



**Notice of a public meeting of
Gambling, Licensing & Regulatory Committee**

- To:** Councillors Lisle (Chair), Funnell (Vice-Chair), Boyce, Cullwick, Douglas, Hayes, Hunter, Mason, Mercer, Pavlovic, Reid, Richardson, D Taylor, Wells and Derbyshire
- Date:** Monday, 11 February 2019
- Time:** 4.00 pm
- Venue:** The Thornton Room - Ground Floor, West Offices (G039)

AGENDA

1. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. Minutes

(Pages 1 - 4)

To approve and sign the minutes of the meeting held on 6 November 2018.

3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5.00pm on Friday 8 February 2019**.

Filming or Recording Meetings

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered

public speakers who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting e.g. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

4. Statement of Licensing Policy & Cumulative Impact Assessment (Pages 5 - 90)

In accordance with the requirements of Section 5 of the Licensing Act 2003 (the 2003 Act) this report seeks members support of the formal review of the council's Statement of Licensing Policy. It advises of the consultation undertaken and of the amendments made as a result of changes to legislation and revised guidance.

In accordance with the requirements of Section 5A of the 2003 Act this report also seeks members support for the implementation of a Cumulative Impact Assessment in relation to part of the city centre. It advises of the consultation undertaken.

The report seeks a recommendation to Full Council that the revised Policy and Cumulative Impact Assessment be adopted.

5. Renewal of Sex Establishment Licence for Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ (Pages 91 - 138)

This report seeks Members determination of an application to renew a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ.

6. Update Report - Private Hire Licensing (Pages 139 - 148)

This update report is for Members to note, at the request of the Chair. It explains the Council's present position regarding the interpretation of the law relating to private hire licensing and the ability to work outside the area within which they are licensed.

7. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Angela Bielby

Contact Details:

- Telephone – (01904) 552599
- E-mail – a.bielby@york.gov.uk

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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City of York Council

Committee Minutes

Meeting	Gambling, Licensing & Regulatory Committee
Date	6 November 2018
Present	Councillors Lisle (Chair), Cullwick, Hunter, Mercer, Pavlovic, Reid, Richardson, D Taylor and Wells
Apologies	Councillors Funnell, Boyce, Douglas, Hayes, Mason and Derbyshire

Part A - Matters Dealt with Under Delegated Powers**18. Declarations of Interest**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. None were declared.

19. Minutes

Resolved: That the minutes of the meetings held on 17 September 2018 and 8 October 2018 be approved as a correct record and signed by the Chair.

20. Public Participation

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme on a matter within the general remit of the committee.

21. Gambling Act 2005 - Statement of Licensing Policy

[See also under Part B]

Members considered a report that advised them of the review of the Council's Statement of Licensing Policy, the consultation undertaken and changes made as a result of the consultation and revised guidance. The report sought a recommendation to Full Council that the Policy be approved. The report also sought permission to publish a Local Area Profile.

The Licensing Manager outlined the report to Members. She advised that Section 349 of the Gambling Act 2005 (the Act) required licensing authorities to determine and publish a Statement of Licensing Policy (Policy), at least every three years. The Council's current Policy (Annex 1) was approved by Full Council on 17 December 2015 and was published on 8 January 2016. Members were advised that a revised Policy (Annex 2) needed to be approved by Full council and be published by 8 January 2019.

The Licensing Manager explained the background to the Local Area Profile (Annex 3). In the Gambling Commissions Guidance to Licensing Authorities, published in September 2015, it was recommended that licensing authorities completed 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 (profile). The Licensing Manager thanked James Green, Apprentice in the Business Intelligence Hub for producing the profile.

The Licensing Manager explained the Policy consultation that had been undertaken, noting the consultation responses. She then outlined the options available to the Committee.

In response to Members' questions, the Licensing Manager confirmed that:

- The profile could be used to make representation against an organisation.
- Proactive checks were undertaken on premises to check that there were adhering to their premises licences. This included a test purchasing exercise on gambling premises.
- In respect of whether gaming machines could be prohibited in the Cumulative Impact Zone (CIZ), the Gambling Act does not have the provision to introduce a CIZ. However, the profile could be used to support this.

