quite common in York). When the footstreets are busy, wheelchair and mobility aid users may be delayed on their journey as they may have to wait to get past a licensed area where the available width of the footway is reduced to 1.5m.</p> <p>Clarification of permitted furniture and changes to enforcement – These are legislative changes requiring the local guidance to be updated. These changes should have a positive impact for disabled people as this clarifies that A-boards are not included in the list of furniture which can be licensed through this regime. A-boards are often identified as a significant obstacle by disabled people and groups representing them. The changes to Council enforcement powers should also have a positive impact for disabled people in principle although they will be difficult to use in practice so compliance will probably not improve because of the additional powers provided through the legislation.</p>		
Gender	No differential impact identified.		
Gender Reassignment	No differential impact identified.		
Marriage and civil partnership	No differential impact identified.		

Equality Groups and Human Rights	Key Findings/Impacts	Positive (+) Negative (-) Neutral (0)	High (H) Medium (M) Low (L)
Pregnancy and maternity	Impacts identified for pregnancy and maternity are similar to those described under the Disability category above. This is because health conditions reducing the ability to carry out day-to-day activities are more likely to arise during pregnancy and parents of young children are more likely to be using prams and pushchairs.	Mainly positive impacts identified Limited negative impacts identified	Medium
Race	No differential impact identified.		
Religion and belief	No differential impact identified.		
Sexual orientation	No differential impact identified.		
Other Socio-economic groups including :	Could other socio-economic groups be affected e.g. carers, ex-offenders, low incomes?		
Carer	Impacts identified for carers are similar to those described under the Disability category above.	Mainly positive impacts identified Limited negative impacts identified	Medium
Low income	No differential impact identified.		

Equality Groups and Human Rights	Key Findings/Impacts	Positive (+) Negative (-) Neutral (0)	High (H) Medium (M) Low (L)
groups			
Veterans, Armed Forces Community	No differential impact identified.		
Other	No differential impact identified.		
Impact on human rights:			
Article 8: Respect for your private and family life & Article 14: Protection from discrimination	<p>Private life includes a right to participate in essential economic, social, cultural and leisure activities.</p> <p>The feedback received from disabled groups shows that although some people have been able to use the outdoor space provided by pavement cafes as it has provided a safer and more accessible way to access hospitality venues in some cases, others have found that pavement cafes have made it more difficult for them to participate in essential activities due to the need to navigate around the licensed areas.</p> <p>Article 14 requires that all of the rights and freedoms set out in the Act must be protected and applied without discrimination.</p> <p>As stated above, the recommended options set out in the main report aim to mitigate these impacts by retaining a 1.5m corridor on footways (with the exception of pedestrianised streets with level access) and update the guidance due to the change in legislation.</p>	Mainly positive impacts identified Limited negative impacts identified	Medium

Use the following guidance to inform your responses:

Indicate:

- Where you think that the proposal could have a POSITIVE impact on any of the equality groups like promoting equality and equal opportunities or improving relations within equality groups
- Where you think that the proposal could have a NEGATIVE impact on any of the equality groups, i.e. it could disadvantage them
- Where you think that this proposal has a NEUTRAL effect on any of the equality groups listed below i.e. it has no effect currently on equality groups.

It is important to remember that a proposal may be highly relevant to one aspect of equality and not relevant to another.

<p>High impact (The proposal or process is very equality relevant)</p>	<p>There is significant potential for or evidence of adverse impact The proposal is institution wide or public facing The proposal has consequences for or affects significant numbers of people The proposal has the potential to make a significant contribution to promoting equality and the exercise of human rights.</p>
<p>Medium impact (The proposal or process is somewhat equality relevant)</p>	<p>There is some evidence to suggest potential for or evidence of adverse impact The proposal is institution wide or across services, but mainly internal The proposal has consequences for or affects some people The proposal has the potential to make a contribution to promoting equality and the exercise of human rights</p>
<p>Low impact (The proposal or process might be equality relevant)</p>	<p>There is little evidence to suggest that the proposal could result in adverse impact The proposal operates in a limited way The proposal has consequences for or affects few people The proposal may have the potential to contribute to promoting equality and the exercise of human rights</p>

Step 5 - Mitigating adverse impacts and maximising positive impacts

5.1	Based on your findings, explain ways you plan to mitigate any unlawful prohibited conduct or unwanted adverse impact. Where positive impacts have been identified, what is been done to optimise opportunities to advance equality or foster good relations?
The changes to the pavement café local guidance will be published on the CYC website where all the rules about pavement cafes are set out, the process is explained and drawings are provided to show businesses how to set up their pavement café area.	

Step 6 – Recommendations and conclusions of the assessment

6.1	Having considered the potential or actual impacts you should be in a position to make an informed judgement on what should be done. In all cases, document your reasoning that justifies your decision. There are four main options you can take:
- No major change to the proposal – the EIA demonstrates the proposal is robust. There is no potential for unlawful discrimination or adverse impact and you have taken all opportunities to advance equality and foster good relations, subject to continuing monitor and review.	

- **Adjust the proposal** – the EIA identifies potential problems or missed opportunities. This involves taking steps to remove any barriers, to better advance quality or to foster good relations.
- **Continue with the proposal** (despite the potential for adverse impact) – you should clearly set out the justifications for doing this and how you believe the decision is compatible with our obligations under the duty
- **Stop and remove the proposal** – if there are adverse effects that are not justified and cannot be mitigated, you should consider stopping the proposal altogether. If a proposal leads to unlawful discrimination it should be removed or changed.

Important: If there are any adverse impacts you cannot mitigate, please provide a compelling reason in the justification column.

Option selected	Conclusions/justification
No major change to the proposal	<p>This assessment has identified that the recommended options should have some positive impacts on people with the following protected characteristics: Age (older people and young children), Disability, Pregnancy and maternity, and Carers. It has also identified some positive impacts on the following human rights: Article 8: Respect for your private and family life & Article 14: Protection from discrimination.</p> <p>Limited negative impacts were identified when considering the availability of pavement cafes (where they have been removed to enable Blue Badge vehicular access and parking) and the fact that some disabled people have stated that the cafes provided improved access/options for them. This needs to be balanced against the requirements for Blue Badge holder vehicular access to the city centre.</p> <p>Limited negative impacts were also identified as the minimum available width of 1.5m on footway will result in some people (including people using wheelchairs</p>

	or mobility aids) having to wait to get past some pavement café areas, especially at busy times. The recommended options however aim to mitigate some of the negative impacts of pavement cafes whilst enabling the development of the café culture described in the Council’s “My City Centre Vision” where appropriate.
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Step 7 – Summary of agreed actions resulting from the assessment

7.1	What action, by whom, will be undertaken as a result of the impact assessment.		
Impact/issue	Action to be taken	Person responsible	Timescale
Access for people with the following protected characteristics: Age (older people and young children), Disability, Pregnancy and maternity, and Carers	As per recommended options in the main report Changes to the licensing guidance and process to be presented to the Licensing Committee	Michael Howard	2024

Step 8 - Monitor, review and improve

8. 1	How will the impact of your proposal be monitored and improved upon going forward? Consider how will you identify the impact of activities on protected characteristics and other marginalised groups going forward? How will any learning and enhancements be capitalised on and embedded?
	Feedback and information received through the licensing process will continue to be used to inform decisions.



4 November 2024

Licensing & Regulatory Committee

Report from the Director – Environment, Transport and Planning

Street Trading Consent Policy update

Summary

1. As requested at the Licencing and Gambling Committee on 8 October 2024, this report updates Members on the progress towards implementing a Street Trading Policy.

Recommendations

2. There are no recommendations as this report is for information only.

Background

3. The City of York Council (“the Council”) does not currently have a formal Street Trading Policy, instead it has a designated web page containing an application form and guidance notes. Street Trading Consents (“STC”) are also issued subject to standard conditions. There is no legal requirement to have a Policy, however it is considered good practice to ensure that all requirements relating to street trading are contained within one accessible policy document.
4. In 1997, the recently formed City of York Council followed its predecessor, York City Council, and adopted the provisions of Schedule 4 of the Local Government Miscellaneous Provisions Act 1982 (‘the Act’). As such, every street within the Council area was designated a ‘consent street’ for the purposes of street trading. It means that street trading can only take place in the city where the Council consents to it, and within the city walls in particular, a number of established sites have been agreed. A list of those established sites is contained in Annex 1. Given the city’s narrow, busy streets and

essential infrastructure such as barriers, dropped curbs etc as well as the demands of the space by others, managing the space is increasingly challenging.

5. Make It York was established in 2014 and have responsibility for city centre management, as well as organising events to attract visitors. Make It York's main event is the annual Christmas Market which has become ever more popular over the years. In 2023, reports state it attracted between 200,000 and 300,000 visitors a week. Such is the success of the Christmas Market, there have been reports of overcrowding in recent years. Make it York have redesigned the Market to mitigate this, but the success of the Christmas Market means this remains a challenge. As the event organisers, Make It York are responsible for the safety and overall operation of the event. Make It York currently plan the Christmas Market around the street traders' existing sites but exert no control over them. Make It York also currently operate the York Ice Trial (ice sculptures in various locations around York), and a Halloween Festival (a new event for 2024). N.B Other events, such as the Food and Drink Festival, are not organised by Make It York, they are given permission by Make It York to use space(s) within the city centre, in which case the particular event organiser is responsible for their event. It is noted that the Council has also since committed to work with Make it York to find a way to permit blue badge access to the Christmas Market in 2025. As well as alleviating the crowd issues/customer experience, this is also likely to require changes to the Christmas Market event layout.
6. With regard to STC fees, the sites are individually assessed by officers on a 'market value rate' taking into account the location ('inside' or 'outside' of the city walls) and the items sold (broken down into 'ice cream', 'food' and 'non-food'). The most expensive sites are currently £8k per year (£667 per month). Many traders pay in monthly instalments. By way of comparison, the fee for a market stall on the Shambles Market is £25-40 per day/circa £10k per year (although it is recognised that street traders provide their own stall and power which are provided on the market). Some on-line research has identified that Oxford City Council charge £8175 for an annual STC, whilst Canterbury City Council's fee is £31.65 a day or £11.5k over a 365 day year.

7. Under the Act, STCs may only be issued for up to a year. Every year, around February/March, the existing STC holders are simply invited to renew their consents, there is no tendering process or similar. Within the conditions, there are no commitments to a minimum number of trading days as is the case in some other councils, and no alignment of conditions or other requirements in line with Council Plan objectives. The existing conditions state that '*On occasion it is necessary for a vehicle or unit on a static site to move location*' (see para 18 below for more details), and if the conditions are not complied with, may ultimately be revoked. There is a 'waiting list' of people who have shown an interest in trading in the city centre, although it is for specific sites. There are currently 37 people on the waiting list. These would be offered if an existing consent holder declined to renew or surrendered their consent. Outside of the city centre there are several ice cream and sandwich rounds, most of the fixed trading sites are on private land (a STC is also required to trade on private land which is accessible to the public without paying a fee). NB Fees are reduced for traders trading on private land as they also pay rent to the landowner.

8. In view of the potential changes to STC conditions in this financial year, STCs were initially only granted for six months from 1 April to 30 September 2024. However, as a result of the feedback from the consultation, the STCs were immediately re-issued for the remaining six months of the year i.e to the end of March 2025, and Make It York agreed to continue to work to accommodate the street traders' existing sites in the Christmas Market, as they have in previous years. This demonstrates that the Council responded to the feedback received from the consultation.

The Draft Policy

9. Officers prepared a draft Street Trading Policy which largely followed existing provisions. A copy of the draft policy is contained at Annex 2. Officers then consulted upon the draft in the usual way. Holders of STCs were consulted. It is important to stress, that the Policy was simply a draft for consultation/comment. As is noted elsewhere in the report, diverging views were received and where appropriately and immediately acted upon. The key changes consulted upon were:

10. Section 7.1

‘A consent holder cannot sell or transfer the trading site to another trader. If a consent holder no longer wishes to trade from a site, they must surrender the consent to the Council. This is a condition of the street trading consent.’

This is added as a condition.

Reason – traders do not own the trading site it is public highway; we have found that some traders sell their trading sites without informing the Council , in some cases we have only found out at renewal periods.

11. Section 8.2

‘Make It York (MIY) deliver and oversee several events that take place in York city centre throughout the year, some of which are large scale and attract many visitors, for example the Christmas Market. Street trading consent enables traders to make use of the public highway (public space) at times when it is not been used for MIY delivered events, therefore it is not guaranteed that consent holders will be able to trade during MIY delivered events. Consent holders will be given advance notice of when events are taking place that will prevent them trading, the consent will be suspended for the period of the event. Street trading consent fees are set to reflect the periods that traders are unable to trade. If it is appropriate to the event, MIY will offer the trader the opportunity to be part of the event, an additional fee may be payable to MIY. MIY contact information can be found at Annex 4.’

Reason – currently MIY deliver events such as the Christmas Market, and have street traders, that are not part of their event, within the footprint. In recent years there has been feedback that the event is overcrowded. There are complaints about the events being overcrowded. As such, Make It York require ability to redesign the layout of the Christmas Market.

12. Annex 1 Pedlars – added to clarify how pedlars operate including that pedlars’ certificates are issued and enforced by the police.

13. Annex 2 Conditions – the only new proposed conditions are:

Street trading sites on the public highways:

18. Trading sites on the public highway cannot be sold or transferred by the consent holder. If a consent holder no longer wishes to trade from a site, they must surrender the consent to the Council.

Reason – to prevent the practice of consents being sold on by consent holders.

19. If events are taking place on the public highway in the city centre the street trading consent may be suspended for the duration of the events.

Reason – to give effect to paragraph 8.2

20. Annex 3 and 4 – added for info.

Consultation

21. The consultation ran from 8 April until 30 June 2024. There were 20 responses in total. Full details of the responses will be provided in the Street Trading Policy report in due course. There were opposing views. The most feedback received was in response to paragraph 8.2 which was opposed by existing STC holders in particular. Furthermore, at this Committee on 8 October, a number of STC holders spoke and presented a 'charter of rights for street traders' which the Council were urged to consider. A copy of the charter is contained in Annex 3. Whilst there is no provision for a 'charter of rights' as such, at least some of the principles may be appropriate to feed into a Street Trading Policy. There was also a request for a meeting between some of the city centre STC holders, the Council and Make It York. This meeting took place on Thursday, 24 October 2024.

Analysis.

22. As well as extending the duration of the consents, Make It York have agreed that there will be no changes for the Christmas Market this year. They will operate the market and accommodate the street traders in their existing locations. The street traders proposed that Make It York officers may issue instructions to the street traders for the 'safety and good order' of the Christmas Market which has been gratefully accepted. (The existing conditions state only authorised officers of the Council may issue such instructions).

23. In response to the feedback, it is not proposed to continue with paragraph 8.2 as written. Officers accept the paragraph was not written as intended. It was intended to convey that Make It York would provide details in advance of events at which the street trading pitches may not be available, and that the consent could be suspended if it is not. It was not intended to be read that the *pitches would always be suspended*. Nevertheless, upon reflection, officers accept that is how it reads. For the avoidance of doubt, it will not be proposed that Make It York provides the consent for the period of their events. City of York Council will remain responsible for issuing STCs. Neither will it be proposed that the consents are suspended for the period of the event and the fees adjusted. Condition 19 is therefore no longer relevant. Despite this, the essence of what happens to street traders during Make It York events, particularly the Christmas Market, remains in contention.
24. Make it York's desire to have 'a blank canvass' upon which to redesign the event to improve the customer experience, including easing the crowding and more recently to accommodate blue badge access remains. Whilst they cannot guarantee the exact pitch, Make It York are willing to guarantee an alternative pitch within the event footprint. The event footprint is a specific area, marked on a map, for event planning purposes. At present, the existing street trader conditions state that... *'On occasion it is necessary for a vehicle or unit on a static site to move location. When this occurs the consent holder shall comply with any directions made by a duly authorised officer of the City of York Council'*. This does happen from time to time, for example during the installation of the hostile vehicle measures. It is therefore argued that street traders are already bound to being moved (anywhere) under their existing conditions. Make It York say that this provision is more generous than the existing case, because they are guaranteeing that street traders will remain within the footprint of the Christmas Market whereas the existing conditions do not.
25. The street traders, on the other hand, are extremely concerned that their livelihoods are at stake. The street traders rely on the income from the Christmas period (and other seasonal trade) to remain viable. They are concerned that any movement of their pitch, particularly to a less favourable position, could result in a significant fall in income and

devastate their business. The street traders seek a guarantee that they will not be moved in any of Make It York's plans to re-design the Christmas Market i.e. that they are considered like any other permanent, fixed immovable feature which needs to be worked around.

26. Officers will continue to explore a way to resolve the apparent impasse, but if there is no resolution, then Members will be invited to determine the position when considering the Street Trading Policy.
27. It is understood by officers that there is broad agreement around the other aspects of the policy. With regards to the charter for street traders' rights, there is no provision to adopt such a charter. However, officers are reflecting on the proposed commitments with a view to drafting them into the Policy where appropriate. Discussions will also continue with the street traders in this regard.

Council Plan.

28. The STC policy aims to strengthen the provision of 'a fair, thriving and green economy for all'.

Implications.

29. The implications arising from the report are as follows:
 - **Financial** – There are no direct financial implications to the Council.
 - **Human Resources (HR)** – There are no HR implications to the Council.
 - **Equalities** –An equalities impact assessment will accompany the draft Street Trading Policy.
 - **Legal** - There is no legal requirement for a Street Trading Policy. The legislative provisions for STCs is described in the report and the key case law in respect of street trading is contained within the draft Street Trading Policy in Annex 2. The Council may, exceptionally, decide to deviate from its own Policy if appropriate or reasonable to do so. Any decision made by Members may be subject to challenge by way of judicial review.

- **Crime and Disorder** – There are no direct crime and disorder implications arising from the report.
 - **Information Technology (IT)** – There are no IT implications.
 - **Property** – There are no property implications.
- Other** – There are no other implications.

Risk Management.

30. There are no risk management considerations as this report is for information only.

Contact Details.

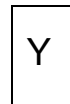
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James Gilchrist
Director Environment, Transport & Planning

**Report
Approved**



Date 25.10.24

Wards Affected: All.

Background Papers

None

Annexes

Annex 1 - List of established street trading sites

Annex 2 – Copy of the draft policy

Annex 3 - The charter of street traders' rights

Annex 1 - List of established street trading sites

Within the Bar Walls

Site	Trading Activity
Davygate	Flower Stall
Kings Square	Ice Cream / Mulled Wine & Hot Chocolate
Kings Square	Lemonade / Crepes
Kings Square	Candles
High Ousegate	Crepes & Soft Drinks
High Ousegate	Hot Food & Soft Drinks (late night only)
High Petergate	Ice Cream & Soft Drinks (7 months trading only)
Parliament Street	Ice Cream & Soft Drinks / Hot Fruit Punch
Parliament Street	Donuts & Hot Drinks / Lemonade
Parliament Street	Hot Food (late night only)
St Sampsons Square	Ice Cream / Soft Drinks
St Sampsons Square	Hot Drinks & Cakes
St Sampsons Square	Hot Food (late night only)
Whip-Ma-Whop-Ma-Gate	Hot Food (late night only)
Consent Street Within York City Centre	2 x Caricature Artists & 1 x Artist

Outside the Bar Walls

Site	Trading Activity
Exhibition Square	Ice Cream
Station Rise	Ice Cream (7 months trading only)
Station Road	site currently vacant

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Annex 2 – Draft Street Trading Policy for consultation

City of York Council Street Trading Policy

Licensing Section

Email: licensing@york.gov.uk

Tel: 01904 552422

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1. Introduction

- 1.1 On the 13 November 1996 City of York Council (The Council) adopted the provisions of Schedule 4, Paragraph 2(1) of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act). Under this adoption it was agreed that all streets within the authority area are to be designated 'consent streets' for the purposes of street trading. This came into effect on 1 January 1997.
- 1.2 This document sets out the policy that the Council will apply when making decision regarding new applications for consents, as well as the consents currently in force.
- 1.3 Under the 1982 Act a street includes any road, footway, beach any part of a street or other area to which the public have access without payment (including private land).
- 1.4 Under the 1982 Act, street trading means the 'selling or exposing or offering for sale of any article in a street'.
- 1.5 As all streets within the authority area are designated as consent streets, a street trading consent, issued by the Council, is required where articles are sold or offered for sale in the street or on land to which the public have access without payment.

2. Trading activities that are not street trading

- 2.1 Trading activities that have been designated as a 'market' by the Council under the provisions of the Market Charter. Trading activities that take place on Shambles Market and an area of Parliament Street are designated as a 'market' under the Market Charter. The Council has also designated, under the Market Charter, that markets can take place in Acomb and Haxby.
- 2.2 Trading activities taking place under the authorisation of a pedlar's certificate issued in accordance with the Pedlars Act 1871. Further information relating to pedlars can be found at Annex 1.
- 2.3 Trading activities at a designated fair (fun fair).
- 2.4 Trading activities at a trunk road picnic area provided by the Secretary of State under section 122 of the Highways Act 1980.
- 2.5 Trading as a news vendor.

- 2.6 Trading which is carried on at premises used as a petrol filling station.
- 2.7 Trading which is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.
- 2.8 Trading activities of a roundsman (milk or newspaper delivery, doorstep sellers).
- 2.9 Trading activities that are approved by the Council in accordance with Part VIIA of the Highways Act 1980.
- 2.10 Trading activities authorised under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 – trading activities in connections with an authorised charitable street collection.

3. Offences

- 3.1 A person commits an offence under Schedule 4 of the 1982 Act if they engage in street trading in:
 - a) a prohibited street; or
 - b) a consent street without being authorised to do so; or
 - c) contravenes any of the principal terms/conditions of a street trading consent.
- 3.2 It is an offence for an applicant to make any false statement in the grant application.
- 3.3 A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding £1,000.00.

4. Prohibited streets within the authority area

- 4.1 The following streets are prohibited for street trading activities within the authority area:
 - a) A64 – for safety reasons, as there are no designated laybys suitable.
 - b) A1237 – for safety reasons, as there are no designated laybys suitable.
 - c) Parts of Parliament Street – when markets/events are taking place that are covered by the Market Charter.
 - d) St Helen's Square – due to the existing use of the Square, including civic use and the right to gather (protests), and the effect on access due to the loss of pavement space.

e) In any lay-by without a grass verge which effectively separates the lay-by from the highway.

5. Restrictions on trading locations

5.1 The consent system is designed to control street trading within the area by ensuring that:

- Traders are bona fide.
- An area is not saturated with street traders to the detriment of permanent businesses and the local authority.
- Food businesses are registered with the local authority.
- The highway is not obstructed.
- The presence of the trading unit does not present a danger to pedestrians and other road users.
- Annoyance is not caused to residents.

6. How to obtain a street trading consent

6.1 The applicant must be over 17 years of age.

6.2 The applicant will need to complete and submit the relevant application form providing the following details:

- Full details of the applicant;
- Details of any persons who will be working as an assistant;
- The exact proposed trading location, including a site plan (if stationary);
- The exact routes (if mobile);
- The proposed trading days and hours;
- The type of business proposed to operate and the goods to be sold;
- Details of the trading unit, including dimensions, photographs and diagrams.

6.3 Applicants who wish to trade on private land must firstly receive permission from the landowner. Written confirmation of this permission will be required.

6.4 Planning permission may also be required to trade on private land. It is the responsibility of the applicant or consent holder to make sure they have planning permission in place if required. Further information regarding planning can be found on the Council's website: [Planning advice and guidance – City of York Council](#)

- 6.5 On receipt of an application officers will determine if a consultation is necessary. If required officers will consult the Highway Authority and North Yorkshire Police, if the proposed trading location is within an area covered by a Parish Council they will also be consulted. If the proposed trading site is on private land a consultation will only take place if officers believe that the trading activity could impact the public highway. The consultation period is 10 working days.
- 6.6 If a consultation is not necessary a decision will normally be made regarding an application within 10 working days. If a consultation does have to take place a decision will normally be made within 20 working days.
- 6.7 Prior to trading commencing the consent holder will need to provide Public Liability Insurance for the trading activity. The trading activity must always be covered by Public Liability Insurance.
- 6.8 If the trading activity involves the selling of food or drink, prior to trading commencing the consent holder will need to confirm that a food premises registration is in place. Further information regarding registration can be found on the Council's website: [Food premises registration – City of York Council](#)
- 6.9 If a trader wants to undertake activities that are licensable under the Licensing Act 2003, for example sell alcohol, it is the responsibility of the applicant or consent holder to make sure they have the relevant licence in place prior to trading commencing.
- 6.10 Standard conditions are attached to each street trading consent, consent holders must make sure these conditions are complied with. The standard conditions can be found at Annex 2. If required additional conditions may be added to a consent dependant on the trading location.
- 6.11 Consents are issued for a maximum of 12 months and are renewed from the 1 April each year if the trading site (public highway) is still deemed suitable. The current consent holders will be given the first opportunity to renew their consent.
7. Street trading on the public highway
- 7.1 A consent holder cannot sell or transfer the trading site to another trader. If a consent holder no longer wishes to trade from a site, they

must surrender the consent to the Council. This is a condition of the street trading consent.

7.2 A consent holder cannot change the design/construction/appearance of the vehicle/stall without firstly getting the permission of the Council.

7.3 A consent holder cannot change the range of products sold without firstly getting the permission of the Council.

8. Trading within York city centre (within the Bar Walls)

8.1 The Council has established several fixed trading sites within York City Centre on land that is designated as the public highway. The list of fixed trading sites can be found at Annex 3.

8.2 Make It York (MIY) deliver and oversee several events that take place in York city centre throughout the year, some of which are large scale and attract many visitors, for example the Christmas Market. Street trading consent enables traders to make use of the public highway (public space) at times when it is not been used for MIY delivered events, therefore it is not guaranteed that consent holders will be able to trade during MIY delivered events. Consent holders will be given advance notice of when events are taking place that will prevent them trading, the consent will be suspended for the period of the event. Street trading consent fees are set to reflect the periods that traders are unable to trade. If it is appropriate to the event, MIY will offer the trader the opportunity to be part of the event, an additional fee may be payable to MIY. MIY contact information can be found at Annex 4.

8.3 The Council operates a waiting list for anyone who is interested in trading in York City Centre on the public highway. If an established fixed trading sites becomes available, the Council will write to people on the waiting list giving them the opportunity to apply for a street trading consent for the available site.

8.4 Where the landowners have given permission, trading sites have been established on private land, for example in the Coppergate Centre (St Mary's Square) and Museum Gardens.

9. Undertaking one-off trading and/or trading at events

9.1 Street trading consents are still required if your trading activity is for one day or at an event such as a fete/gala, car boot sale, music festival, etc

(if the public have access without payment). Occasional street trading consents are issued for such trading activities.

9.2 Applications for an occasional street trading consent must be submitted to the Council at least five working days before the trading activity is due to take place.

10. Refusals and revocations

10.1 An application for a street trading consent will be refused if the:

- Application relates to a prohibited street;
- Trading location is not considered suitable;
- Trading activity is not considered suitable for the trading location;
- Street trading unit/stall is not considered suitable for the trading location.

10.2 A street trading consent may be revoked at any time, a consent will be revoked if the:

- Consent holder fails to comply with conditions attached to their street trading consent;
- Council determines that the trading location is no longer considered suitable;
- Council determines that the trading activity is no longer considered suitable for the trading location;
- Council determines that the street trading unit/stall is no longer considered suitable for the trading locations;
- Consent holder fails to pay the street trading consent fees each month;
- Council determines that criminal activity has been associated with the consent holder and/or trading activity and/or trading location.

10.3 Grounds for a refusal or revocation will be given in a decision notice.

10.4 There are no rights of appeal if an application for a street trading consent is refused, or a street trading consent is revoked.

10.5 If an applicant or a consent holder is aggrieved by the Council's decision to refuse an application or revoke a consent they can write to the Head of Public Protection.

11. Street trading consent fees

- 11.1 Fees are set by the Council and reviewed annually in accordance with Section 9, of Schedule 4 of the 1982 Act.
- 11.2 Fees for trading locations within the city walls are set individually, the trading locations and activity are taken into consideration when the fee is set.
- 11.3 Fees for trading locations outside of the city walls are set with regards to whether the trading activity relates to the sale of food or non-food.
- 11.4 Fees for occasional street trading consents are set with regards to whether the trading activity relates to the sale of food or non-food, or if the trading activity is for charity.
- 11.5 Fees will be reduced if the trading location is on private land and the trader is paying the landowner rent.

12. Environmental Considerations

- 12.1 York has a legal duty to improve air quality for health and environmental reasons, therefore it is vital that any emissions from vehicles or ancillary equipment are reduced and minimised as far as practicable.
- 12.2 To aid York in improving air quality applicants and consent holders, especially those that drive around the authority area or use generators, are requested to use:
- Low or zero emission vehicles, such as fully electric, plug-in electric hybrid (PHEV), or traditional hybrid vehicles. Where this is not possible, petrol or diesel vehicles that conform to the Euro VI emission standards should be used.
 - An alternative power source to a petrol or diesel generator, such as a 'portable power station' or permanent electrical hookup, wherever possible. Several consent holders who have fixed sites have arranged power supplies with the electricity board for their trading activity.
- 12.3 In some street trading locations the use of generators may be prohibited due to the air quality impacts and/or noise generated. The Council are looking to phase out the use of diesel generators to improve air quality, protect people's health and reduce carbon emissions.
- 12.4 Emissions from vehicles can be reduced further by encouraging better maintenance and by switching off engines when stationary or parked.

The Council operators a strict anti-idling policy and undertakes regular enforcement patrols. Unless machinery on a vehicle requires the engine to be running (e.g. where the engine powers refrigeration equipment that must be in constant use) all traders are required to keep engines switched off whilst operating anywhere in the York area.

- 12.5 Noise from generators and other plant and equipment should be minimised as far as is practicable, using the quietest equipment and the use of acoustic screens where necessary.
- 12.6 Chimes on ice cream vans are only permitted to be sounded between the hours of 12 noon and 7pm.

Annex 1 – Pedlar's

Pedlars Act 1871 defines the term 'pedlar' as any hawker, petty chapman, tinker, caster of metals, or other person who, without a horse or other beast bearing or drawing burden, travels and trades on foot and goes from town to town or to other men's houses, carrying to sell or exposing for sale any goods, wares, or merchandise, or procuring orders for goods, wares, or merchandise immediately to be delivered.

Therefore, to be a pedlar a person must:

- Go from town to town – not just frequent York city centre each day.
- Trade on foot.
- Trade as they travel, not travel to trade – not just specifically travel to York to trade.
- Carry their goods with them (case law has suggested that a small means of transporting goods may be acceptable).
- Keeps on the move, pausing only to make a sale (case law has suggested that the pedlar should not remain in the same location for more than 20 minutes).
- Cannot set up a stall and wait for people to approach.

Pedlars' certificates are issued by police authority where the pedlar resides. Certificates cannot be issued to anyone under the age of 17 years. The certificate is valid for one year and is valid anywhere in the UK.

Relevant Case Law:

Stevenage Council v. Wright 1996 Queen' Bench Division 10th April 1996. W had a valid pedlar's certificate. Whilst acting as a true pedlar he would normally be exempt from the prohibition against street trading under Paragraph 10(1) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. W stood in one place in a Stevenage street (where street trading was prohibited without a consent) and sold Christmas wrapping paper from a bag at his feet for over one hour before being approached by local authority officials. He claimed to be acting as a pedlar and the magistrate dismissed the case against him. The prosecution appealed and HELD, W was not a pedlar but was acting as a street trader. A pedlar 'travels or trades on foot and goes from town to town or to other men's houses', thus he cannot set up a 'pitch'. Whether or not a pitch has been set up depends on the circumstances-an individual does not have to have a stall. A pedlar, by definition, is a person who sells to a customer and moves along to the next sale.

London Borough of Croydon v. William Burden 2002

Street trading officers observed B, a licensed pedlar, selling in Croydon, usually outside a shopping centre, and moving only a few yards during each visit. The judgement stated: "It seems to me that the crucial point in this case is to look at the periods of time of which B was stationary, the distances that he moved and the nature of his conduct whilst he was stationary for the purposes of selling. Looking at the evidence which was before the magistrates, it is my judgement that someone who is:

- habitually stationary for periods of certainly at least 15 minutes;
- often in excess of half an hour; and on one occasion in excess of an hour;
- who during those stationary periods sells intermittently to members of the public; but has not stopped for the purpose of selling to a specific member of the public, is properly to be described as someone who is engaged in street trading and not being a pedlar.

In other words, he **is not** someone:

- carrying and selling goods as he moves around,
- stopping for the limited purpose of conducting a sale and then moving on, rather
- he is someone who is stationary in a succession of different places for longer than is necessary to effect a particular sale or sales
- The fact that the distances covered by B, when he did move, were to be measured in terms of feet or single figure yards, rather than moving up and down a street or around a trading square, in my judgement underscores the impression of him as engaging in street trading from a series of different pitches rather than engaging in peddling; that is to say moving and selling as he moves, stopping for the purpose of conducting a particular sale."

Annex 2 – Schedule of Standard Conditions

1. **Instalments relating to street trading fees must be paid in full within 14 days from receipt of the invoice for the period to which they relate.**
2. The consent holder shall ensure that this consent or a copy thereof shall be kept available at the stall during trading hours and must be produced to any police officer or duly authorised officer of the City of York Council upon demand.
3. A certificate will be issued along with the consent which must be clearly displayed on the vehicle/stall/unit.
4. The consent holder shall ensure that the City of York Council is informed immediately of any new assistants employed in working the vehicle/stall/unit.
5. The consent holder or any person working the vehicle/stall/unit shall ensure that they carry their issued personalised cards at all times when trading and produce it to any police officer or duly authorised officer of the City of York Council upon demand.
6. The consent holder shall ensure that all trading activities and associated operations carried out in connection with this consent are adequately covered by Public Liability Insurance at all times.
7. The holder of the consent shall observe all regulations and restrictions currently in force concerning the use of the stall and in particular shall observe all traffic regulations and parking restrictions and shall ensure that no obstruction of the street or highway is created by the operation of the trading activity.
8. **The consent holder shall ensure that the correct price of articles sold is always prominently displayed on the stall.**
9. There shall be no alteration in the design/construction/appearance of the vehicle/stall/unit without the written permission of the licensing authority having been obtained.
10. There shall be no change in the range of products sold without the written permission of the licensing authority having been obtained.
11. The consent holder shall not do or permit anything to be done in association with the trading activity, which in the opinion of the City of

York Council may become a danger, nuisance or annoyance or cause damage or inconvenience to any person.

12. On occasion it is necessary for a vehicle/stall/unit on a static site to move location. When this occurs the consent holder shall comply with any directions made by a duly authorised officer of the City of York Council.
13. The consent holder shall observe and comply with any directions given by a duly authorised officer of the City of York Council in connection with the trading activity.
14. The consent holder shall ensure that all litter and refuse generated by the trading activity is removed from site at the end of each trading period.
15. The consent holder shall ensure that no liquids of any description are deposited into rainwater gullies on site. All liquids must be removed from site at the end of each trading period and must be disposed of in a proper manner.
16. The consent holder must ensure that all paving is left clean and grease free at the end of each trading period.
17. The consent holder shall ensure compliance with all relevant statutory provisions affecting their trading operation.

Street trading sites on the public highways:

18. Trading sites on the public highway cannot be sold or transferred by the consent holder. If a consent holder no longer wishes to trade from a site, they must surrender the consent to the Council.
19. If events are taking place on the public highway in York city centre the street trading consent may be suspended for the duration of the events.
20. The consent holder shall ensure that the vehicle/stall/unit is removed from site at the end of each day's trading period. Written permission of the licensing authority must be obtained if a consent holder wishes to leave their vehicle/stall/unit on site.

Annex 3 – Fixed Trading Sites York City Centre

Within the Bar Walls

Site	Trading Activity
Davygate	Flower Stall
Kings Square	Ice Cream / Mulled Wine & Hot Chocolate
Kings Square	Lemonade / Crepes
Kings Square	Candles
High Ousegate	Crepes & Soft Drinks
High Ousegate	Hot Food & Soft Drinks (late night only)
High Petergate only)	Ice Cream & Soft Drinks (7 months trading
Parliament Street	Ice Cream & Soft Drinks / Hot Fruit Punch
Parliament Street	Donuts & Hot Drinks / Lemonade
Parliament Street	Hot Food (late night only)
St Sampsons Square	Ice Cream / Soft Drinks
St Sampsons Square	Hot Drinks & Cakes
St Sampsons Square	Hot Food (late night only)
Whip-Ma-Whop-Ma-Gate	Hot Food (late night only)
Consent Street Within York City Centre	2 x Caricature Artists & 1 x Artist

Outside the Bar Walls

Site	Trading Activity
Exhibition Square	Ice Cream
Station Rise	Ice Cream (7 months trading only)
Station Road	site currently vacant

Annex 4 – Make It York

Address: 21 Parliament Street
York
YO1 8SG

Tel: 01904 554455

Email: info@makeityork.com

Website: www.makeityork.com

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Annex 3 – Charter of Street Traders Rights

Charter of Street Trader’s Rights 2024

The aim of The Charter is to safeguard the sustainability of existing businesses and jobs generated by the Street Trading Policy. It promotes street trading activities in a way that benefits businesses, the City of York, and the community.

The Charter’s objectives are as follows:

- 1) Establishment of an *Official Map of all Street Trading Pitches* to prevent obstructions to trade, to be published on the City of York Council website
- 2) Right to Trade - Guaranteed access to the Street Trading Pitches and continuity of business operations, including during City Centre events and activities
- 3) Alternative pitches to be established in the case of exceptional circumstances, such as essential roadworks
- 4) Adequate notice to be given in the case of essential roadworks
- 5) Quarterly Meetings between the Licensing Department and Street Traders to discuss any issues affecting street trading, ensuring transparent processes and decision making
- 6) Right to Appeal / Redress - the right to independent participation of an agreed neutral party to settle disputes
- 7) 2-year Licenses to enable greater business security and certainty

York Street Trader Association Aspirations:

Street Traders are committed to supporting the City of York Council’s goals for Climate and Health by:

- 1) Encouraging all Street Trading businesses to sign up to the Good Business Charter in alignment with the Council’s participation
- 2) Actively supporting the City of York Council’s Climate Change Strategy (2022 to 2032) by promoting more sustainable business practices such as:
 - a) Accessing the City Centre outside of peak congestion times
 - b) Aiming to transition to electric vehicles
 - c) Using recyclable or recycled packaging

By supporting The Charter, The City of York Council commits to prioritizing the

long-term stability of established local Street Traders who have been an integral part of York's community and identity for decades.



Agenda Item

Licensing & Regulatory Committee

4 November 2024

Report from the Director – Environment, Transport and Planning

Gambling Act 2005 – Statements of Licensing Policy

Summary

1. This report advises Members of the review of the Councils Statement of Licensing Policy (the Policy) and the consultation undertaken.
2. The report seeks a recommendation to Council that the Policy be approved.
3. The report also seeks permission to publish the revised Local Area Profile.

Recommendations

4. That Members approve Option 1 and recommend to Council that the revised Policy, set out at Annex 1, be adopted and authorise officers to publish the Local Area Profile.

Reason: To meet the legislative requirements of the Gambling Act 2005, and recommendations within the Gambling Commissions Guidance to Licensing Authorities.

Background

5. The Gambling Act 2005 (the 2005 Act) has three licensing objectives:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way;
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

These objectives must be taken into consideration by the Gambling Commission and Local Authorities as a Licensing Authority.

6. The Gambling Commission (the Commission) is responsible for issuing operator licences which are linked to different types of gambling activities. Some types of gambling activities may be provided remotely, for example over the internet (online gambling) or telephone, or non-remotely such as in land-based premises.
7. The Commission is also responsible for issuing personal licences which ensure that individuals who control facilities for gambling or can influence the outcome of gambling, are directly accountable to the Commission. Outside of the casino industry, personal licences are usually held by people in key management positions, within the casino industry, people providing the day-to-day gambling such as croupiers.
8. As a Licensing Authority the Council is responsible for issuing premises licence, where an individual or company uses premises or causes or permits premises to be used to offer gambling (only holders of operator's licence can apply for a premises licence). Premises licences can authorise the provision of facilities on:
 - a) casino premises
 - b) bingo premises
 - c) betting premises, including tracks and premises used by betting intermediaries
 - d) adult gaming centre (AGC) premises (for category B3, B4, C and D machines)
 - e) family entertainment centre (FEC) premises (for category C and D machines) – the licensing authority may issue a FEC gaming machine permit, which authorises the use of category D machines only.
9. The 2005 Act defines the responsible authorities that must be notified of applications for premises licences, and that are entitled to make representation to a licensing authority.
10. The Council is responsible for issuing permits for gaming machine. Gaming machine provisions by premises can be found on the [Commissions](#) website. The Commission and Licensing Authorities cannot set different limits or further expand or restrict the categories of machines that are permitted.
11. The Council is also responsible for registering societies to run small society lotteries.

12. The holder of an operating licence may notify a Temporary Use Notice (TUN) to a Licensing Authority to allow premises (such as hotels and conference centres) to be used temporarily for providing facilities for gambling. TUNs are often used to run poker tournaments. The Council has never received a TUN.
13. Where betting on a track on eight days or fewer in a calendar year, betting may be permitted by an Occasional Use Notice (OUN) without the need for a full premises licence. OUNs allow licensed betting operators to provide betting facilities at genuine sporting events, such as point-to-point racecourses. OUNs are submitted to Licensing Authorities. The Council has received 11 OUNs.
14. In April 2023 the Department for Culture, Media and Sport (DCMS) published a Gambling Act Review white paper for the previous Government. The purposes of this review were to:
 - Examine whether changes were needed to GB gambling regulation to reflect changes to the gambling landscape since 2005, particularly due to technological advances.
 - Ensure an appropriate balance between consumer freedoms and choice on the one hand, and prevention of harm to vulnerable groups and communities on the other.
 - Make sure customers are suitably protected whenever and wherever they are gambling, and that there is an equitable approach to the regulation of the online and the land-based industries.