The Licensing Manager undertook to check the statistics in relation to schools in the profile (page 5 of Annex 3) and circulate a colour copy of the annex to the Committee.

Resolved: That authorisation be given to officers to publish the Local Area Profile.

Reason: To meet the legislative requirements of the Gambling Act 2005.

Part B - Matters Referred to Council

22. Gambling Act 2005 - Statement of Licensing Policy

[See also under Part A]

Members considered a report that advised them of the review of the Council's Statement of Licensing Policy, the consultation undertaken and changes made as a result of the consultation and revised guidance. The report sought a recommendation to Full Council that the Policy be approved. The report also sought permission to publish a Local Area Profile.

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the provision to introduce a CIZ. However, the profile could be used to support this.

The Licensing Manager undertook to check the statistics in relation to schools in the profile (page 5 of Annex 3) and circulate a colour copy of the annex to the Committee.

Recommended: That the Statement of Licensing Policy be adopted.

Reason: To meet the legislative requirements of the Gambling Act 2005.

Cllr S Lisle, Chair

[The meeting started at 5.15 pm and finished at 5.35 pm].



Gambling, Licensing & Regulatory Committee 11 February 2019

Report from the Assistant Director – Planning and Public Protection

Statement of Licensing Policy & Cumulative Impact Assessment**Summary**

1. In accordance with the requirements of Section 5 of the Licensing Act 2003 (the 2003 Act) this report seeks members support of the formal review of the council's Statement of Licensing Policy. It advises of the consultation undertaken and of the amendments made as a result of changes to legislation and revised guidance.
2. In accordance with the requirements of Section 5A of the 2003 Act this report also seeks members support for the implementation of a Cumulative Impact Assessment in relation to part of the city centre. It advises of the consultation undertaken.
3. The report seeks a recommendation to full council that the revised Policy and Cumulative Impact Assessment be adopted.

Recommendations

4. The Committee is asked to:
 - Approve option 1 and recommend to full council that the draft Statement of Licensing Policy and Cumulative Impact Assessment are adopted.

Reason: To reflect the result of the consultation and meet legislative requirements.

BackgroundStatement of Licensing Policy

5. Section 5 of the 2003 Act requires licensing authorities to determine and publish a Statement of Licensing Policy (Policy), at least every

five years. The City of York Council current Policy was published on 27 March 2014.

6. The Act requires that, before determining its Policy, the licensing authority must consult:
 - a) the chief officer of police
 - b) the fire authority
 - c) persons representative of premises licence and club premises certificate holders
 - d) person representative of personal licence holders
 - e) persons representative of businesses and residents

7. Due to changes to the 2003 Act, especially in relation to cumulative impact assessments officers determined to do a major review of the Policy, in relation to matters covered and layout, prior to consultation. This review included:
 - Including the section 'Introduction' which incorporates the Councils licensing vision;
 - Updating the section 'Purpose and Scope' to include details of the consultation on the Policy;
 - Updating the section 'Profile of York' to include a plan and relevant figures;
 - Updating the section 'Links to other Policies, etc' with regards to the Council's Plan;
 - Updating the section 'Local Factors' to include relevant figures;
 - Including the section 'General Approach to Licensing' which incorporates matters such as:
 - Application procedure
 - Determination of applications
 - Updating the section 'Licensing Objectives' to cover the areas of most concern to responsible authorities;
 - Including the section 'Guidelines for Applicants' which incorporates matters such as:
 - Planning

- Licensing hours
 - Designated premises supervisor
 - Updating the section 'Cumulative Impact' due to changes in legislation as detailed in paragraph 10 below;
 - Updating the section 'Personal Licences' due to changed in legislation following the implementation of the Immigration Act 2016.
 - Updating the section 'Enforcement, Reviews and Suspension' to include suspension for non-payment of fees.
 - Updating the section 'Other Relevant Legislation, etc' to include relevant legislation and links to guidance.
8. The draft revised Policy is attached at Annex 1.