This work is now on pause while the new Government considers the full range of gambling policy. The Labour manifesto included comments on gambling, with a focus on reducing gambling-related harm. The DCMS are awaiting ministerial steer on the prioritisation of different measures.

Statement of Licensing Policy

15. Section 349 of the 2005 Act requires licensing authorities to determine and publish a Statement of Licensing Policy at least every three years. The Council's current Policy was approved by Council on the 9 December 2021 and published on 10 January 2022.
16. A revised Policy must be approved by Council and be published on the Council's website by 10 January 2025. The proposed revised Policy can be found at Annex 1.

17. The Council first published a Policy in January 2007, this Policy has been reviewed and published on a further five occasions, January 2010, 2013, 2016, 2019 and 2021.

Local Area Profile

18. The Commissions Guidance to Licensing Authorities, recommends that licensing authorities complete their own assessment of the local environment as a means of 'mapping out' the key characteristics of the local area. The Guidance refers to such an assessment as a Local Area Profile.
19. An effective profile is likely to take account of a wide range of factors, data and information held by the licensing authority and its partners. Good profiles will increase awareness of local risks and improved information sharing, to facilitate constructive engagement with licensees and more coordinated response to local risks.
20. The Business Intelligence Hub, on behalf of the licensing authority, produced the first Profile in September 2018, this was reviewed in October 2021 and again in October 2024.
21. The reviewed Profile can be found at Annex 2.

Consultation

22. A consultation took place from 6 August to 13 October 2024. A list of consultees can be found at Annex 3.
23. One response was received to the consultation from GamCare, their response can be found at Annex 4.
24. As GamCare are requesting a 'public health approach to gambling', the response has been shared with the Director of Public Health.

Options

25. Option 1 – Approve the revised Policy and make a recommendation to Council that the Policy is adopted. Authorise officers to publish the revised Local Area Profile.
26. Option 2 – Amend the revised Policy and make a recommendation to Council that the amended revised Policy is adopted. Authorise officers to publish the revised Local Area Profile.

Analysis

27. Public Health are now working closely with the Licensing Authority, Appendix A 'Gambling Related Harm' of the Policy has been added due to information provided by Public Health colleagues. Information within this Appendix provides estimated levels of gambling harm for York.
28. The Commission has welcomed Public Health's engagement with Licensing Authorities on gambling matters.

Currently Licences, Permits and Registrations in Force

29. There are currently 18 premises licence in force which authorise the following licensable functions:
 - 1 adult gaming centre
 - 1 bingo premises
 - 1 betting premises (track)
 - 15 betting premises (other) – bookmakers
30. Since the Gambling Act came into force in 2007, 62% of premises licences have been surrendered:
 - 8 adult gaming centres
 - 2 bingo premises
 - 19 betting premises (other) – bookmakers (two have surrendered in the last three years)
31. 192 premises currently have gaming machines:
 - 138 notifications of 2 or less machines
 - 37 premises machine permits
 - 17 clubs machine permits
32. 163 small society lotteries registrations are in place.

Council Priorities

33. By complying with the requirements of the 2005 Act the Council are supporting new and existing licence trade, as well as residents and businesses. The functions support the Council's Plan 'One City, for all'.

Implications

34. The implications arising from this report are:

- **Financial:** There are no financial implications associated with this report.
- **Human Resources:** There are no Human Resources implications associated with this report.
- **Equalities:** An Equalities Impact Assessment has been completed and can be found at Annex 5.
- **Legal:** As stated in paragraph 15 above, it is a legal requirement of the 2005 Act that the Policy is reviewed. Failure to comply with these requirements could result in the Council being unable to fulfil its legal duty as the licensing authority and the Council could be legally challenged by way of a judicial review. The Policy must be taken into consideration when the Licensing Authority makes decisions in respect of matters relating to the Gambling Act 2005.
- **Crime and Disorder:** There are no crime and disorder implications. The Policy with regards to the 2005 Act promotes the licensing objective:

‘preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime.’
- **Information Technology (IT):** There are no IT implications associated with this report.
- **Other:** There are no other implications associated with this report.

Risk Management

35. Legal action could be taken against the Council if it fails to comply with the requirements of the 2005 Act.

Contact Details

Author:

Chief Officer Responsible for the report:

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Licensing Manager
Phone: 551515

James Gilchrist
Director (Environment, Transport and
Planning)

**Report
Approved**



Date 17/10/2024

Specialist Officer Implications: None
Wards Affected:

All



Background Papers:

[Gambling Act 2005](#)

Gambling Commission – [Guidance to licensing authorities](#)

Annexes

Annex 1: Revised Statement of Licensing Policy 2026

Annex 2: Revised Local Area Profile

Annex 3: Consultees

Annex 4: Consultation Response

Annex 5: Equalities Impact Assessment

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Statement of Licensing Policy 2025

Gambling Act 2005

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Part A

1. Introduction

1.1 This Statement of Licensing Policy was prepared under Section 349 of the Gambling Act 2005 (the Act).

1.2 Under the Act City of York Council (the Council) is the Licensing Authority for the for the purposes of the Act for the administrative area of the City of York.

1.3 The policy was approved by Council on XX XXXXXXXX 2024.

1.4 The Act specifies that any decision taken by the Council in regard to the determination of licences, permits and registrations should aim to permit the use of premises for gambling in so far as it is reasonably consistent with the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Council will also follow any regulations and statutory guidance issued in accordance with the Act and will have regard to any codes of practice and relevant issued by the Gambling Commission.

1.5 In making decisions about premises licence, the Council is aware that it should aim to permit use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the council's statement of licensing policy.

2. Purpose

2.1 The Act requires that a Statement of Licensing Policy is published at least every three years.

2.2 In preparing this policy the Council consulted a wide range of organisations and stakeholder, these include:

- The responsible authorities:
 - North Yorkshire Police
 - North Yorkshire Fire and Rescue Service
 - Gambling Commission
 - HM Revenue and Customs
 - City of York Council, Children Services
 - City of York Council, Development Control (Planning)
 - City of York Council, Public Protection (Environmental Protection)
- Licensed premises
- Bodies that represent the licence trade
- Bodies that represent local businesses
- Bodies that represent gambling harm
- Ward councillors
- Parish Councils
- City of York Council, Public Health
- City of York Council, Adult Services

2.3 The consultation took place between 22 July to 13 October 2024.

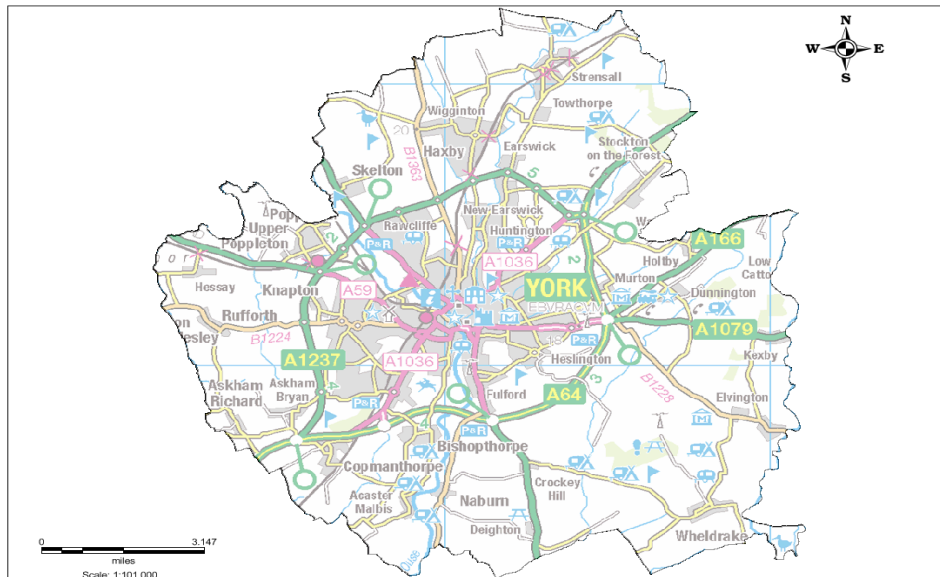
3. Profile of York

3.1 City of York Council is a unitary authority covering an area of 105 square miles and a population of more than 206,780 (2023 mid-year est.) which includes a small black and minority ethnic population. It comprises the urban area of York that is surrounded by many small rural and semi-rural settlements covered by parish councils.

3.2 York is nationally and internationally a prominent city for a range of reasons. Not only is it an historic centre for England and an important location for the Church of England, it is also one of the most visited tourist destinations in the country. York has excellent rail links around the UK with over 10 million passengers every year. It is also a centre of academic excellence, with around 27,000

students making up approximately 13% of York's population in term time.

- 3.3 Tourism and leisure are important industries for York, attracting over 8.9 million visitors a year, of which the total value to York's economy is £1.7 billion. The visitor economy supports 17,000 jobs in the city and a fifth of York's visitors stay overnight with £249 million of direct spend from visitors going towards accommodations.
- 3.4 This level of tourism can, however, present challenges to the city in balancing the requirements of residents against these economic benefits that tourism can bring.
- 3.5 As an historical centre the city has many museums and historical buildings. The city offers a wide range of premises providing entertainment activities and supplying alcohol, outstanding restaurants, licensed entertainment venues, including four cinemas and five theatres, numerous high quality traditional and historic public houses, and bars. Other premises, such as York Racecourse and a bingo hall, provide alcohol and entertainment as part of their overall activities.
- 3.6 City of York Council Authority Area



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4. Links to other Plans, Policies, Strategies and Guidance

Council Plan

- 4.1 The Council's decision making, and work plans are underpinned by a set of policies, strategies and plans. A list of these policies is available on the Council's website www.york.gov.uk/CouncilPlan.

In particular the 'Council Plan 2023 to 2027 One City For All' which sets the core commitments and priorities for the Council, which are as follows:

Core Commitments

- Equalities and Human Rights – equality of opportunity
- Affordability – tackling the cost-of-living crisis
- Climate – environment and the climate emergency
- Health – health and wellbeing

Priorities

- Health and wellbeing: a health generating city, for children and adults.
- Education and skills: high quality skills and learning for all.
- Economy and good employment: a fair, thriving, green economy for all.
- Transport: sustainable accessible transport for all.
- Housing: increasing the supply of affordable housing.
- Sustainability: cutting carbon, enhancing the environment for our future.
- How the council operates.

These are supported by the Health and Wellbeing Strategy, York Economic Strategy and the Children and Young People's Plan. These strategies provide a crucial focal point for the identification of local issues.

Tourism

- 4.2 In developing this Policy the Council has taken into account York Tourism Strategy 'A vision for tourism in York: 2032', prepared by York Tourism Advisory Board with partners and stakeholders, including the Council. The Strategy is focused on five Key Priorities

with specific ambitions for the city:

1. A Regenerative Visitor Economy: York is a responsible, robust and profitable destination with a regenerative visitor economy.
2. Green York: Our businesses and visitors' commitment proactively contributes to York's transition to net zero carbon emissions by 2030.
3. Culture: York is renowned for its heritage, culture and cutting-edge approach to creativity, which attracts cultural tourists and supports the city's regenerative visitor economy.
4. Residents and Localhood: Local people experience the very best of their city alongside its visitors, with tourism contributing to the quality of life in York and beyond.
5. Skills and recruitment: The visitor economy is a first-choice career for school leavers and graduates, businesses invest in upskilling, training and career development, and commitment to equality, diversity and inclusion.

The Our City Centre York Vision

4.3 The Council are currently developing The Our City Centre York Vision. The themes covered by the vision are:

- a family friendly and affordable city centre
- an attractive and active city centre
- making tourism work for York
- embracing our riverside
- a safe city centre which is welcoming and accessible to all
- thriving businesses and productive buildings
- celebrating heritage and making modern history

Further information can be found on the Councils website:

www.york.gov.uk/MyCityCentreYorkVision

Crime and Disorder

4.4 Under the Crime and Disorder Act 1998 the Council must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent, crime and disorder in their area. The Council

will have regard to the likely impact of licensing on related crime and disorder in the authority area, particularly when considering the location and impact of the operation and management of all new licence applications and variations of existing licences.

Counter Terrorism

- 4.5 In January 2022 the Home Office, through the Protect Duty consultation, has pledged to consider legislative approaches requiring venue operators to consider the risk of terrorist attacks, and to take proportionate and reasonable measures to prepare and protect the public. Whilst legislation is being considered by the Government, operators of venues may find it beneficial to refer to the Protect Duty consultation response documents until such laws are enacted. <https://www.gov.uk/government/consultations/protect-duty/outcome/government-response-document>
- 4.6 Further information, including e-learning, is available on Protect UK website: www.protectuk.police.uk.

Equalities Act 2010

- 4.7 Applicants and licensees must make themselves familiar with their responsibilities under the Equalities Act and relevant guidance for businesses, which can be found on the Equality and Human Rights Commission website: www.equalityhumanrights.com

Regulators' Code 2014

- 4.8 The Regulators' Code came into statutory effect on 6 April 2014 under the Legislative and Regulatory Reform Act 2006 and provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate. Nearly all regulators, including local authorities and the fire and rescue service authorities, must have regard to it when developing policies and procedures that guide their regulatory activities.

5. Declaration

- 5.1 This policy will not override the right of any person to make an application, make representation about an application or apply for a

review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

- 5.2 In producing the final statement, the council has had regard to the licensing objectives of the Act, the Guidance to Licensing Authorities issued by the Gambling Commission and any responses from those consulted on the statement.

6. Responsible Authorities

- 6.1 The Council is required by regulations to state the principles it will apply to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

- 6.2 In accordance with the regulations the Council designates City of York Council's Children's Social Care for this purpose.

- 6.3 The contact details of the responsible authorities under the Act are available on the Councils website or from the Licensing Section.

7. Interested parties

- 7.1 Interested parties can make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Act as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person-

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- (b) has business interests that might be affected by the authorised activities; or
- (c) represents persons who satisfy paragraph (a) or (b)”.

7.2 The council is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles are:

- Each case will be decided upon its merits. The council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (eg an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- If individuals wish to approach councillors to ask them to represent their views, then care should be taken that the councillors are not part of the Gambling & Licensing Sub Committee dealing with the licence application. If there are any doubts, then please contact the Licensing Section.

8. Exchange of Information

8.1 The council is required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

8.2 The principle that this council applies is that it will act in accordance with the provisions of the Act in its exchange of information which

includes the provision that the Data Protection Act 2018 will not be contravened. The council will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

- 8.3 Should any protocols be established as regards information exchange with other bodies, then they will be made available.

9. Enforcement

- 9.1 The council is required by regulation under the Act to state the principles to be applied by the council in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

- 9.2 In carrying out its enforcement duties with regards to the inspection of premises, and the powers to institute criminal proceedings in respect of certain offences under the Act the council will endeavour to be:

- **Proportionate:** regulators should only intervene when necessary, remedies should be appropriate to the risk posed and costs identified and minimised;
- **Accountable:** regulators must be able to justify decisions and be subject to public scrutiny;
- **Consistent:** rules and standards must be joined up and implemented fairly;
- **Transparent:** regulators should be open and keep regulations simple and user friendly;
- **Targeted:** regulation should be focused on the problem and minimise side effects.

- 9.3 The council will endeavour to avoid duplication with other regulatory regimes so far as possible.

- 9.4 The main enforcement and compliance role for the council in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. Concerns about manufacture, supply or repair of gaming machines

are not dealt with by the council but will be notified to the Gambling Commission. In circumstances where the council believes a premises requires a premises licence for gambling activities and no such licence is in force, the council will alert the Gambling Commission.

9.5 The council also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

9.6 The council's enforcement/compliance protocols/written agreements are available upon request.

10. Licensing authority functions

10.1 Licensing authorities are required under the Act to:

- be responsible for the licensing of premises where gambling activities are to take place by issuing premises licences;
- issue provisional statements;
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits;
- issue club machine permits to commercial clubs;
- grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres;
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- issue licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
- register small society lotteries below prescribed thresholds;
- issue prize gaming permits;
- receive and endorse temporary use notices;
- receive occasional use notices;
- provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange');
- maintain registers of the permits and licences that are issued under these functions.

10.2 The council will not be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

Part B – Licensing Objectives

11. Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime.

- 11.1 The Gambling Commission will take the lead role in keeping gambling free from crime by vetting applicants for operator and personal licences. The council will have to be satisfied that the premises will not adversely affect the licensing objective and is compliant with the Commission’s Guidance, codes of practice and this policy statement.
- 11.2 The council will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate, a gambling premises. As part of the application, the applicant will provide evidence to demonstrate that in operating the premises they will have regard to the licensing objective.
- 11.3 Examples of the specific steps the council may take to address this area can be found in the section covering specific premises in Part C and in relation to permits and notices in Part D of this policy.

12. Ensuring that gambling is conducted in a fair and open way

- 12.1 The Gambling Commission is the body primarily concerned with ensuring that operators conduct gambling activities in a fair and open way, except in the case of tracks.
- 12.2 The council will notify the Gambling Commission of any concerns about misleading advertising or absence of required game rules, or any other matters as set out in the Gambling Commission’s Licence Conditions and Code of Practice.
- 12.3 Examples of the specific steps the council may take to address this area can be found in the section covering specific premises in Part C and in relation to permits and notices in Part D of this policy.

13. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Protection of Children

13.1 Persons under 18 cannot be admitted to many types of gambling premises. This objective means preventing children from taking part in most types of gambling.

13.2 Section 45 of The Act provides the following definition for child and young person:

Meaning of “child” and “young person”

- 1) In this Act “child” means an individual who is less than 16 years old.
- 2) In this Act “young person” means an individual who is not a child but who is less than 18 years old.

13.3 Children and young persons may take part in private and non-commercial betting and gaming, but the Act restricts the circumstances in which they may participate in gambling or be on premises where gambling is taking place as follows:

- casinos, betting shops and adult gaming centres are not permitted to admit anyone under 18;
- bingo clubs may admit those under 18 but must have policies to ensure that they do not play bingo, or play category B or C machines that are restricted to those over 18;
- family entertainment centres and premises licensed to sell alcohol for consumption on the premises can admit under 18s, but they are not permitted to play category C machines which are restricted to those over 18;
- clubs with a club premises certificate can admit under 18s, but they must have policies to ensure those under 18 do not play machines other than category D machines;
- All tracks can admit under 18s, but they may only have access to gambling areas on days where races or other sporting events are taking place or are expected to take place. Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

- 13.4 The council will have regard to any code of practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises.
- 13.5 The council will consider whether specific measures are required at particular premises, with regard to this licensing objective. These measures may include supervision of entrances / machines, segregation of areas, etc. Examples of the specific steps the council may take to address this area can be found in the section covering specific premises in Part C and in relation to permits and notices in Part D of this policy.

Protection of Vulnerable Person

- 13.6 The Gambling Commission has published a ‘vulnerability statement’, which details their approach to identifying and supporting vulnerable consumers throughout the customer journey:
<https://www.gamblingcommission.gov.uk/about-us/guide/vulnerability-statement>
- 13.7 It is difficult to define the term ‘vulnerable person’. The Gambling Commission, in its Guidance to Local Authorities, does not seek to offer a definition, but will, for regulatory purposes assume that this group includes:
- people who spend more money and/or time gambling than they want to
 - people who gamble beyond their means
 - people who may not be able to make informed or balanced decisions about gambling, for example because of health problems, learning disability, or substance misuse relating to alcohol or drugs.
- 13.8 The Gambling Commissions Code of Practice clearly describes the policies and procedures that operators should put in place regarding:
- combating problem gambling
 - access to gambling by children and young persons
 - information on how to gamble responsibly and help for problem gamblers
 - customer interaction

- self exclusion
- employment of children and young persons.

13.9 The council may consider any of the measures detailed below as licence conditions should these not be adequately addressed by any mandatory conditions, default conditions or proposed by the applicant:

- leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet
- training for staff members which focuses on an employee's ability to detect a person who may be vulnerable and providing support to vulnerable persons
- self exclusion schemes
- operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people
- posters and leaflets with GamCare Helpline and website displayed in prominent locations
- external advertising to be positioned or designed not to entice passersby.

13.10 It is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 3, that licensees must have and put into effect policies and procedures intended to promote socially responsible gambling.

13.11 The LCCP say that licensees must make an annual financial contribution to one or more organisation(s) which between them research into the prevention and treatment of gambling-related harm, develop harm prevention approaches and identify and fund treatment to those harmed by gambling.

13.12 Contact information for organisations that offer help/support for those who are affected by problems with gambling can be found at Appendix C.

Part C – Premises Licences

14. General Principles

- 14.1 The council will issue premises licences to allow those premises to be used for certain types of gambling. These are:
- (a) casino premises,
 - (b) bingo premises,
 - (c) betting premises including tracks and premises used by betting intermediaries,
 - (d) adult gaming centre premises, or
 - (e) family entertainment centre premises.
- 14.2 Premises licences are subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities can exclude default conditions and attach others, where it is believed to be necessary.
- 14.3 The Gambling Commission has issued Codes of Practice for each interest area for which they must have regard. The council will also have regard to these Codes of Practice.