Cumulative Impact Assessment

9. In accordance with previous provisions within the Section 182 Guidance to Licensing Authorities, the Council has included a Special Policy relating to cumulative impact (known as the cumulative impact zone CIZ) within its Statement of Licensing Policy since 2005, following the receipt of evidence provided by North Yorkshire Police (NYP) and the Council's Public Protection Service (noise), in relation to an area identified within York city centre. This Special Policy has been reviewed on three occasions in accordance with the requirements of the 2003 Act.
10. In April 2018 the Police and Crime Act 2017 introduced a new provision within the 2003 Act, Section 5A. This provision provides that a licensing authority may, in appropriate circumstances, publish a document, cumulative impact assessment (CIA), stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the Assessment, is such that it is likely that it would be inconsistent with the authority's duty under the 2003 Act to grant any further relevant authorisations in respect of premises in that part or those parts.
11. The CIA must set out the evidence for the authority's opinion, must be consulted upon before it is published and it must be reviewed at least every three years.

12. As required by Section 5A of the 2003 Act the Council has reviewed the area identified within the Special Policy (CIZ). NYP have provided statistical data for the area, which includes crime associated with the consumption of alcohol and Public Protection has provided data relating to noise associated with the operation of licensed premises. From this data the Council, in consultation with NYP, has developed its first draft Assessment in relation to an area that has been identified in York city centre.
13. This cumulative impact area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
 - prevention of crime and disorder
 - prevention of public nuisance
14. The CIA relates to applications for the grant and/or variation of premises licences, club premises certificates or the issue of provisional statements.
15. By publishing a CIA the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the CIA when determining or revising the Statement of Licensing Policy. The CIA does not change the fundamental way that a licensing decision is made, as each application will be considered on its own merits. Where no relevant representations are received an application will be granted in terms consistent with the operating schedule.
16. Within the CIA a red zone has been identified due to the high concentration of licensed premises, the impact of which have lead to a high level of occurrences in relation to crime and disorder related issues. Where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone, the application should be refused.
17. Cumulative impact and the CIA are covered in Section 9 of the draft Policy. The draft CIA is attached at Annex 2.
18. The full report received from NPY is attached at Annex 3.

Consultation

19. A 12 week consultation was carried out on the Policy and the CIA between 5 October & 28 December 2018. The process for the consultation involved direct mailing and use of the council's website.
20. The council consulted over 50 organisations/individuals as part of the consultation process (see Annex 4 for list of consultees) and all licensed premises within the authority area.
21. Four responses were received to the consultation. The responses are attached at Annex 5.
22. Consultation responses have been taken into consideration, and where required, the draft Policy has been amended accordingly.

Options

23. Option 1 – Recommend to Full Council that the draft Policy and Cumulative Impact Assessment are adopted.
24. Option 2 – Recommend to Full Council that the draft Policy and Cumulative Impact Assessment is amended with alternative wording agreed by members.

Analysis

25. The council's first Policy was published in January 2005. The Policy has been fully reviewed and published on a further three occasions, January 2008, January 2011 and January 2014.
26. At the request of NYP, the council's Policy has included a special policy on saturation and cumulative impact (CIZ) since April 2005. The boundary for the first CIZ was based on patterns of crime and disorder prior to that date. The first zone included the main drinking areas on the west of the river Blossom Street, Micklegate, George Hudson Street, Rougier Street and Bridge Street, only including Low Ousegate, Spurriergate and Clifford Street on the east of the river.
27. The CIZ has been reviewed on three occasions at the request of NYP, in July 2010 and March 2014 to increase the CIZ area due to the changes in patterns of crime and disorder, to include areas such as Coney Street, Swinegate, Fossgate and Parliament Street. In July 2016 the Special Policy was reviewed to include applications for material variations.

28. As a CIA has to be evidence based, due to this the area within the city centre included within the draft CIA has reduced slightly from the current CIZ area due to changes in patterns of crime and disorder. Therefore the proposed area no longer incorporates all of Goodramgate or part of Tower Street.