Decision-Making

- 14.4 The council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- is in accordance with any relevant code of practice issued by the Gambling Commission;
 - is in accordance with any relevant guidance issued by the Gambling Commission;
 - is reasonably consistent with the licensing objectives; and
 - is in accordance with the council's statement of licensing policy.
- 14.5 It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" and that unmet demand is not a criterion for a licensing authority.

- 14.6 It should be noted that this policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

Composition of a Licensing Sub-Committee

- 14.7 The Licensing Sub-Committee shall comprise of any three elected members who serve on the Licensing and Regulatory Committee (Licensing Committee).
- 14.8 The Council's Code of Conduct requires Members to register and declare their financial and other interests and sets out consequences for the Member's participation in the decision-making process in respect of an application, in the light of those interests.

Representations

- 14.9 Where representations are received the council will consider whether they are relevant, vexatious, frivolous or if they would influence the council's determination of the application. The Head of Service together with the relevant Director will determine if any representation meets this criteria.
- 14.10 The council will take into consideration Gambling Commission Guidance for Licensing Authorities, Licence Conditions and Codes of Practice when determining applications for premise licences.

Definition of "premises"

- 14.11 In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, the council should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions

relating to access between premises are observed.

14.12 The council will take particular care in considering applications for multiple licences for a building, and those relating to a discrete part of a building used for other purposes. The council will assess entrances and exits of a premise covered by one or more licences to satisfy itself that they are genuinely separate and identifiable so that the separation of different premises is not compromised and that people do not drift into a gambling area.

14.13 In considering whether different areas of a building are genuinely separate premises the council will take into account factors which may include:

- do the premises have a separate registration for business rates?
- are the premises' neighbouring premises owned by the same person or someone else?
- can each of the premises be accessed from the street or a public passageway?
- can the premises only be accessed from any other gambling premises?

14.14 The council will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

Location

14.15 The council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. The council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. With regards to these licensing objectives, it is the council's policy, upon receipt of any relevant representation to look at specific location issues which include:

- the possible impact that a gambling premises may have on any sensitive premises that provide services to children or young people or vulnerable people; e.g. a school, vulnerable adult centre;
- the possible impact a gambling premises may have on a residential area where there is a high concentration of families

with children;

- the nature and size of the gambling activities taking place;
- any levels of crime in the area.

14.16 If refusing an application the council would need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives.

Local Risk Assessments

14.17 Since 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provisions of gambling facilities at each of their premises, and have policies, procedures and control measure to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement. The local risk assessment should be kept on the individual premises and made available for inspection by an authorised officer.

14.18 The LCCP say that licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstances, including those identified in this policy statement;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- when applying for a variation of a premises licence; and
- in any case, undertake a local risk assessment when applying for a new premises licence.

14.19 The council will expect the local risk assessment to consider as a minimum:

- the location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- the demographics of the area in relation to vulnerable groups;
- whether the premises is in an area subject to high levels of crime and/or disorder.

- 14.20 Local risk assessments should show how vulnerable people, including people with gambling dependencies, are protected, such as:
- Information on self-exclusions.
 - Information on underage gambling.
 - Staff training.
 - Signage and documents relating to games rules, gambling care providers and other relevant information.
- 14.21 Local risk assessments should show how children and young people are protected, such as:
- The proximity of institutions, places or area where children and young people frequent such as schools, parks, playgrounds, youth clubs and venues such as museums, bowling allies, cinemas, etc.
 - The proximity of places where children and young people congregate such as shops and cafes.

Local Area Profile

- 14.22 In order to assist applicants the Council has published a 'Local Area Profile'. This profile has been approved by the Licensing and Regulatory Committee; it is available on the Councils website: <https://www.york.gov.uk/GamblingAct>
- 14.23 The local area profile should be taken into consideration by applicants when they are submitting an application. It should also be taken into consideration by licence holders when they review their local risk assessments.
- 14.24 The information provided at Appendix A relating to 'Gambling Related Harm' should also be taken into consideration by applicants and licence holders. This information is taken from the interactive maps published by the GambleAware.

Duplication with other regulatory regimes

- 14.25 The council seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. The council will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its

consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

Conditions

- 14.26 The Secretary of State has set mandatory and default conditions and the Gambling Commission has set Licence Conditions and Codes of Practice on Operator's Licences which are necessary for the general good conduct of gambling premises, therefore it is unlikely that the council will need to impose individual conditions imposing a more restricted regime in relation to matters that have already been dealt with.
- 14.27 If the council is minded to impose conditions because there are regulatory concerns of an exceptional nature, then any additional licence conditions must relate to the licensing objectives.
- 14.28 Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for, and/or related to the area where the premises is based;
 - fairly and reasonably related to the scale and type of premises;
 - consistent with the licensing objectives; and
 - reasonable in all other respects.
- 14.29 Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of measures this licensing authority will consider utilising should it be necessary, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The council will also expect the licence applicant to offer their own suggestions as to ways in which the licensing objectives can be met effectively.
- 14.30 Where certain measures are not already addressed by the mandatory/default conditions or by the applicant and there remains a demonstrable risk to the licensing objectives in the circumstances of a particular case, the council may consider licence conditions to cover issues such as:

- proof of age schemes
- CCTV
- entry controls
- supervision of entrances / machine areas
- signage / notices
- specific opening hours
- physical separation of areas
- location of entry
- requirements that children must be accompanied by an adult
- Enhance Disclosure and Barring Service checks of the applicant and/or staff
- self-barring schemes
- provision of information for organisations such as GamCare (leaflets / helpline numbers)
- measures and training for dealing with children on the premises

This list is not mandatory or exhaustive and is merely indicative of examples of measures which may satisfy the requirements of the council and the responsible authorities to meet the licensing objectives.

14.31 It is noted that there are conditions which the council cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winning or prizes.

14.32 The council will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

Door Supervisors

14.33 The council will consider whether there is a need for door supervision in terms of the licensing objectives of the protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted that the door supervisors at casinos or bingo premises are not required to be registered by the Security Industry Authority (SIA) under the Private Security Act 2001. Where door supervisors are provided at these premises the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties. Possible ways to achieve this could be to carry out a Disclosure and Barring Service check on potential staff and for such personnel to have attended industry recognised training. Door supervisors not directly employed by a casino or bingo operator do have to be SIA registered.

15. Adult Gaming Centres (AGCs)

15.1 Under the Act a premises holding an adult gaming centre licence will be able to make category B, C and D gaming machines available for use on the premises. No one under the age of 18 is permitted to enter such premises.

15.2 The council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

15.3 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commissions

Codes of Practice or by the applicant, the council may consider licence conditions to address such issues, examples of which are provided at paragraph 14.30.

16. Licensed Family Entertainment Centres (FECs)

- 16.1 Licensed FECs are those premises which usually provide a range of amusements such as computer games, penny pushers and may have a separate section for adult only gaming machines with higher stakes and prizes. Licensed FECs will be able to make available unlimited category C and D machines where there is a clear segregation in place, so children do not access the areas where the category C machines are located.
- 16.2 The council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 16.3 Where category C or above machines are available in premises to which children are admitted then the council will ensure that:
- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where category C machines are located;
 - access to the area where machines are located is supervised at all times;
 - the area where the machines are located is arranged so that it can be observed by staff; and
 - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

17. Casinos

- 17.1 The Act states that a casino is an arrangement whereby people are given the opportunity to participate in one or more casino games.

Casino games are defined as a game of chance which is not equal chance gaming. This means that casino games offer the chance for multiple participants to take part in a game competing against the house or bank at different odds to their fellow players. Casinos can also provide equal chance gaming and gaming machines. Large and small casinos can also provide betting machines.

Number of casinos in Great Britain

- 17.2 Legislation stipulates the number of casino premise licences that can be issued and the areas where they can be located. A casino will not be allowed within City of York Council Authority area until such time that there is a change in legislation.

No Casinos resolution

- 17.3 The council has not passed a 'no casino' resolution under Section 166 of the Act but is aware that it has the power to do so. Should the council decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

18. Bingo premises

- 18.1 There is no legal definition for bingo, or a standard set of rules under which the game is played. Bingo is equal chance gaming. From a licensing point of view there is a category of premises licence specifically for bingo premises which is used by traditional commercial bingo halls for both cash and prize bingo. In addition, this premises licence will authorise the provision of a limited number of gaming machines in line with the provisions in the Act.
- 18.2 The council is aware that children and young persons are permitted in bingo premises but may not participate in the bingo. Where category C or above machines are available for use, they must be separated from areas where children and young persons are allowed.
- 18.3 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commissions Codes of Practice or by the applicant, the council may consider

licence conditions to address such issues, examples of which are provided at paragraph 14.30.

19. Betting premises

19.1 The Act contains a single class of licence for betting premises however within this single class there are different types of premises which require licensing such as high street bookmakers, bookmakers located in self contained facilities at racecourses as well as the general betting premises licences that track operators will require.

Betting machines

19.2 Section 181 of the Act states:

“A condition of a betting premises licence may relate to –

- a) the number of machines used on the premises for the purpose of making or accepting bets;
- b) the nature of those machines;
- c) the circumstances in which those machines are made available for use.”

19.3 When considering whether to impose a condition on a licence the council will consider the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines.

19.4 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commissions Codes of Practice or by the applicant, the council may consider licence conditions to address such issues, examples of which are provided at paragraph 14.30.

20. Tracks

20.1 The Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place. Betting is a major gambling activity on tracks, multiple betting outlets are usually located on tracks such as ‘on-course’ betting operators who come to the track just on race days to provide betting for the races taking place on that track. There can also be ‘off-course’ betting operators who may

operate self contained facilities at the tracks which offer customers the chance to bet on other events, not just those taking place on the track.

- 20.2 All tracks will require a primary betting premises licence that the track operator will hold. It should be noted that track operators do not require an operator's licence from the Gambling Commission although they may apply for one. This is because the various other gambling operators offering betting at the track will each hold an operating licence.
- 20.3 Tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. This allows track venues to develop leisure facilities. The council will consider each individual case on its merits before deciding if this is necessary.
- 20.4 If any off-course operators are permitted to provide betting facilities under the authorisation of the track operator's premises licence, then it will be the responsibility of the premises licence holder to ensure the proper conduct of such betting within the premises boundary.
- 20.5 Children and young person's will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Gaming machines

- 20.6 Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

Betting machines

- 20.7 Section 181 of the Act states:
"A condition of a betting premises licence may relate to –
a) the number of machines used on the premises for the purpose of making or accepting bets;
b) the nature of those machines;

- c) the circumstances in which those machines are made available for use.”

20.8 When considering whether to impose a condition on a licence the council will consider the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines.

20.9 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commissions Codes of Practice or by the applicant, the council may consider licence conditions to address such issues, examples of which are provided at paragraph 14.30.

21. Travelling Fairs

21.1 The Act defines a travelling fair as “wholly or principally” providing amusements and they must be on site that has been used for fairs for no more than 27 days per calendar year.

21.2 Travelling fairs have the right to provide an unlimited number of category D gaming machines and/or equal chance prize machines, without the need for a permit, as long as the gambling amounts to no more than an ancillary amusement at the fair.

21.3 The council will work with neighbouring authorities to ensure that land which crosses the council boundary is monitored so that the statutory limits are not exceeded.

22. Provisional Statements

22.1 Developers may wish to apply to the council for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

22.2 Section 204 of the Act provides for a person to make an application to the council for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

22.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

22.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

22.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The council will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be considered unless:

- they concern matters which could not have been addressed at the provisional statement stage: or
- they reflect a change in the applicant's circumstances.

22.6 In addition, the council may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the council's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and the council notes that it can discuss any concerns it has with the applicant before making a decision.

23. Reviews

- 23.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the council to decide whether the review is to be carried out. This will be based on whether the request for the review is relevant to the matters listed below:
- any relevant Code of Practice issued by the Gambling Commission;
 - any relevant guidance issued by the Gambling Commission;
 - that it is reasonably consistent with the licensing objectives; and
 - is in accordance with this authority's Gambling Act 2005 - Statement of Licensing Policy.
- 23.2 The request for the review will also be subject to consideration by the council as to whether the request is frivolous or vexatious; whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence or whether it is substantially the same as previous representations or requests for review and there has been no change in circumstances.
- 23.3 The council can also initiate a review of a particular premises licence, or a particular class of premises licence based on any reason which it thinks is appropriate.

Part D – Permits / Temporary & Occasional Use Notice

24. Unlicensed Family Entertainment Centre gaming machine permits (UFECs)

- 24.1 UFECs are premises which provide category D gaming machines along with various other amusements such as computer games and penny pushers but is not required to hold a premises licence. It will require a permit to be able to provide category D machines. A permit allows any number of these machines to be available at the premises, subject to other consideration such as health and safety and fire safety regulations. Given that category D machines have no age restrictions, these premises will appeal to children and young persons. Therefore, the council will give particular weight to matters relating to child protection issues.
- 24.2 The Act states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 25.
- 24.3 City of York Council Statement of Principles:
The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises or children causing perceived problems on / around the premises. The council will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in UFECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

25. Gaming Machines Permits in Premises Licensed for the Sale of Alcohol

Automatic Entitlement: two machines

25.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of categories C and/or D. The premises merely need to notify the council. The council can remove the automatic authorisation in respect of any premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of Section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

25.2 It should be noted that the council cannot attach conditions to this type of permit.

Permit: more than two machines

25.3 If a premises wishes to have more than two machines, then it needs to apply for a permit and the council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and “*such matters as they think relevant.*” Any determination will be made by the Head of Service in conjunction with the relevant Director.

25.4 The council considers “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure under 18 year olds do not have access to the adult only gaming machines. Measures which

may satisfy the council include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare. Compliance with the Gambling Commissions Code of Practice for Gaming Machines Permits will be a condition of any permit issued.

- 25.5 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for and dealt with as an Adult Gaming Centre premises licence.
- 25.6 The council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 25.7 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

26. Prize Gaming Permits

- 26.1 The Act (Section 288) defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where a form of bingo is offered, and the prizes are displayed on the walls.
- 26.2 The Act states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 26.3 City of York Council Statement of Principles:

The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. The

efficiency of such policies and procedures will each be considered on their merits. However, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises or children causing perceived problems on / around the premises. This council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes as set out in regulations; that the applicant has no relevant convictions (as set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

26.4 In making its decision on an application for this permit the council does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

26.5 It should be noted that there are conditions in the Act by which the permit holder must comply, but that the council cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

26.6 Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.

27. Club Gaming and Club Machine Permits

27.1 A members' club or miners' welfare institute may apply for a 'Club

Gaming Permit' or a 'Club Gaming Machine Permit'. A commercial club may apply for a Club Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (three machines of categories B3A, B4, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (three machines of categories B3A, B4, C or D). Only one category B3A machine can be sited as part of this entitlement.

- 27.2 To qualify for these special club permits a member's club must have a least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.
- 27.3 The council may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young person's;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 27.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming;
 - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or

(c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

27.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

28. Temporary Use Notices (TUNs)

28.1 TUNs allow the use of premises, on not more than 21 days in any 12 month period, for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

28.2 The council can only grant a TUN to a person or company holding a relevant operating licence, ie a non-remote casino operating licence.

28.3 TUNs allow the use of premises for any form of equal chance gambling where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner, which in practice means poker tournaments.

28.4 There are a number of statutory limits as regards TUNs. The meaning of "premises" in Part 8 of the Act is discussed in the Gambling Commission's Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

28.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

28.6 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

29. Occasional Use Notices (OUNs)

- 29.1 The Act provides that where there is betting on a track on eight days or fewer in a calendar year, betting may be permitted by an OUN without the need for a full premises licence.
- 29.2 The council has very little discretion as regards these notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

Appendix A Gambling Related Harm

The following information is taken from GambleAware who have published interactive maps which are designed for use by local authorities.

The interactive maps can be found at:

www.begambleaware.org/gambleaware-gb-maps

The profile provided for York explores the estimated levels of gambling harm, and the use of treatment, support and advice. These projections are based on the Annual GB Treatment and Support Survey 2022.

- The Problem Gambling Severity Index (PGSI) measure levels of gambling behaviour which may cause harm to an individual ranging from low-risk gambling (score of 1-2), moderate-risk gambling (3-7), and problem gambling (8+).
- Estimated that 1 in 8 people in York have a PGSI score of 1 or more (12.0%), this is compared to 5.9% across GB. 1 in 20 (5.0% have a PGSI score of 3+, compared to 5.9% across GB. 1 in 46 (2.2%) have a score of PGSI 8+, compared to 2.9% across GB*.
- £3.2 million is the estimated fiscal cost of 'problem gambling' in York**.
- 12.7% of those who have a score of PGSI 1+ would like treatment, support or advice to deal with their gambling. This rises to 63.9% among PGSI 8+ in York.
- % of people PGSI 1+ accessing treatment, support or advice:
 - PGSI 1+ - 13.6% York – 14.8% GB
 - PGSI 3+ - 31.1% York – 32.1% GB
 - PGSI 8+ - 67.9% York – 65.5% GB

*The PGSI is a standardised measure of at-risk behaviour in gambling. Estimates of the PGSI and the access to services in your area have been modelled on a nationally representative survey of 18,000 adults in GB. Estimates vary due to the various methodological and technical differences. Figures from our annual Treatment and Support survey are likely to be in the upper bound.

**This is based on the annual fiscal cost of 'problem gambling' (PGSI 8+) estimated by the National Institute of Economic and Social Research (NIESR) in 2023.

The Office for Health Improvement and Disparities commissioned researchers at the Universities of Sheffield and Glasgow to produce estimates of the number of adults who gamble in England who might benefit from treatment or support. The main findings, methodology and prevalence estimates can be found at:

<https://www.gov.uk/government/publications/gambling-treatment-need-and-support-prevalence-estimates>

The findings estimates the:

- number of adults in England who might benefit from gambling treatment or support, and
- number of children in England living in the same household as adults who might benefit from gambling treatment or support,

by area and treatment or support intensity, from combined 2015, 2016 and 2018 data. The data can be found at:

Estimated number of adults who might benefit from some type of gambling treatment or support by treatment or support intensity: York

5 – intensive residential treatment	92
4 – psychologist-led CBT	544
3 – psychosocial interventions delivered in 3 rd sector	631
2 – extended brief interventions	4,537
1 – brief action	533

Estimated rate of adults per 100,000 adult population who might benefit from some type of gambling treatment or support by treatment or support intensity: York v England v Region (Yorkshire & the Humber):

- Compared with regional and national averages York had **lower** estimates for the rate of adults who might benefit from the following types of gambling treatment: Brief advice; Psychosocial interventions delivered in the third sector; Psychologist-led cognitive behavioural therapy (CBT) and Intensive residential treatment.

- Compared with regional and national averages York had a **higher** estimate for the rate of adults who might benefit from Extended brief interventions.
- None of the differences between York and the regional and national averages were statistically significant.

Rate per 100,000 adult population of adults who benefit from some type of gambling treatment or support by treatment or support by intensity: York v England v Region (Yorkshire and the Humber)

	York	England	Region
1 – brief advice	317	366	359
2 – extended brief interventions	2601	2188	2289
3 – psychosocial interventions delivered by a 3 rd sector	362	366	394
4 – psychosocial-led cognitive behavioural therapy (CBT)	312	547	584
5 – intensive residential treatment	53	88	95

Estimated number of children in England living in the same household as adults who might benefit from gambling treatment or support: York

5 – intensive residential treatment	43
4 – psychologist-led CBT	301
3 – psychosocial interventions delivered in 3 rd sector	356
2 – extended brief interventions	2,436
1 – brief action	294

Appendix B Useful Publications and Tools

Gaming machines fall into categories depending on the maximum stake and prize available. Details of the categories and permitted premises where gaming machines can be located can be found at:

<https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/gaming-machine-categories>

The Local Government Association, in conjunction with Public Health England, has published guidance for local authorities with regards to tackling gambling related harm. The guidance can be found at:

www.local.gov.uk/publications/tackling-gambling-related-harm-whole-council-approach

The Association of Directors of Public Health Yorkshire and Humber have published a framework to reduce gambling harms and it is designed as a practical aid for local authorities in addressing the issue. The framework can be found at: www.yhphnetwork.co.uk/

The Association of Directors of Public Health have published a position statement – Protecting the public from being harmed or exploited by gambling and the gambling industry. The statement can be found at: <https://www.adph.org.uk/2022/06/protecting-the-public-from-being-harmed-or-exploited-by-gambling-and-the-gambling-industry/>

The Office for Health Improvement and Disparities and Public Health England have published Gambling-related harms: evidence review, looking at the prevalence, risk factors and public health harms associated with gambling and the economic and social burden. The evidence can be found at: <https://www.gov.uk/government/publications/gambling-treatment-need-and-support-prevalence-estimates>

The Office for Health Improvement and Disparities have published the economic and social cost of harms associated with gambling in England. The evidence can be found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1128002/The-economic-cost-of-gambling-related-harm-in-England_evidence-update-2023.pdf

Appendix C Useful Contacts

Gambling Commission

Website - www.gamblingcommission.gov.uk/
Tel - 0121 2306666
Email - info@gamblingcommission.gov.uk
Address - Gambling Commission
 4th Floor, Victoria Square House
 Birmingham, B2 4BP

National Gambling Helpline - 0808 8020133

GambleAware

Website - www.begambleaware.org/
Email - info@gambleaware.org
Address - GambleAware
 5th Floor, Lincoln House
 296-32 High Holborn
 London, WC1V 7JH

GamCare

Website - www.gamcare.org.uk/
Tel - 020 7801 7000
Email - digital@gamcare.org.uk
Address - GamCare
 1st Floor
 91-94 Saffron Hill
 London, EC1N 8QP

NHS- help for problem gambling

Website - www.nhs.uk/live-well/healthy-body/gambling-addiction/

NHS Northern Gambling Service

Website - <https://gamblingunderstood.co.uk/>

Primary Care Gambling Service

Website - www.primarycaregamblingservices.co.uk
Tel - 0300 0300 111

GamLearn

Website - www.gamlearn.org.uk

Gamblers Anonymous

Website - <https://gamblersanonymous.org.uk>

Advisory Broad for Safer Gambling

Website - www.gamblingcommission.gov.uk/absq

Citizens Advice

Website - www.citizensadvice.org.uk/
Adviceline (England) - 0800 1448848

Support Victims in North Yorkshire

Website - www.supportingvictims.org/support-services/gambling/
Tel - 0808 1689293

Chapter One

Website - www.chapter-one.org

Annex 2

Business Intelligence Hub

Gambling Act 2005 Local Area Profile York

Author: Business Intelligence Hub
Date: 04/09/2024

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1. Introduction

Local authorities are responsible for processing applications related to gambling premises. The Gambling Act 2005 encourages the consideration of licences, should they meet the three main licensing objectives; which are:

- a) prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- b) ensure that gambling is conducted in a fair and open way
- c) protect children and other vulnerable persons from being harmed or exploited by gambling

Local authorities have no legal requirement to create local area profiles; however, they can be seen as a useful tool when it comes to carrying out assessments on a local area. Local area profiles display relevant information regarding certain topic areas/policies, in this case the Gambling Act 2005. In order for the profile to be most effective, the content must be relevant - key characteristics relating to the specific area/policy can increase awareness of issues within the local area that can be connected to that specific policy.

Using a gambling related local area profile helps present useful information to the local authority that highlights potential and current issues within the local area. The highlighted issues should be considered before any gambling related decisions are made, such as authorising premise licences. Adhering to the licensing objectives is something that the local area profile contributes towards. This local area profile will look at York's resident information such as areas of deprivation, crime and disorder and how they can relate to gambling, as well as how these factors can help identify and inform current and potential gambling related risks within the local area.

The general aims of the following Gambling Act 2005 local area profile are:

- a) to identify the areas within the City of York mostly likely to be at risk of gambling related harm, which may help to identify possible persons who could be at risk of gambling related harm*
- b) to provide sufficient and relevant information to inform local authorities where current and potential gambling related issues are present so controls and measures can be put in place to minimise these issues/risks*
- c) to inform the local authority of information relevant to York in order to provide a footing for the decision making process in gambling contexts*

2. York Open Data

York Open Data is a platform created by the City of York Council which holds over 1000 different datasets, all of which are related to the City itself. All of the information is available for the public to access and manipulate. The ranges of datasets on the platform are vast, some of which have helped with the creation of this profile; particularly the York Profile and individual Ward profiles.

3. York Information

York is part of the Yorkshire and Humber region and a City within North Yorkshire. York and its unitary local authority (City of York Council) provide local council services to around 204,551 residents over an area covering and estimated 105 square miles. The City is made up by 21 Wards, all of which have their own Councillor(s).

The student population in York is a huge contributor to York's overall population with 26,694 full time students between the two Universities in York, The University of York and York St. Johns University (2021 Census). York is a popular tourist destination with vast amounts of visitors both from the UK and from overseas. The City is easily accessible, with York seen as a major railway centre frequently providing services to and from all corners of the UK. Visitors from overseas are able to access the city with ease due to the rail service from Manchester Airport and Leeds Bradford Airport just a 30 mile road journey.

3.1 Hostels/Supported Housing & Drug/Alcohol Facilities

Within the 21 York Wards there are 5 hostels, all catering for different groups of people. Fishergate has 2 hostels within its Ward, similarly with Guildhall Ward who also has 2, with Holgate Ward being responsible for 1.

In addition to this, York has a Drug and Alcohol Service which provides help for individuals, families and local communities with issues involving substance misuse. This particular service can be found on Blossom Street, within the Micklegate Ward.

3.2 Education

Understanding and being aware of the whereabouts of educational facilities should be instrumental in regards to making gambling related decisions, particularly in terms of gambling premises, as children are seen as a vulnerable group of people in gambling terms. The table below shows the schools which are in the catchment area of each Ward and alongside is the licensed gambling premises in that Ward (excluding alcohol licensed premises with gaming machine & club gaming and pub gaming licenses).

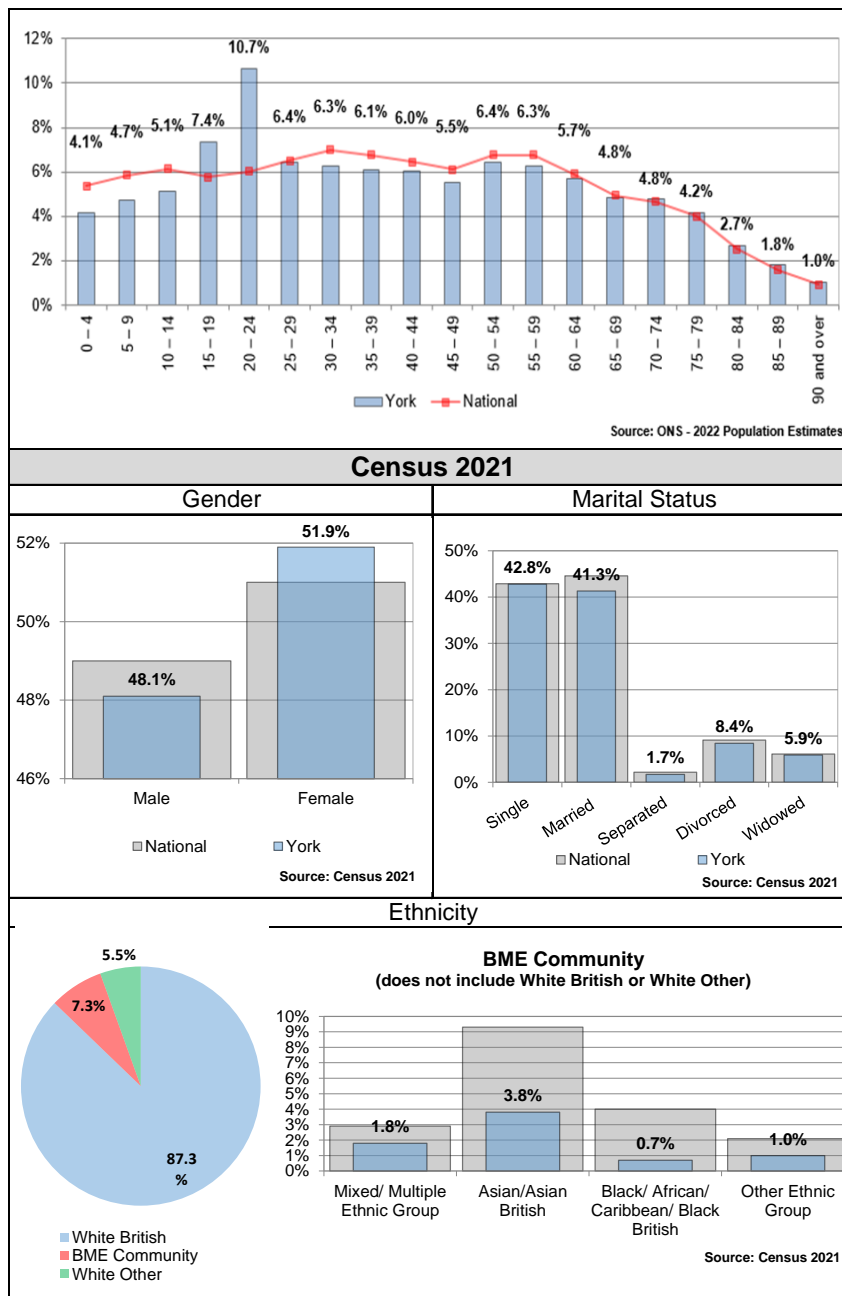
Ward	Schools in Catchment Area		Licensed Premises		
	Primary	Secondary	Betting Shops	Adult Gaming	Bingo
Acomb	3	2	1	0	0
Bishopthorpe	3	2	0	0	0
Clifton	2	1	2	0	1
Copmanthorpe	1	1	0	0	0
Dringhouses & Woodthorpe	4	2	0	0	0
Fishergate	2	2	0	0	0
Fulford & Heslington	3	1	0	0	0
Guildhall	6	4	5	1	0
Haxby & Wigginton	3	1	1	0	0
Heworth	5	2	1	0	0
Heworth Without	1	1	0	0	0
Holgate	7	2	0	0	0
Hull Road	5	2	1	0	0
Huntington & New Earswick	5	2	1	0	0
Micklegate	4	2	1 betting track	0	0
Osbalwick and Derwent	4	3	0	0	0
Rawcliffe and Clifton Without	5	2	0	0	0
Rural West York	7	3	0	0	0
Strensall	3	1	0	0	0
Westfield	4	1	3	0	0
Wheldrake	4	1	0	0	0

4. Demographics

4.1 Demographic profile

The York Open Data platform creates demographic York profiles on a quarterly basis – it has the ability to do this by using both Census information (most recently 2021) and Office for National Statistics (ONS) estimates. The York profile on the platform provides information relating to population, households, economy and health just to name a few. York has 204,551 residents, 51.4% female and 48.6% male – percentages which are consistent with the whole of North Yorkshire. York residents include 7.3% from a black and minority ethnic community group, 83.6% are in good health, with 17.1% stating that they have some limitation in day to day activities.

York Profile Population Breakdown



More information on York Ward Profiles can be found on the York Open Data web page here: <https://data.yorkopendata.org/dataset/york-ward-profiles-2021-22-q1>

5. Crime and Disorder

City of York Council works alongside North Yorkshire Police in an attempt to combat and reduce crime in the local area. In the year ending March 2024 the crime rate in York was greater than the average crime rate of North Yorkshire Police Force on the whole. It is still however lower than the average crime rate for England & Wales.

Below is a breakdown of the reported crime in York – year ending March 2024.

Offence	Numbers of offences – 12 months ending		
	31 Mar 23	31 Mar 24	% change (+/-)
All other theft offences	1130	1084	-4.07%
Bicycle theft	825	903	9.45%
Criminal damage and arson	1502	1492	-0.67%
Domestic burglary	375	407	8.53%
Drug offences	353	403	14.16%
Homicide	2	0	-100.00%
Miscellaneous crime against society	200	212	6.00%
Non-domestic burglary	219	273	24.66%
Possession of weapons offences	104	119	14.42%
Public order offences	1416	1055	-25.49%
Robbery	76	80	5.26%
Sexual offences	614	524	-14.66%
Shoplifting	1510	2222	47.15%
Theft from the person	140	121	-13.57%
Vehicle offences	523	603	15.30%
Violence with injury	1879	1648	-12.29%
Violence without injury	3738	3411	-8.75%
Total	14606	14557	-0.34%

Source: iQuanta

Further information in relation to crime is available online from North Yorkshire Police for [York Outer](#) and [York Inner](#), which provides interactive maps showing crimes and statistics within the City of York Council authority area.

5.1 Crime and gambling

In Great Britain, in 2020 42% of people agreed with the statement that gambling was associated with criminal activity, which is comparable with the figure reported in 2019 (43%), just over a 1% decline on the previous year (Gambling Commission 2020).

In the year ending December 2020 (ONS 2020), in England and Wales the types of crime that people predominantly associate with gambling are theft to continue gambling

(24.5%), fraud (6.0%), drug dealing/trafficking/prostitution (3.4%) and money laundering (1.9%).

In comparison to this, 29% of people in Great Britain agree that gambling is fair and can be trusted, just over a 4% decline on the 2017 figures (Gambling Commission 2020).

The above statements and figures suggest that people's perceptions of gambling are deteriorating, with an increase of people with negative perceptions and a decline of positive perceptions – indicating that gambling related crime is arguably a growing problem in Britain. The rates of crime have very marginally decreased in York from the previous 12 months due to the coronavirus pandemic. Despite this, York's crime contribution to North Yorkshire's overall crime number has decreased from 32.6% year ending March 2020 to 29.6% year ending March 2021.

6. Gambling

6.1 Gambling premises

Similar to the majority of towns and cities in the UK, there are numerous premises where gambling is present in York, such as high street bookmakers (betting shops), bingo premises, arcade premises and pubs/clubs who hold permits for gaming or machines. In addition to this, York is home to York Racecourse which is the 3rd biggest horse racing track in Britain in terms of prize money and hosts up to 350,000 visitors per year. A breakdown of the gambling premises currently known to York can be found below – including all different types of premises that are present.

City of York Council Gambling Premises & Count	
Premise Type	Count from 31/3/2024
Bingo venues	1
Betting shops	15
Adult gaming centres	1
Family entertainment centres	
Licensed	N/A
Permitted	N/A
Betting track	1
Casinos	0
Total	18

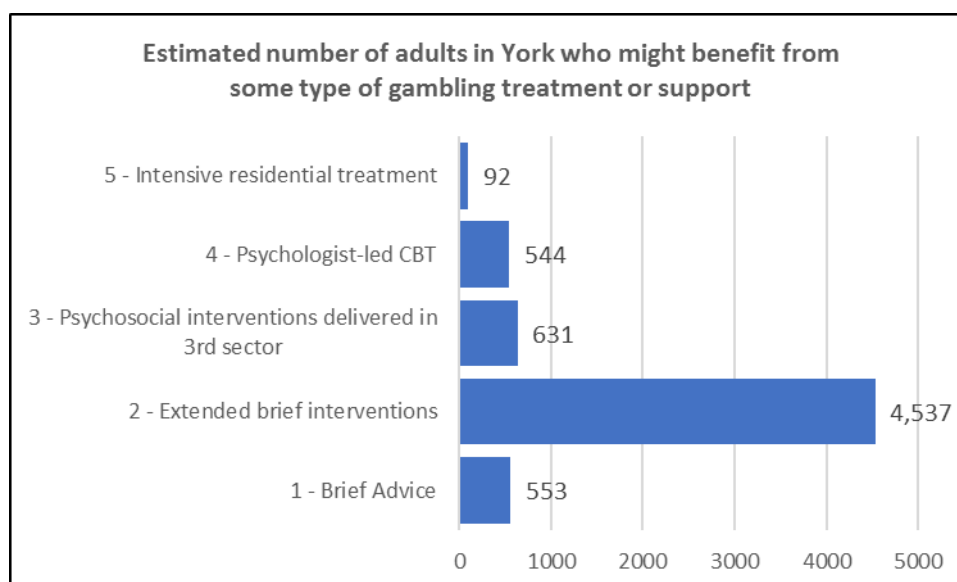
Source: Gambling Commission

As the table above shows, there has been around a 10% reduction in betting shops in York since the last report in 2021, though there still remains plenty of opportunities to gamble within York. With there being many opportunities available, there are risks that become apparent. There are many risks associated with gambling, whether it be personal risk such as debt or crime or risk on a larger scale, to the extent where families and relationships are affected, jobs are lost and potentially homes, all as a result of uncontrolled gambling.

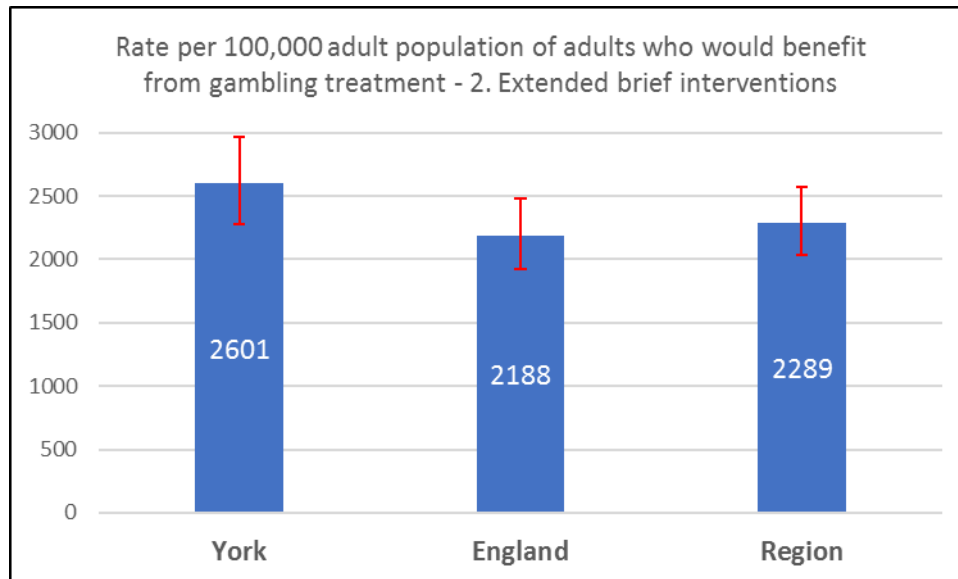
In relation to this local area profile and the Gambling Act 2005, identifying areas/persons at risk of being harmed or exploited by gambling is a priority. Problem gamblers are not the only ones who can experience gambling related harm – this could relate to family members, friends, employers, the community as well as the individual.

Identifying a problem gambler is difficult as there are no specific criteria to identify a person. The gambling commission does not define a vulnerable person in the context of a problem gambler.

In York the estimates of the numbers of adults who might benefit from each the following types of gambling treatment are: Brief advice (553 people, 95% Confidence Interval range is 394 to 763 people); Extended brief interventions (4,537, 95% CI range: 3,964 to 5,175); Psychosocial interventions delivered in the third sector (631, 95% CI range: 449 to 894) ; Psychologist-led cognitive behavioural therapy (CBT) (544, 95% CI range 400 to 743) and Intensive residential treatment (92, 95% CI range 45 to 192)



The table above shows the highest proportion to be those that would benefit from Extended brief interventions. The table below compares the York figure for this type in comparison to the region and England. Out of the 5 treatment types this is the only one where York is above the region and England, all other treatment areas are below them.