Council Priorities

29. The Licensing Act 2003 has 4 objectives: the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
30. The promotion of the licensing objectives will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

31. The implications arising from this report are:
- **Financial:** There are no direct financial implications associated with this report.
 - **Human Resources:** There are no Human Resources implications associated with this report.
 - **Equalities:** There are no equalities implications associated with this report.
 - **Legal:** It is a legal requirement of the Licensing Act 2003 that the Council is required to review and publish a statement of licensing policy every five years. The policy, or any part of it, can be reviewed at any time within that five year period.
 - **Crime and Disorder:** The CIZ promotes the licensing objective "the prevention of crime and disorder".
 - **Information Technology (IT):** There are no IT implications associated with this report.
 - **Other:** There are no other implications associated with this report.

Risk Management

32. There are no known risks associated with this report.

Contact Details

Author:

Lesley Cooke
Licensing Manager
01904 551515

Chief Officer Responsible for the report:

Mike Slater
Assistant Director (Planning and Public
Protection)
01904 551300

Report
Approved



Date 31/01/19

Specialist Officer Implications: None

Wards Affected:

All



Background Papers:

Licensing Act 2003

<https://www.legislation.gov.uk/ukpga/2003/17/contents>

Section 182 Guidance

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Statement of Licensing Policy 2014 – 2019

https://www.york.gov.uk/downloads/file/3102/licensing_policy_2014_2019pdf

Annexes

Annex 1: Draft Statement of Licensing Policy 2014

Annex 2: Draft Cumulative Impact Assessment

Annex 3: North Yorkshire Police CIA Report

Annex 4: List of Consultees

Annex 5: Consultation Responses

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ANNEX 1



Statement of Licensing Policy 2019 – 2024

Licensing Act 2003



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Further copies of this policy can be obtained from:

e-mail: licensing.unit@york.gov.uk

tel: 01904 552512

web: www.york.gov.uk/licensing

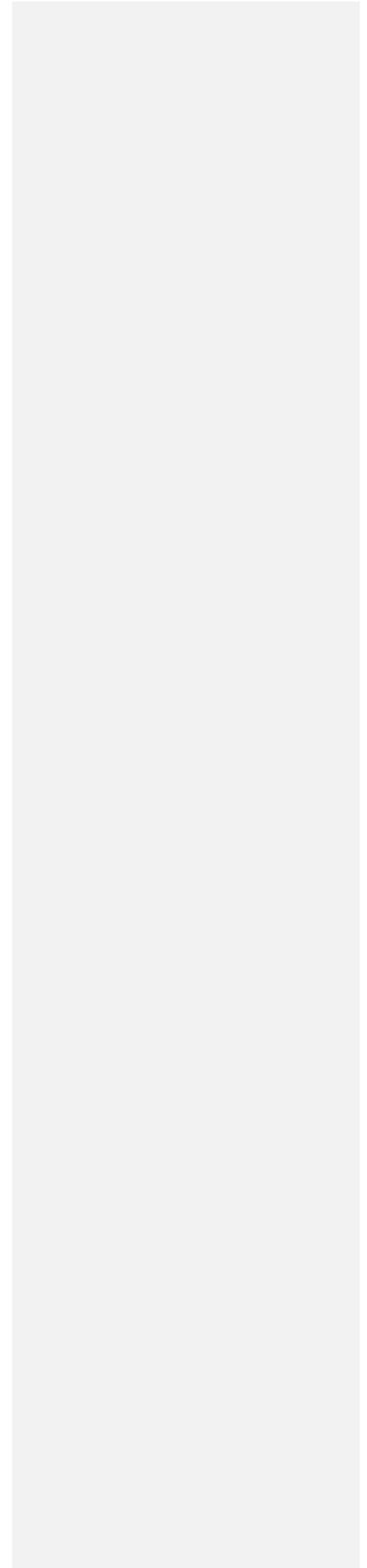
Licensing Section
City of York Council
Eco Depot
Hazel Court
York
YO10 3DS

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Index

Page

1. Introduction
2. Purpose and Scope
3. Profile of York
4. Links to other Policies, Strategies, Legislation & Guidance
5. Local Factors
6. General Approach to Licensing
7. Licensing Objectives
8. Guidelines for Applicants
9. Cumulative Impact
10. Early Morning Restriction Orders
11. Personal Licences
12. Temporary Event Notices
13. Enforcement, Reviews and Suspension
14. Other Relevant Legislation, Information and Guidance



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1. Introduction

- 1.1 Under Section 5 of the Licensing Act 2003 the licensing authority is required to prepare a statement of principles which it proposes to apply when exercising their functions. This statement must be published at least every five years.
- 1.2 The Licensing Act 2003 specifies that any decision taken by the licensing authority in regard to determination of licences, certificates and notifications should aim to promote the licensing objectives. The licensing objectives are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 1.3 City of York Council seek to ensure we continue to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment. Valued by those who live in, work in and visit the city.
- 1.4 City of York Council believes a properly balanced application of the Licensing Act 2003 offers a range of opportunities to progress the objectives of the Council by:
 - improving the quality of life for local residents through a reduction in alcohol related crime and disorder, disturbance and anti-social behaviour;
 - giving business greater freedom and flexibility to meet their customers' expectations;
 - improving quality of life by bringing greater choice to residents, consumers, tourists and businesses about where, when and how they spend their leisure time;
 - encouraging more family-friendly premises where younger children can be free to go with the family;
 - further developing a rich culture of live music, dancing and theatre in our area;
 - encouraging a variety and mix of high quality licensed premises that will appeal to a broad spectrum of people, including a well used city centre, day and night, that is safe and accessible to all;
 - encouraging responsible retailing and consumption of alcohol and preventing alcohol related health issues.

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2. Purpose and Scope

Purpose

- 2.1 City of York Council is the Licensing Authority for the purposes of the Licensing Act 2003 (the Act) for the administrative area of the City of York.
- 2.2 This policy is prepared under Section 5 of the Act and was approved by the City of York Council (the Council) on XX March 2019. The Council will keep this policy under constant review and make such revisions it feels appropriate. Where revisions are made the Council will publish a statement of revisions or a revised licensing policy.
- 2.3 In preparing this policy the Council has consulted a wide range of organisations and stakeholders, these include:
 - The responsible authorities:
 - North Yorkshire Police
 - North Yorkshire Fire and Rescue Service
 - City of York Council – Public Protection Environmental Health (noise)
 - City of York Council – Public Protection Environmental Health (H&S)
 - City of York Council – Public Protection Trading Standards
 - City of York Council – Development Control (planning)
 - City of York Council – Director of Public Health
 - City of York Council – Children Services
 - Home Office (Immigration Services)
 - Licensed Premises
 - Bodies that represent the licence trade
 - Bodies that represent local businesses
 - Parish Councils
 - Ward Councillors
- 2.4 The policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Act.
- 2.5 The Council will carry out its functions under the Act with a view to promoting the licensing objectives:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 2.6 The purpose of this policy is to:
 - set out the policies the Council will apply to meet the licensing objectives when making decisions on any licence application under the Act;
 - provide applicants for licences and all stakeholders with details of those adoptive

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and discretionary matters that the Council consider necessary to meet the aims of promoting the licensing objectives in the authority area;

- inform licence applicants of the parameters under which the authority will make licence decisions and how a licensed premises is likely to be able to operate within the authority area;
- inform residents and businesses of the parameters under which the authority will make licence decisions and how their needs will be addressed;
- guide the Council in its decision making processes.