6.2 Gambling statistics

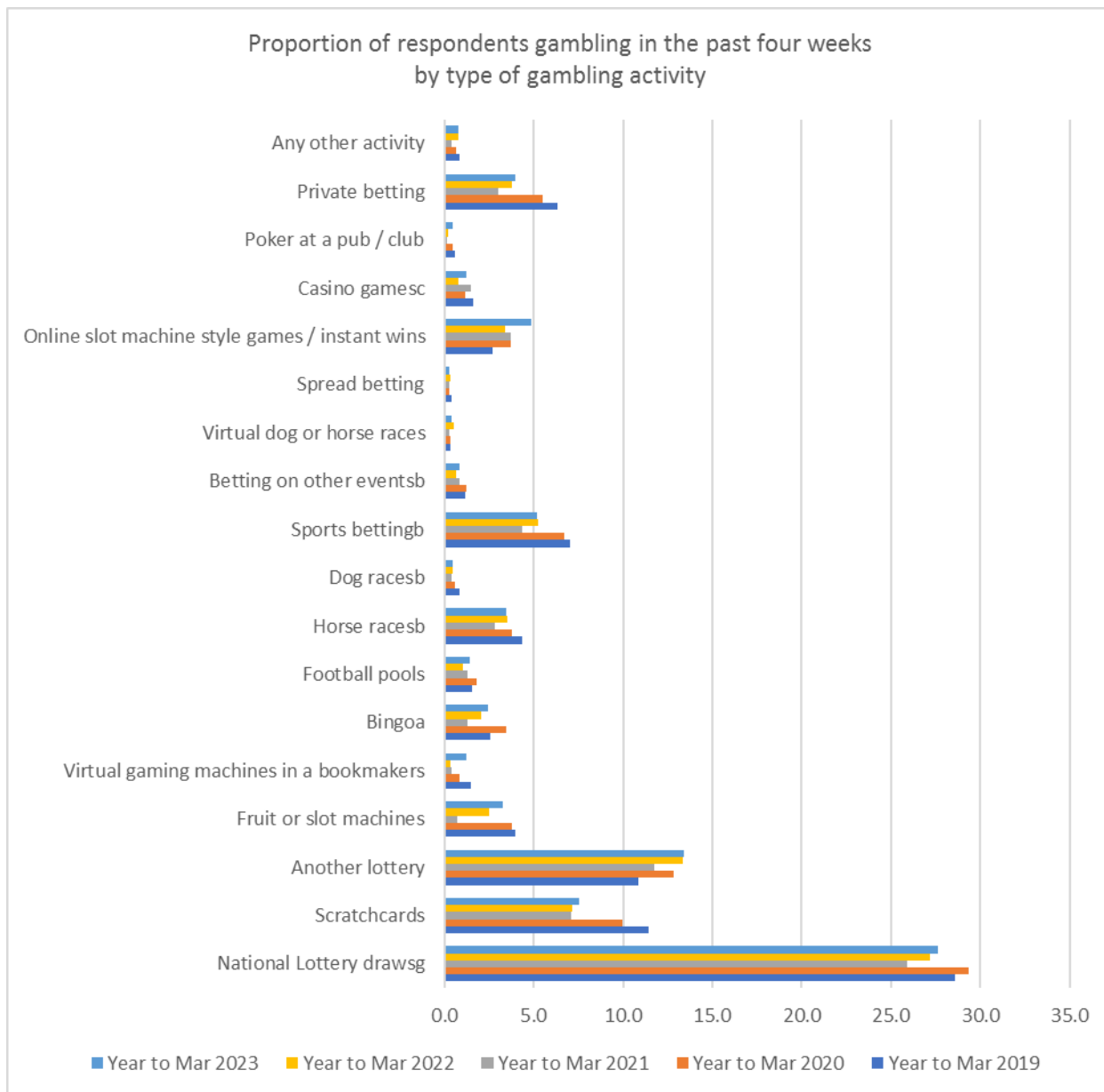
From the latest Statistics produced by the Gambling Commission on gambling participation (year to March 2023), there were several key findings:

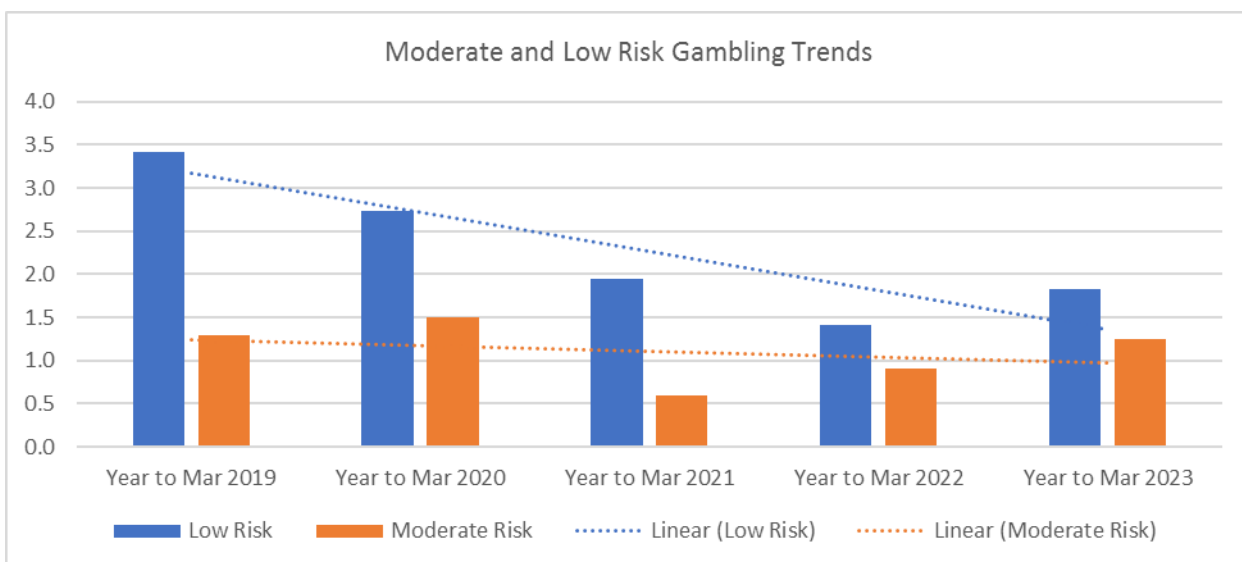
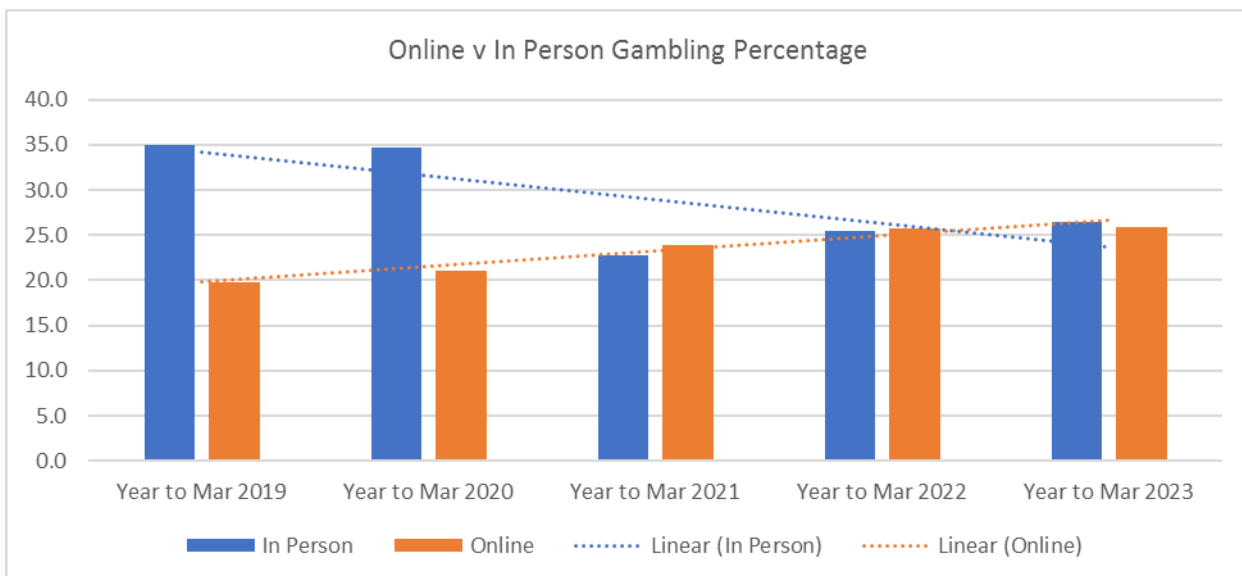
- Overall participation in any gambling activity (in the last four weeks) was 43.5% the same as the 2022 figure for the same period. There was a drop in 2021 to 40.0% with the previous 2 years figures being around 46%.
- Online gambling participation rate is 26% (a 6% increase compared to 2019), this trend probably started due to Covid restrictions and has continued.
- In person participation is 26.5% (1% increase on 2022). The figures are starting to increase slightly, but still remain lower than the 2019 figure of 35%.
- Much of the online increase can be explained by increasing proportions of respondents playing National Lottery draws online.
- The overall problem gambling rate is steady 0.3%.
- The moderate risk rate has increased to 1.2% (an increase of 0.3% on 2022). There was a significant drop in 2021 to 0.6% from 1.5% in 2020.

The most recent Gambling participation behaviour, awareness and attitudes report was published in 2020. Key statistics and findings below:

- The National Lottery draws remain the most popular gambling activity, followed by other lotteries and scratchcards.
- 0.8% of all respondents identified as moderate risk problem gamblers, and 2.7% identified as at-risk gamblers.
- The use of mobile phones for online gamblers has remained steady at 50%.
- On average, online gamblers held 3 accounts each (same as 2018).
- 5% of gamblers have ever self-excluded (1% decrease from 2018).
- 52% of online gamblers (with a social media account) were prompted to spend money on a gambling activity due to adverts they had seen on a social media platform, 3% of gamblers follow gambling companies on social media.

- 29% of people think gambling is fair and can be trusted (steady since 2018).
- 43% of people think that gambling is associated with crime.
- There has been an increase in participation in online slot machine-style games and instant wins (3.1%; a 1.9 percentage point increase from 2018).





7. Index of Multiple Deprivation

7.1 Index of Multiple Deprivation

City of York has low levels of deprivation in comparison to other districts in the Index of Multiple Deprivation (IMD). The IMD provides a measure for deprivation in small areas (Lower Super Output Areas (LSOAs)). To measure an areas' deprivation level, seven factors with their individual weights (%) are considered in order to create the IMD:

- Income Deprivation (22.5%)
- Employment Deprivation (22.5%)
- Education, Skills and Training Deprivation (13.5%)
- Health Deprivation and Disability (13.5%)
- Crime (9.3%)
- Barriers to Housing and Services (9.3%)
- Living Environment Deprivation (9.3%)

Information relating to each individual factor is gathered and ranked before they are all combined to create an overall IMD score. Once each individual area has been scored, they are ranked – York is ranked 267 out of 317 lower tier local authority districts on average IMD score (1 is most deprived) so York is the 51st least deprived district in England. York has risen 17 places in the rankings since 2015 when it was the 68th least deprived district.

York is the least deprived upper tier local authority out of 15 in the Yorkshire and Humber region based on 2019 average IMD score. This is the same regional ranking as in 2015.

In 2019 York is the second least deprived lower tier local authority out of 21 in the Yorkshire and Humber region based on 2019 average IMD score. This is the same regional ranking as in 2015. (Harrogate is the least deprived district in the Yorkshire and Humber Region).

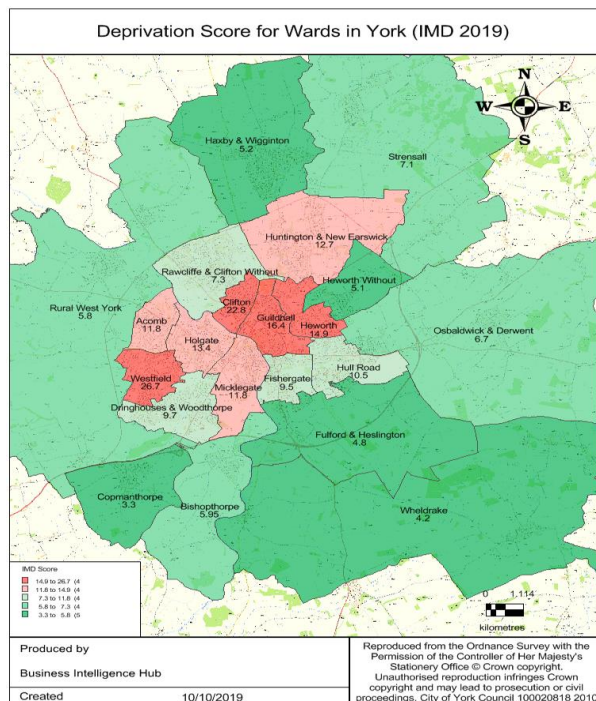
In 2019 York has 1 LSOA falling in the most deprived 10% (decile) nationally and 41 LSOAs falling in the least deprived decile nationally. About a third of LSOAs in York fall in the least deprived decile nationally. York has 6 LSOAs falling in the most deprived 20% (quintile) nationally and 62 LSOAs in the least deprived quintile nationally. About half of LSOAs in York fall in the least deprived quintile nationally.

7.2 York areas of deprivation

The map and table below show all of the York Wards and their most recent IMD score, as well as previous year's scores.

Indices of Multiple Deprivation 2015: York Wards

Ward	2015 IMD score	2019 IMD score
Acomb	12.19	11.76
Bishopthorpe	5.4	5.87
Clifton	24.7	22.79
Copmanthorpe	2.43	3.29
Dringhouses & Woodthorpe	9.64	9.65
Fishergate	9.14	9.5
Fulford and Heslington	5.29	4.77
Guildhall	18.74	16.38
Haxby and Wigginton	4.76	5.25
Heworth	15.81	14.92
Heworth Without	5.53	5.09
Holgate	14.08	13.36
Hull Road	13.02	10.51
Huntington and New Earswick	12.39	12.67
Micklegate	15.64	11.8
Osbalwick and Derwent	6.87	6.67
Rawcliffe and Clifton Without	7.48	7.3
Rural West York	6.67	5.83
Strensall	7.85	7.14
Westfield	25.8	26.66
Wheldrake	4.6	4.16

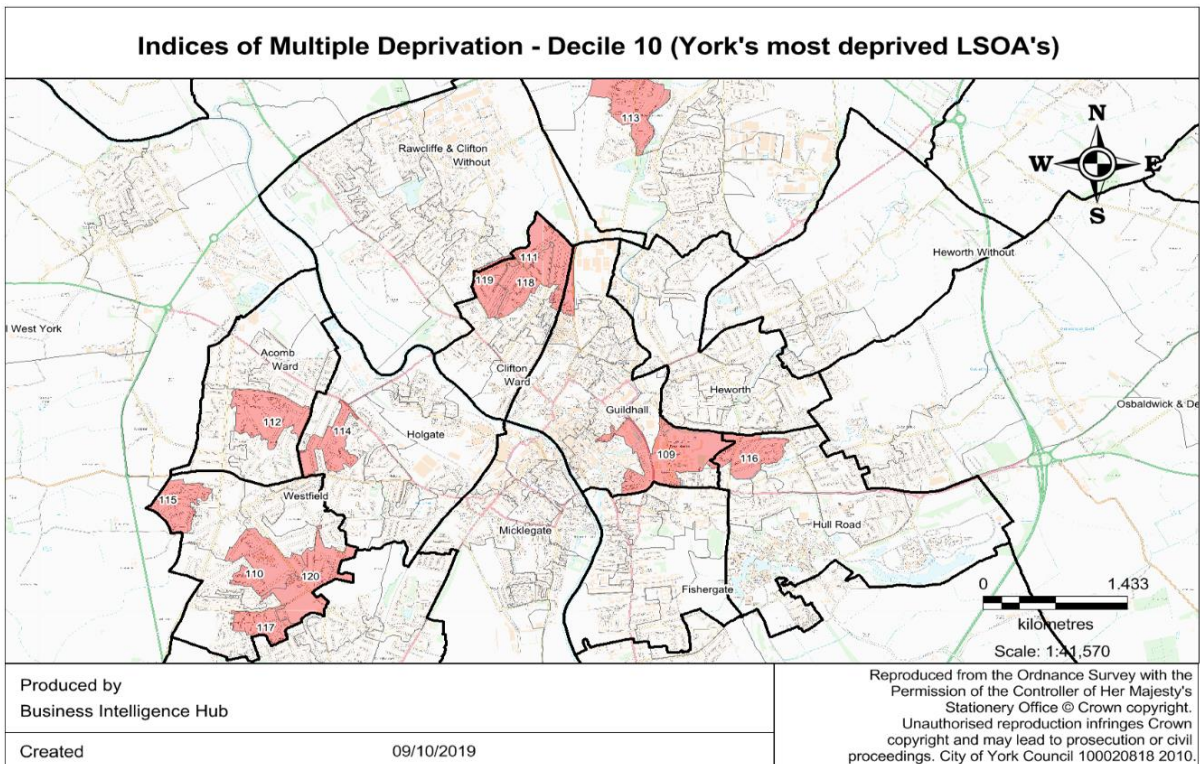
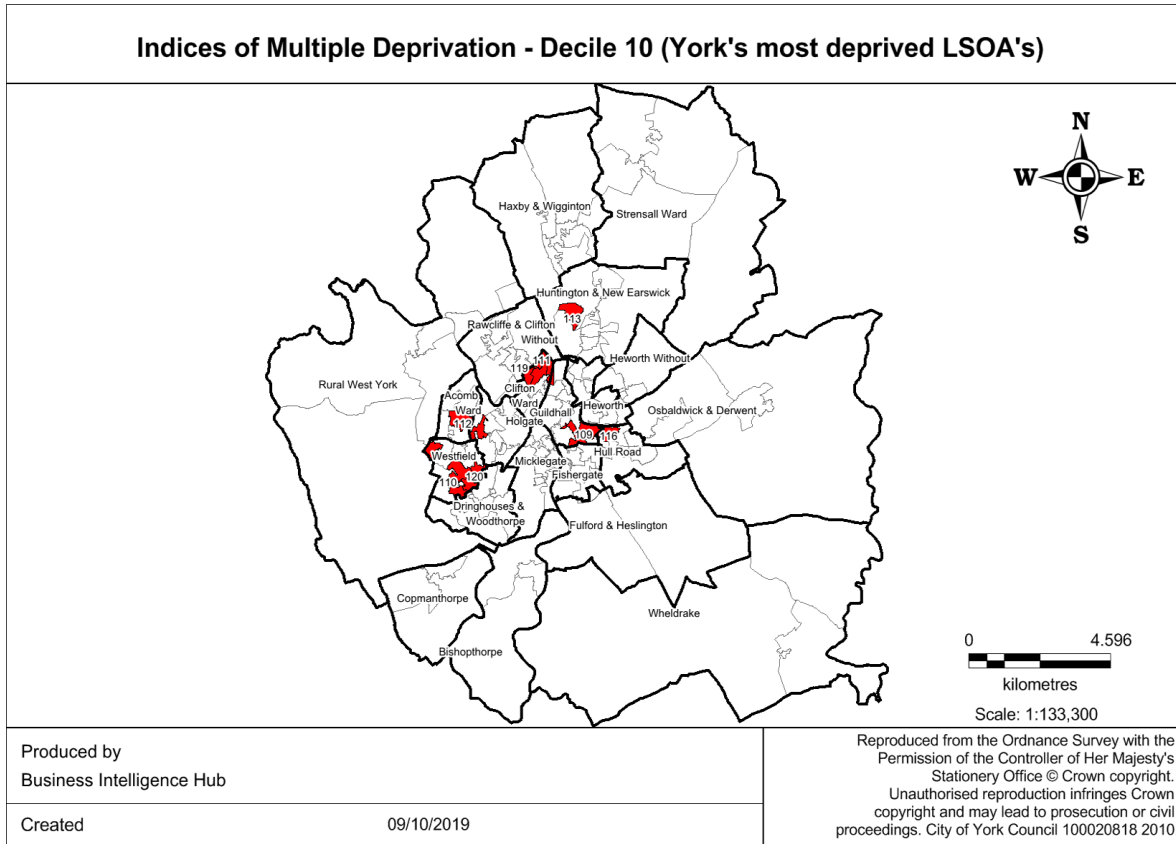


From the above information, it shows Westfield, Clifton and Guildhall to be the most deprived Wards in York. Westfield contains 1 LSOA that features in the most deprived 10% nationally. York has a further 5 LSOAs which are present in the most deprived 20% nationally – 2 LSOAs in Clifton, 2 LSOAs in Westfield and 1 LSOA in Hull Road.

As of the 2019 IMD, these are the 10 LSOAs in York with the greatest deprivation levels:

LSOA

1. York 018B Westfield (E01013443)
2. York 009D Clifton (E01013349)
3. York 009C Clifton (E01013347)
4. York 018F Westfield (E01013448)
5. York 015C Hull Road (E01013399)
6. York 018C Westfield (E01013444)
7. York 016B Holgate (E01013394)
8. York 004D Huntington & New Earswick (E01013410)
9. York 012A Acomb (E01013335)
10. York 009E Clifton (E01013350)

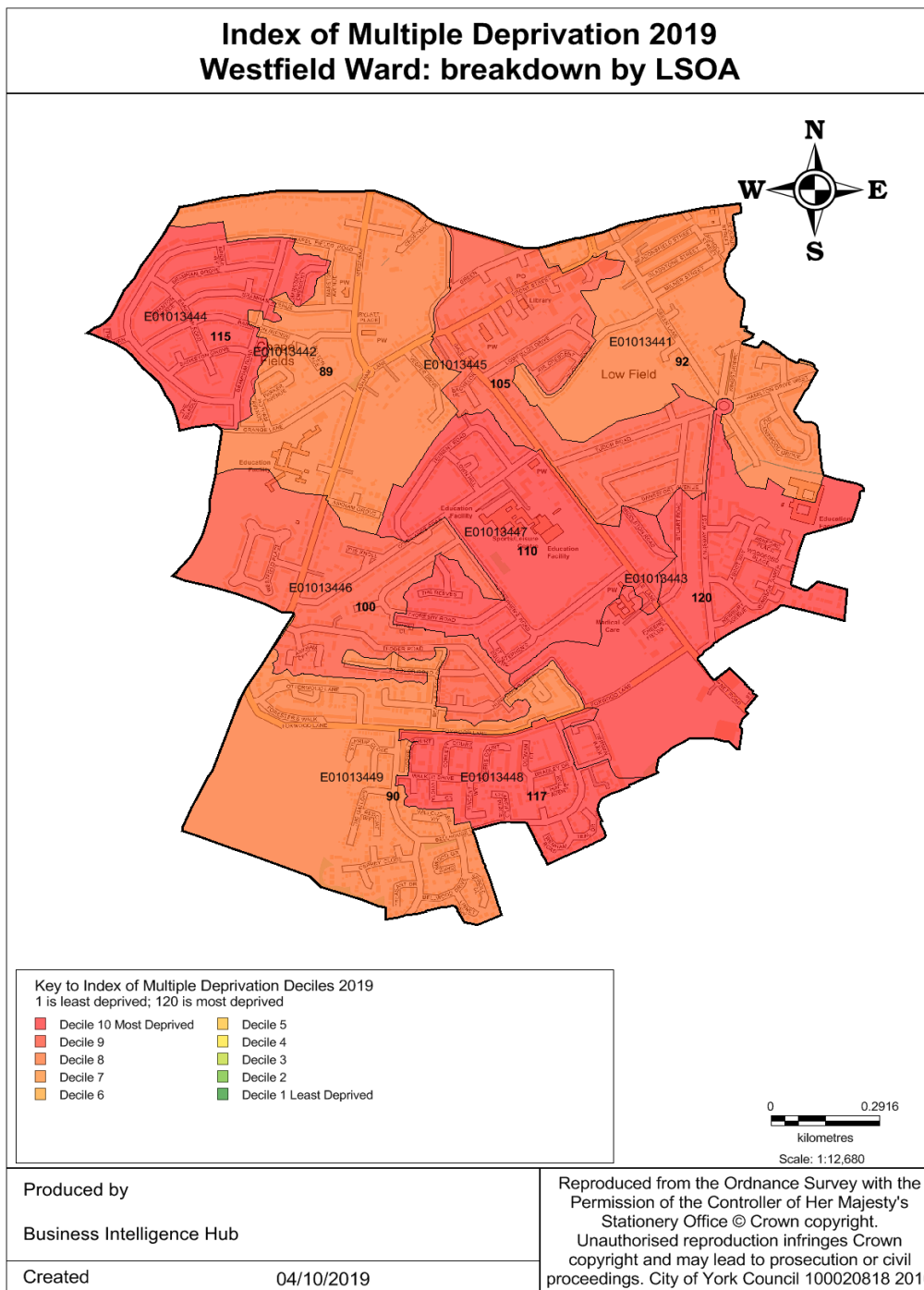


Westfield has 14,086 residents with 3.5% from a black and minority ethnic community group. 80.1% are in good health, with 19.2% stating that they have some limitation in day to day activities.