Scope

2.7 The Council is responsible for licensing the licensable activities as defined by the Act. These are:

- The sale of alcohol
- The supply of alcohol by or on behalf of a club
- The provision of regulated entertainment
- The provision of late night refreshment

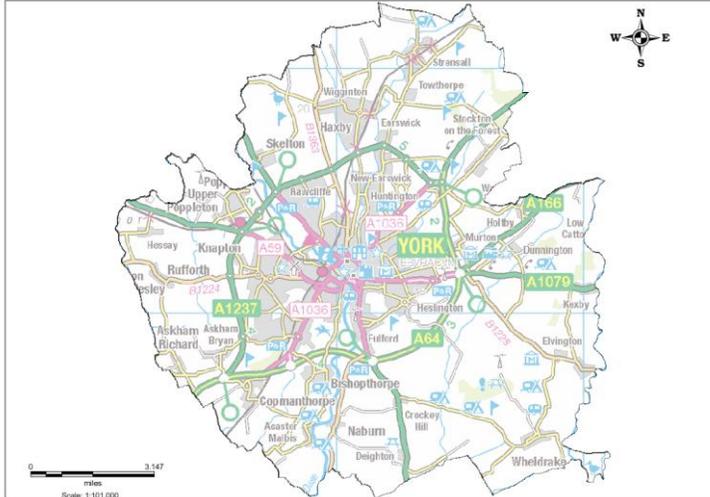
2.8 Throughout this policy a general reference to a premises licence, unless otherwise specified, will include a club premises certificate and/or temporary event notice.

2.9 Throughout this policy the wording will refer to 'applicants' for licences. It should be noted that the principles set out within this policy apply equally to new applicants, applicants for variations and consideration of any request to review a licence.

2.10 Any reference in this policy to guidance or regulations includes those where the Secretary of State has used his powers contained in the Act to make Regulations (Section 5) and issue Guidance (Section 182).

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3. Profile of York



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- 3.1 City of York Council is a unitary authority covering an area of 105 square miles and comprises the urban area of York which is surrounded by many small rural and semi-rural settlements covered by parish councils. More than 208,000 live in the council area (2016 mid year est.) this includes a small black and minority ethnic population (9.12% 2011 Census).
- 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 destinations in the country. York has excellent rail links across the UK with over 9 million passengers every year. It is also a centre of academic excellence, with around 24,000 students making up approximately 11.5% of York's population in term time.
- 3.3 Tourism and leisure are important industries for York, attracting over 7 million visitors a year, who spend £560 million in the city. Over £125 million a year is spent on eating out and evening entertainment. Over 18,500 jobs have been created in the tourism sector.
- 3.4 This level of tourism can, however, present challenges to the city in balancing the requirements of residents against the economic benefits that tourism can bring.
- 3.5 Historically York was known for having one public house for each day of the year. This is no longer the case, but there are 790 premises of various types licensed to sell alcohol in the authority area.

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- 3.6 As an historical centre the city has many historical buildings and museums. The city offers a wide range of premises supplying alcohol and providing entertainment activities. There are many outstanding restaurants, licensed entertainment venues, including 3 cinemas and 5 theatres, numerous high quality traditional and historic public houses, and bars. Other premises, such as village and community halls and bingo halls, provide alcohol and entertainment as part of their overall activities. In addition, there are a significant number of retail premises selling alcohol, including the large supermarkets, off-licences and small convenience shops. A new leisure complex is currently being built to provide York with a new sporting stadium (Community Stadium). As well as the Stadium this complex will include a multiplex cinema, leisure centre and restaurants.

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4. Links to other Policies, Strategies, Legislation & Guidance

- 4.1 Integration with other Council policies and national strategies are a key part of this policy, as elements of these contribute to achieving the licensing objectives.
- 4.2 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 <https://www.york.gov.uk/CouncilPlan>. In particular, the Council Plan 2015-19 sets the high-level priorities for the council, which are as follows:
- a prosperous city for all – where local businesses can thrive and residents have good quality jobs, housing and opportunities
 - a focus on front line services – to ensure all residents, particularly the least advantaged, can access reliable services and community facilities
 - a council that listens to residents – to ensure it delivers the services they want to work in partnership with local communities

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

Tourism

- 4.3 In developing this Statement of Licensing Policy the Council has taken into account York: A Vision for Tourism, prepared by Visit York in consultation with partners and stakeholders, including the Council. The Vision seeks to deliver long-term, sustainable growth in the value of the visitor economy for the benefit of visitors, businesses, students and residents by building on York's distinctiveness, enhancing the quality of the visitor experience and promoting York as a world class visitor destination. Amongst the ambitions for tourism is the development of partnerships with businesses, stakeholders and residents, increasing York's position as a leading European cultural centre (combining a unique heritage with a modern outlook) and enhancing York's public realm so it becomes the most special in England. Licensed establishments, entertainment and cultural venues all have a vital role to play in achieving these goals.