Westfield Ward holds 3 LSOAs out of the 10 most deprived LSOAs in York:

1. York 018B Westfield (E01013443)
2. York 018F Westfield (E01013448)
3. York 018C Westfield (E01013444)

This includes 1 LSOA ranked in the most deprived 10% nationally - York 018B Westfield (E01013443) & 2 LSOAs ranked in the most deprived 20% nationally - York 018F Westfield (E01013448) & York 018C Westfield (E01013444).

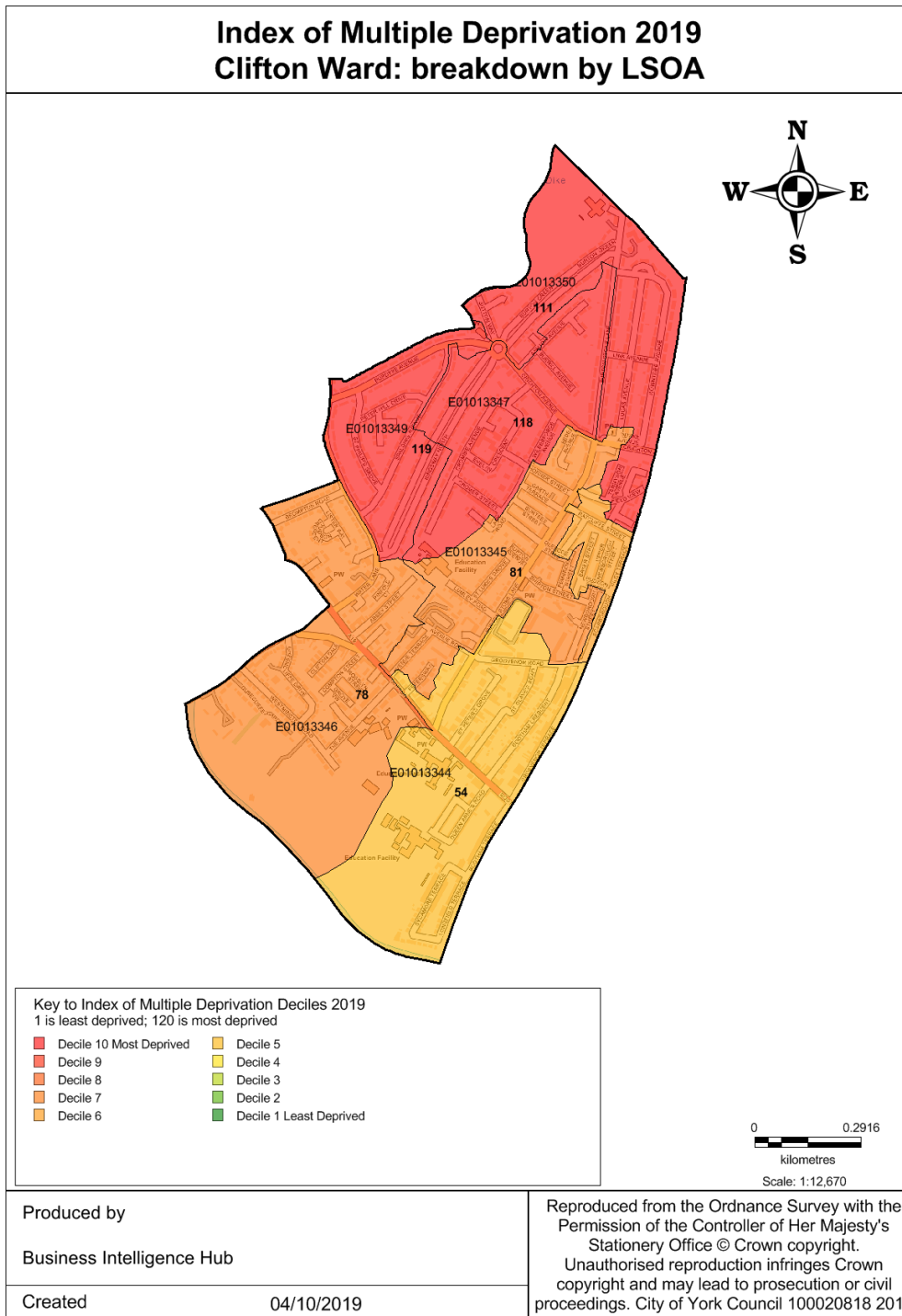


Clifton has 9,456 residents with 9.1% from a black and minority ethnic community group. 82.7% are in good health, with 18.5% stating that they have some limitation in day to day activities.

Clifton Ward holds 3 LSOAs out of the 10 most deprived LSOAs in York:

1. York 009D Clifton (E01013349)
2. York 009C Clifton (E01013347)
3. York 009E Clifton (E01013350)

Two these LSOAs are ranked in the most deprived 20% nationally - York 009D Clifton (E01013349) & York 009C Clifton (E01013347).

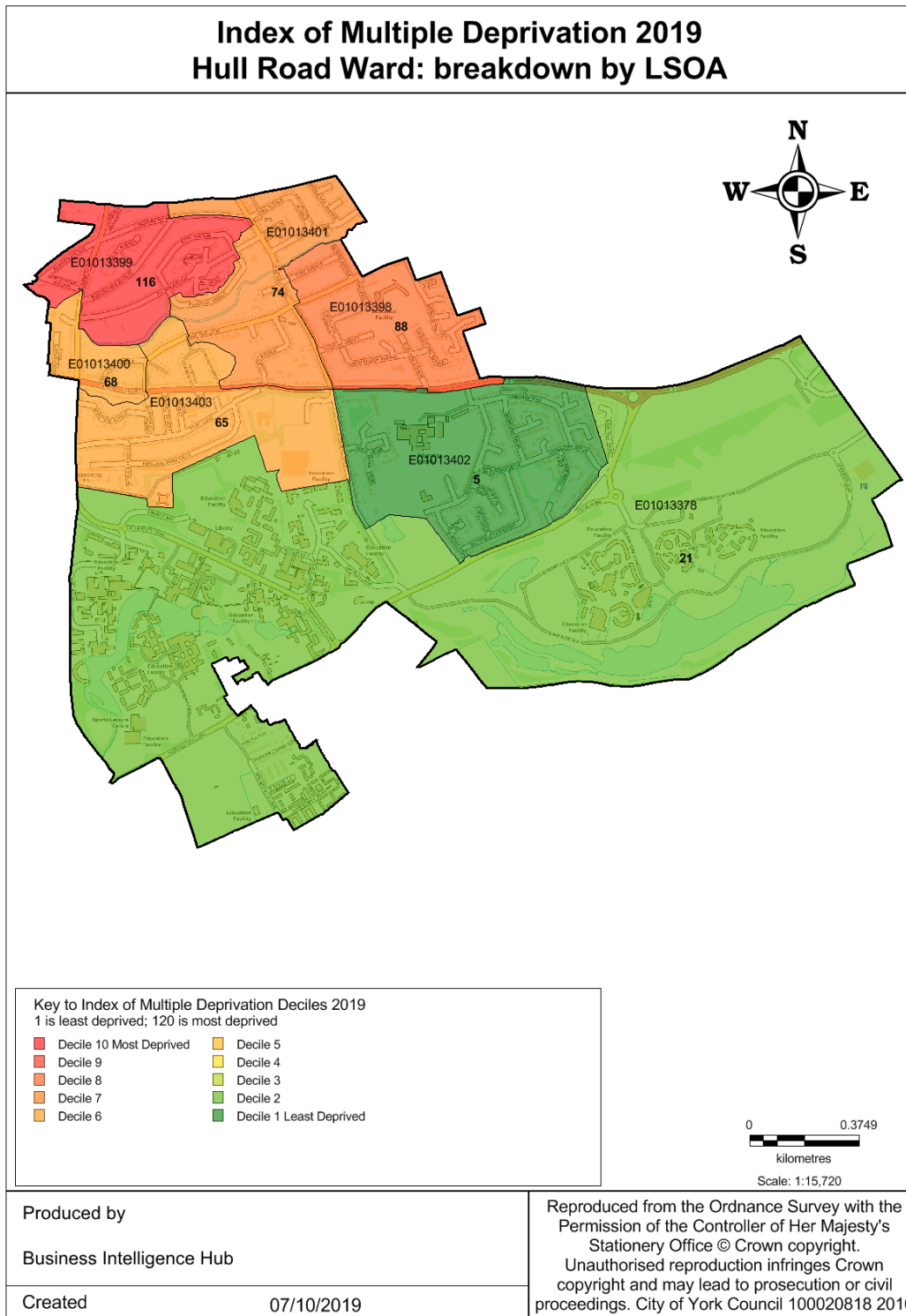


Hull Road has 15,358 residents with 15.8% from a black and minority ethnic community group. 86.8% are in good health, with 17.3% stating that they have some limitation in day to day activities.

Hull Road Ward holds 1 LSOA out of the 10 most deprived LSOAs in York:

1. York 015C Hull Road (E01013399)

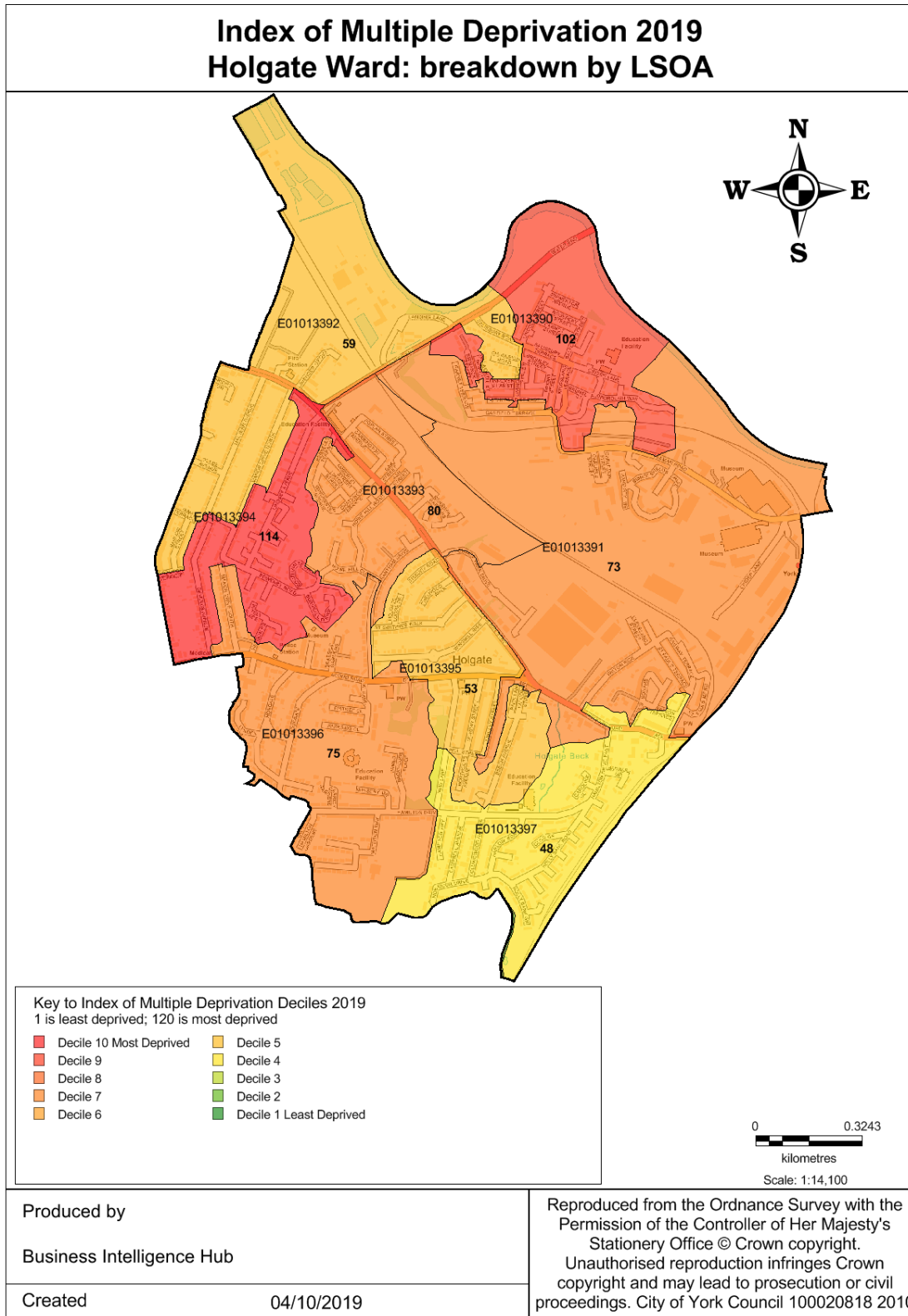
This LSOA is ranked in the most deprived 20% nationally – York 015C Hull Road (E01013399).



Holgate has 11,954 residents with 5.3% from a black and minority ethnic community group. 83.7% are in good health, with 16.4% stating that they have some limitation in day to day activities.

Holgate Ward holds 1 LSOA out of the 10 most deprived LSOAs in York:

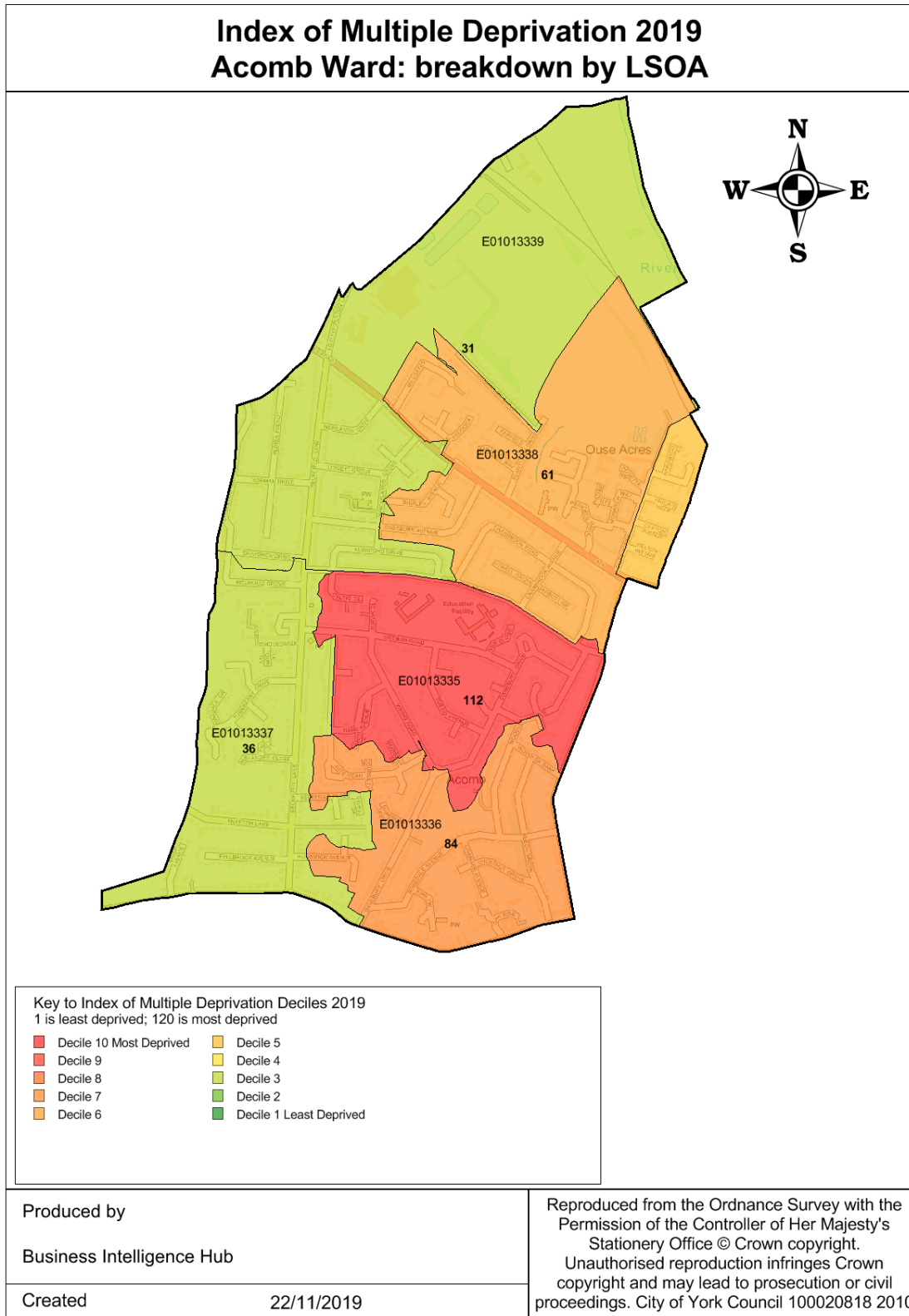
1. York 016B Holgate (E01013394)



Acomb has 9,248 residents with 3.6% from a black and minority ethnic community group. 82.8% are in good health, with 16.5% stating that they have some limitation in day to day activities.

Acomb Ward holds 1 LSOA out of the 10 most deprived LSOAs in York:

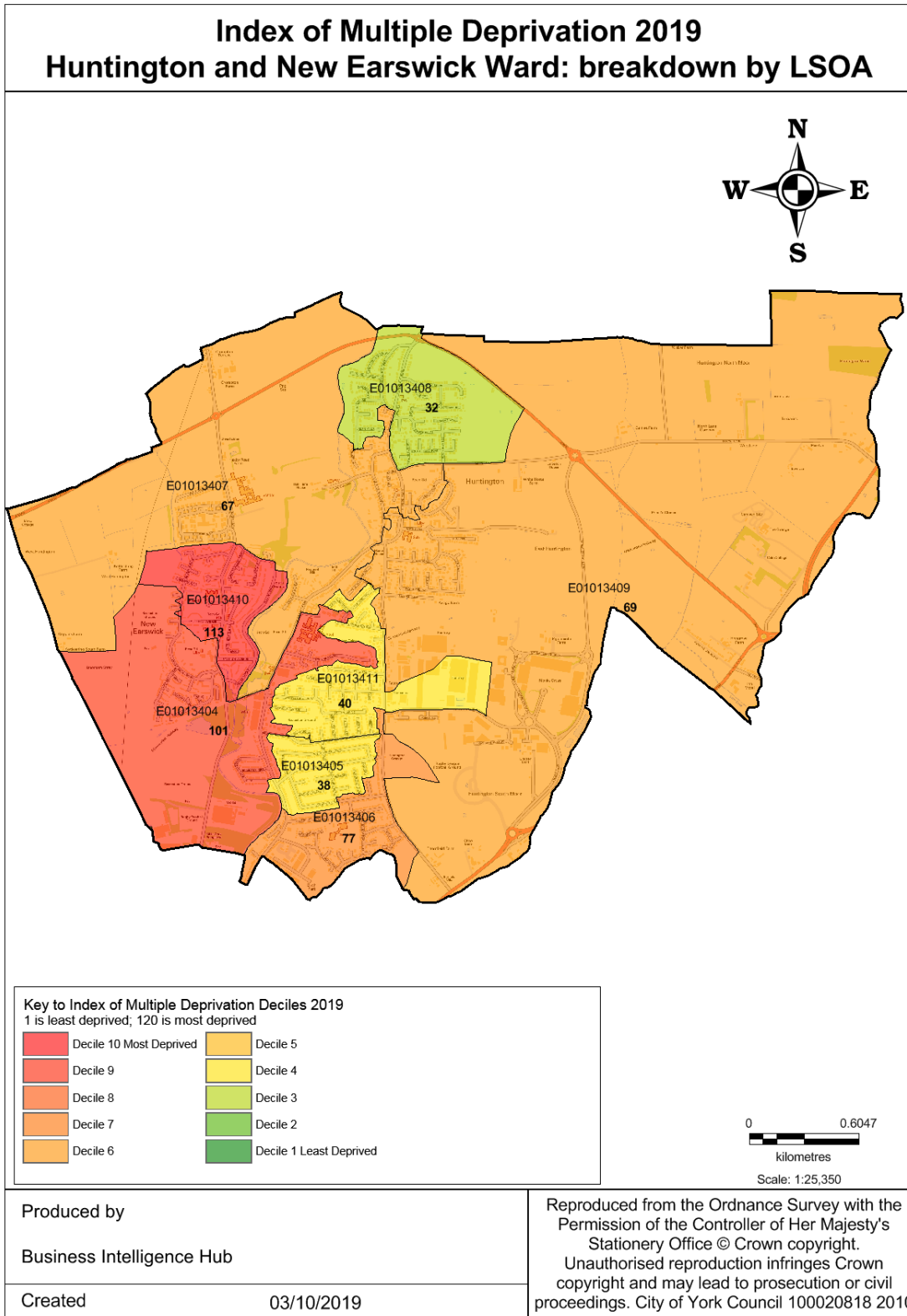
1. York 012A Acomb (E01013335)



Huntington and New Earswick has 12,354 residents with 3.8% from a black and minority ethnic community group. 79.4% are in good health, with 19.3% stating that they have some limitation in day to day activities.

Huntington & New Earswick holds 1 LSOA out of the 10 most deprived LSOAs in York:

1. York 004D Huntington & New Earswick (E01013410)



8. Sources of Data

1. York Open Data – York Profile <https://data.yorkopendata.org/dataset/york-profile>
2. York Open Data – Ward Profiles
https://data.yorkopendata.org/dataset?sort=metadata_modified+desc&tags=ward+profiles
3. Statistics on gambling participation and problem gambling – Annual Report June 2021 (Gambling Commission)
4. Gambling participation: activities and mode of access - May 2023
5. Gambling participation in 2019: behaviour awareness and attitudes – Annual Report Feb. 2020 (Gambling Commission)
6. Office for National Statistics (ONS) <https://www.ons.gov.uk/>
7. Civica – City of York Council

Consultees

BACTA

Gamcare

Gamblers Anonymous UK

GambleAware

Health Watch North Yorkshire

Association of British Bookmakers

British Bingo Association

National Casino Forum

Racecourse Association

Horserace Betting Levy Board

HM Revenue & Customs

British Beer & Pub Association

York City Branch CIU

Yorkshire & Humber TUC

York CVS

York & North Yorkshire Chamber of Commerce

York Citizens Advice Bureau

Older Citizens' Advocacy York

York Age Concern

York Older Peoples Assembly

Coppergate Centre

Clifton Moor Business Association

Vangarde Shopping Park

York Designer Outlet

Federation of Small Businesses

York Professionals

Make it York

York High Street Forum

BID

Ward Councillors

Parish Councils

York & North Yorkshire Combined Authority

Police Fire and Crime Commissioner

Local MPs

Premise Licence Holders

North Yorkshire Police

Gambling Commission

North Yorkshire Fire & Rescues Service

Community engagement gatekeepers

CYC Chief Operating Officer

CYC Director of Environment, Transport and Planning

CYC Director of Governance

CYC Director of Public Health

CYC Public Health Specialist Practitioner

CYC Director of Communities and Housing

CYC Assistant Director Customer and Communities

CYC Head of Public Protection

CYC Public Protection Manager (Environmental Protection)

CYC Public Protection Manager (Environmental Health & Trading Standards)

CYC Corporate Director Children's and Education

CYC Director Children's Services Safeguarding

CYC Corporate Director Adults and Integration

CYC Director of Adults Safeguarding

CYC Head of Planning and Development Services

CYC Property Manager Commercial

CYC Head of City Development

CYC Head of Economic Growth

CYC Head of Regeneration

CYC Head of Community Safety

CYC Community Safety Manager

CYC Head of Highways and Transport

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GamCare's response to City of York Council – Consultation on the revision of statement of principles under the Gambling Act 2005

About GamCare:

GamCare is an independent charity and the leading provider of information, advice, and support for anyone affected by gambling harms. We operate the National Gambling Helpline, provide structured support for anyone harmed by gambling, and create awareness about safer gambling and treatments. For 26 years, our confidential, non-judgemental services, have supported more than half a million people to get their lives back on track.

We hold data locally and nationally through our National Gambling Helpline. We also work closely with those who have lived experience in shaping and delivering our services and programmes, ensuring that all our work is coproduced with our lived experience community at its heart.

GamCare's comments on the revision of the statement of principles:

- We welcome the position City of York Council is taking to go beyond the mandatory and default conditions of the Gambling Act 2005 in its statement of principles.
- Local authorities can play a greater role in reducing gambling harm, particularly for those of our clients who experience harm in land-based gambling venues, due to council's licensing responsibilities.
- It is vital that City of York Council develops a local picture of the level of gambling harms, in order to best target resources and tailor service provision. This could be achieved by gathering data from the National Gambling Helpline, as well as those already providing services in the area.
- Building on the proactive approach the council is already taking, we would like to see City of York Council commit in its statement of principles to a **public health approach** to gambling.
- This commitment should include training frontline and primary care staff to recognise the signs of gambling harm and develop referral pathways to the National Gambling Helpline or local treatment providers. GamCare has worked with Haringey Council to implement a similar system, that has received widespread support.
- In the absence of Cumulative Impact Assessments as a method by which the "aim to permit" approach can be challenged, City of York Council should continue to pursue a [Local Area Profile](#) approach that specifically analyses gambling risk, and use this data as a basis from which to scrutinise and possibly oppose a licensing application.
- The changes to City of York Council's statement of principles should be viewed in the context of the Gambling Act Review and subsequent process of white paper consultations, so take account of the rapidly changing regulatory environment.

If you have any questions or would like to discuss in more detail, please contact

Senior External Affairs Officer:

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**City of York Council
Equalities Impact Assessment**

Who is submitting the proposal?

Directorate:		Place	
Service Area:		Public Protection (Licensing)	
Name of the proposal :		Statement of Licensing Policy (Gambling Act 2005)	
Lead officer:		Lesley Cooke	
Date assessment completed:		16 October 2024	
Names of those who contributed to the assessment :			
Name	Job title	Organisation	Area of expertise

Step 1 – Aims and intended outcomes

1.1	What is the purpose of the proposal? Please explain your proposal in Plain English avoiding acronyms and jargon.
	<p>Under Gambling Act 2005 local authorities are responsible for issuing premises licences, permits and notices in respect of gambling premises. There are currently 20 premises licences in force, for the following:</p> <ul style="list-style-type: none">• 1 adult gaming centre• 1 bingo premises• 1 betting premises (track)• 17 betting premises (other) – bookmakers 18. <p>The number of licensed premises has reduced by a third in the last three years. Nine bookmakers and one bingo hall have surrendered their premises licences.</p> <p>There are currently 187 premises that hold authorisations that allow the provision of gaming machines on the premises.</p> <p>The council are required to adopt and review a Statement of Licensing Policy (a policy) at least every three years, but it can be reviewed at any time. It was last reviewed and implemented in January 2022. Councillors also approved a 'local area profile' to help licensees risk assess the issues in the area to mitigate the potential harms gambling may cause.</p>

1.2	Are there any external considerations? (Legislation/government directive/codes of practice etc.)
	<p>Gambling Act 2005 (the Act) Gambling Commission Codes of Practice Gambling Commission Guidance for Local Authorities (April 2021)</p> <p>In exercising most of their functions under the Act, the licensing authority must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:</p> <ul style="list-style-type: none"> • Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime; • Ensuring that gambling is conducted in a fair and open way; • Protecting children and other vulnerable persons from being harmed or exploited by gambling. <p>The Gambling Commissions codes of practice give practical guidance in implementing the act, some of the aspects of the code i.e. the social responsibility aspects are mandatory in that a licence will not be granted unless they are in place. The Guidance for local authorities includes ‘national conditions’ tailored to particular types of gambling premises.</p>

1.3	Who are the stakeholders and what are their interests?
1.4	What results/outcomes do we want to achieve and for whom? This section should explain what outcomes you want to achieve for service users, staff and/or the wider community. Demonstrate how the proposal links to the Council Plan (2023-2027) and other corporate strategies and plans. Generally speaking, the stakeholders are license holders, responsible authorities, other parties including residents and visitors to the city, they share a common interest in that York is safe, vibrant and inclusive city.
	Under Section 157(h) of the Gambling Act 2005, the Local Authority is required to designate a body which is competent to advise about the protection of children from harm, in accordance with the Guidance issued to local authorities, the authority designates CYC's Children's Social Care. The Policy may be referred to by officers and members of committees when determining licensing
	applications and is available for all parties when applying for licences and submitting representations in order to ensure the objectives of the Act (outlined above) are achieved. The implementation of a Statement Policy will support the Council's plan of a prosperous city for all, where local businesses can thrive and a council that listens to residents.

Step 2 – Gathering the information and feedback

2.1	What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights? Please consider a range of sources, including: consultation exercises, surveys, feedback from staff, stakeholders, participants, research reports, the views of equality groups, as well your own experience of working in this area etc.
Source of data/supporting evidence	Reason for using
York Open Data	To help prepare the 'Local Area Profile' York Open Data is a platform created by the City of York Council which holds over 1000 different

	<p>datasets, all of which are related to the City itself. All of the information is available for the public to access and manipulate. The ranges of datasets on the platform are vast, some of which have helped with the creation of this profile; particularly the York Profile and individual Ward profiles</p>
<p>Gambling Commission Annual Report (June 2022-2023)</p> <p>Gambling Commission Statistics and Research</p>	<p>Statistics on gambling and problem gambling</p> <p>Official statistics in relation to gambling including ‘understanding why people gamble’.</p>
<p>GambleAware Annual GB Treatment and Support Survey 2023</p> <p>Gambling Harms amongst People living with Disabilities, Neurodiversity, and/or Mental Health Challenges: Scoping Study</p> <p>LGBTQ+ People and Gambling Harms: Scoping Review</p>	<p>Statistics on those receiving treatment and support for gambling including by age and gender.</p> <p>Existing Knowledge: Inequalities Gambling Harms, Mental Health Challenges and Disability.</p> <p>Latest available evidence to explore gambling harms within the LGBTQ+ population.</p>
<p>Royal College of Psychiatrists ‘Gambling Disorder’ (this is due to be reviewed in December 2024)</p>	<p>Information for anyone who is worried about their gambling or knows someone whose gambling has become a problem.</p>
<p>A 10-week consultation was undertaken as part of the review of the Statement of Licensing Policy.</p>	<p>The following were invited to participate in the consultation:</p> <ul style="list-style-type: none"> • BACTA • Gamcare • Gamblers Anonymous UK • GambleAware • Health Watch North Yorkshire • Association of British Bookmakers • British Bingo

	<p>Association • National Casino Forum • Racecourse Association • Horserace Betting Levy Board • HM Revenue & Customs • British Beer & Pub Association • York City Branch CIU • Yorkshire & Humber TUC • York CVS • York & North Yorkshire Chamber of Commerce • York Citizens Advice Bureau • Older Citizens' Advocacy York • York Age Concern • York Older Peoples Assembly • Clifton Moor Business Association • Vangarde Shopping Park • York Designer Outlet • Coppergate Centre • Federation of Small Businesses • York Professionals • Make it York • York High Street Forum • BID • Gambling Commission • North Yorkshire Police • North Yorkshire Fire & Rescue Service • City of York Council Public Protection • City of York Council Public Health • City of York Council Children Services • City of York Council Adult Services • City of York Council Development Control • Ward Councillors • Parish Councils • York & North Yorkshire Combined Authority • Police, Fire & Crime Commissioner • Yorks MPs • Premises Licence Holders</p> <p>One response was received from GamCare, and the links they provided were incorporated into the revised policy.</p>
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Step 3 – Gaps in data and knowledge

3.1	What are the main gaps in information and understanding of the impact of your proposal? Please indicate how any gaps will be dealt with.		
Gaps in data or knowledge		Action to deal with this	
Some groups choose not to engage with the consultation.		We try to engage with as many parties as possible through the consultation process. We detailed at point 2.1 how we work closely with other CYC section and agencies to get a broad scope of matters.	

Step 4 – Analysing the impacts or effects.

4.1	Please consider what the evidence tells you about the likely impact (positive or negative) on people sharing a protected characteristic, i.e. how significant could the impacts be if we did not make any adjustments? Remember the duty is also positive – so please identify where the proposal offers opportunities to promote equality and/or foster good relations.		
Equality Groups and Human Rights.	Key Findings/Impacts	Positive (+) Negative (-) Neutral (0)	High (H) Medium (M) Low (L)
Age	The GambleAware survey identified that the participation in gambling remained much higher among the middle age groups (35-64) – 68%. Followed by those aged 65+ – 61%. However, those aged under 35 remain least likely to participate in gambling.	Positive	Medium

	The Statement of Gambling Policy together with the local area profile (which includes the age profile of the people of York) are designed to help gambling premises mitigate the risks from gambling and to aid the local authority in making licensing decisions – it will have a positive impact.		
Disability	<p>The GambleAware, through the Scoping Study, wishes to commission research to build knowledge and lived experience of gambling harm amongst disabled people, neurodiversity, and/or mental health challenges. There is evidence that the burdens of gambling harms are higher amongst these communities, and that these communities may be more likely to gamble.</p> <p>The Statement of Gambling Policy together with the local area profile are designed to help gambling premises mitigate the risks from gambling and to aid the local authority in making licensing decisions – the outcome of the Scoping Study will aid Licensing Authorities when developing Gambling Policy and local area profiles it will have a neutral impact.</p> <p>Oregon Health Authority has published a report relating to ‘Problem Gambling and Disabilities’ which advises that neurocognitive disorders such as Parkinson’s and Huntington’s Disease, and Traumatic Brain Injury may have risk groups associated with problem gambling.</p>	Neutral	Low
Gender	The GambleAware Survey identified that there are roughly equal numbers of men and women who are non-gamblers or	Positive	Medium

	<p>non-problem gamblers. But in every category of gamblers from ‘low risk gamblers’ to ‘problem gamblers’, there approximately twice as many men as women. 17% of gamblers with a risk score are men, 10% are women.</p> <p>The Statement of Gambling Policy together with the local area profile (which includes the gender profile of the people of York) are designed to help gambling premises mitigate the risks from gambling and to aid the local authority in making licensing decisions - it will have a positive impact.</p>		
Gender Reassignment	<p>The GambleAware scoping review results yielded mixed evidence regarding the prevalence of gambling and gambling harms amongst sexual minority population, as few studies examined the impact of gambling harms across LGBTQ+ communities.</p> <p>The Statement of Gambling Policy together with the local area profile are designed to help gambling premises mitigate the risks from gambling and to aid the local authority in making licensing decisions – due to the limited and mixed evidence from the scoping review relating to the prevalence of gambling and gambling harms amongst sexual minority populations it will have a neutral impact.</p>	Neutral	Low
Marriage and civil partnership	There are no known findings/impacts specific to this group	0	Low
Pregnancy and maternity	There are no known findings/impacts specific to this group	0	Low
Race	The GambleAware Survey identified that adults from Black and Racially Minoritised Communities (BAME) backgrounds	Positive	Low

	<p>were less likely to participate in gambling overall than their white counterparts, but among those who did, they recorded higher scores on the PGSI (problem gambling severity index score) scale.</p> <p>The Statement of Gambling Policy together with the local area profile (which gives the race profile of the people of York) are designed to help gambling premises mitigate the risks from gambling and to aid the local authority in making licensing decisions - it will have a positive impact.</p>		
Religion and belief	There are no known findings/impacts specific to this group	Positive	Low
Sexual orientation	<p>The GambleAware scoping review results yielded mixed evidence regarding the prevalence of gambling and gambling harms amongst sexual minority population, as few studies examined the impact of gambling harms across LGBTQ+ communities.</p> <p>The Statement of Gambling Policy together with the local area profile are designed to help gambling premises mitigate the risks from gambling and to aid the local authority in making licensing decisions – due to the limited and mixed evidence from the scoping review relating to the prevalence of gambling and gambling harms amongst sexual minority populations it will have a neutral impact.</p>	Neutral	Low
Other Socio-economic groups including :	Could other socio-economic groups be affected e.g. carers, ex-offenders, low incomes?		

Carer	There are no known findings/impacts specific to this group	0	Low
Low income groups	<p>The Local area profile gives details of index of deprivation by ward and details of the most deprived areas of York. Westfield, Clifton, Hull Road, Holgate and Huntington and New Earswick, are the most deprived areas of York.</p> <p>The Statement of Gambling Policy together with the local area profile are designed to help gambling premises mitigate the risks from gambling and to aid the local authority in making licensing decisions - it will have a positive impact.</p>	Positive	Medium
Veterans, Armed Forces Community	There are no known findings/impacts specific to this group	0	Low
Other	<p>The Royal College of Psychiatrists report that roughly 1 in every 100 people have a gambling disorder i.e. 'feel they have lost control', 'continues to gamble despite negative consequences' and 'sees gambling as more important to them than any other interest or activity.'</p> <p>The local area profile gives further detail on the links (or perceptions) of gambling and crime and further detail on gambling behaviour.</p> <p>The Statement of Gambling Policy together with the local area profile are designed to help gambling premises mitigate the risks from gambling and to aid the local authority in making licensing decisions - it will have a positive impact.</p>	Positive	Medium

Impact on human rights:			
List any human rights impacted.	None		

Use the following guidance to inform your responses:

Indicate:

- Where you think that the proposal could have a **POSITIVE** impact on any of the equality groups like promoting equality and equal opportunities or improving relations within equality groups
- Where you think that the proposal could have a **NEGATIVE** impact on any of the equality groups, i.e. it could disadvantage them
- Where you think that this proposal has a **NEUTRAL** effect on any of the equality groups listed below i.e. it has no effect currently on equality groups.

It is important to remember that a proposal may be highly relevant to one aspect of equality and not relevant to another.

<p>High impact (The proposal or process is very equality relevant)</p>	<p>There is significant potential for or evidence of adverse impact The proposal is institution wide or public facing The proposal has consequences for or affects significant numbers of people The proposal has the potential to make a significant contribution to promoting equality and the exercise of human rights.</p>
<p>Medium impact (The proposal or process is somewhat equality relevant)</p>	<p>There is some evidence to suggest potential for or evidence of adverse impact The proposal is institution wide or across services, but mainly internal The proposal has consequences for or affects some people The proposal has the potential to make a contribution to promoting equality and the exercise of human rights</p>
<p>Low impact (The proposal or process might be equality relevant)</p>	<p>There is little evidence to suggest that the proposal could result in adverse impact The proposal operates in a limited way The proposal has consequences for or affects few people The proposal may have the potential to contribute to promoting equality and the exercise of human rights</p>

Step 5 - Mitigating adverse impacts and maximising positive impacts

5.1	Based on your findings, explain ways you plan to mitigate any unlawful prohibited conduct or unwanted adverse impact. Where positive impacts have been identified, what is been done to optimise opportunities to advance equality or foster good relations?
As noted above, introducing a local area profile (which is not legally required, but recognised under the Gambling Commission Code of Practice to have a 'significant impact') is designed to help gambling premises mitigate the risks from gambling and to aid the local authority in making licensing decisions.	

Step 6 – Recommendations and conclusions of the assessment

6.1	Having considered the potential or actual impacts you should be in a position to make an informed judgement on what should be done. In all cases, document your reasoning that justifies your decision. There are four main options you can take:
- No major change to the proposal – the EIA demonstrates the proposal is robust. There is no potential for unlawful discrimination or adverse impact and you have taken all opportunities to advance equality and foster good relations, subject to continuing monitor and review.	

- **Adjust the proposal** – the EIA identifies potential problems or missed opportunities. This involves taking steps to remove any barriers, to better advance quality or to foster good relations.
- **Continue with the proposal** (despite the potential for adverse impact) – you should clearly set out the justifications for doing this and how you believe the decision is compatible with our obligations under the duty
- **Stop and remove the proposal** – if there are adverse effects that are not justified and cannot be mitigated, you should consider stopping the proposal altogether. If a proposal leads to unlawful discrimination it should be removed or changed.

Important: If there are any adverse impacts you cannot mitigate, please provide a compelling reason in the justification column.

Option selected	Conclusions/justification
No major change to the proposal	As noted throughout, the Statement of Gambling Policy together with the local area profile are designed to help gambling premises mitigate the risks from gambling and to aid the local authority in making licensing decisions - it will have a positive impact.

Step 7 – Summary of agreed actions resulting from the assessment

7.1 What action, by whom, will be undertaken as a result of the impact assessment.			
Impact/issue	Action to be taken	Person responsible	Timescale
<i>N/a</i>			

Step 8 - Monitor, review and improve

8. 1	<p>How will the impact of your proposal be monitored and improved upon going forward? Consider how will you identify the impact of activities on protected characteristics and other marginalised groups going forward? How will any learning and enhancements be capitalised on and embedded?</p>
	<p>It is a legal requirement that the Policy is reviewed at least once every three years. The current GambleAware survey is under way and, although the results will be provided too late for this particular review, that data will be considered in all future reviews.</p>

Work Plan

Licensing and Regulatory Committee

Date	Report
4 February 2025	Street Trading Consent policy - provisional
March (date to be confirmed)	Licensing Act policy

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