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 particular 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.
- 4.5 The Council will take into account matters contained in York's Community Safety Plan and Anti-Social Behaviour Strategy in relation to the four licensing objectives.

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Public Space Protection Orders (PSPOs)

- 4.6 To aid in addressing issues associated with street drinking the Council has approved a number of PSPOs across the authority area. Their locations are published on the Councils website <https://www.york.gov.uk/PSPOs>.

Counter Terrorism

- 4.6 Crowded places, such as bars, pubs, nightclubs and music venues have been targets of acts of terrorism across the UK and the world. The National Counter Terrorism Security Office has produced guidance to operators of crowded places giving advice to operators to reduce the threat of attack. Applicants and licence holders are encouraged to have regard to this guidance in the design and operation of their premises. <https://www.gov.uk/government/organisations/national-counter-terrorism-security-office>

Regulators' Code 2014

4.7 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.

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5. Local Factors

- 5.1 York city centre, predominately the area within the City Walls, is made up of:
- the main shopping area featuring high street named stores and local independent operators;
 - the main tourist area featuring visitor attractions such as York Minster, Jovik Viking Centre, Cliffords Tower and Castle Museum;
 - the main restaurant area featuring nationally known operators and local independent operators;
 - the main pub/bar/nightclub area featuring nationally known operators and local independent operators;
 - a number of hotels featuring nationally known operators and local independent operators; and
 - residential properties.
- 5.2 The make up of the city centre means that residents, families, shoppers and tourists are in close proximity to people who are in the city to predominately consume alcohol.
- 5.3 Over the last five years drinking behaviour has changed in the city centre on a Saturday, during the day and early evening, in that more people come to the city to visit the pubs and bars. A majority of these people travel by train, some of which 'pre-load' on the train while travelling to York. The impact of shoppers, families and tourists being in the city centre along side these people has caused an increase in anti-social behaviour in the city centre, at the railway station and on the trains when these visitors are returning home.
- 5.4 Within the last ~~ten years~~ **there has been a 24% increase in** violent crime ~~and criminal damage~~-related to alcohol ~~have been decreasing~~ across the city centre and the suburbs of York. ~~However, against this trend it is predicted that levels of these crime types will rise.~~ Residents have identified through the councils' Big York Survey that 'low crime levels' are the most important factor in making somewhere a good place to live.
- 5.5 Residents have identified that 'young people being drunk, rowdy, or a nuisance' as the second highest priority within the anti-social behaviour indicator set that needs to be addressed, and alcohol related anti-social behaviour carried out by adults and young people is a real issue for residents and businesses in certain parts of our city centre and some of our neighbourhoods. Alcohol related antisocial behaviour accounted for 1,495 incidents across York in 2016/17. 38% of these incidents were within the cumulative impact zone, 573 incidents. Alcohol contributed to nearly half of all antisocial behaviour incidents in the city centre in that period, 46%.
- 5.6 30% of York adults report drinking more than the recommended limits of alcohol, this is in line with the national average. This means that 30% of York adults are putting themselves at an increased risk of alcohol related disease and other long term harm. The excessive use of alcohol is an important public health problem in York, not only because of the health conditions associated with long term alcohol misuse, but also the immediate effects such as accidental injuries, violence and anti-social behaviour.

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- 5.7 Men are more likely to be admitted to hospital for alcohol related causes than women. York tends to be similar to or better than the national average for long term physical health conditions such as alcohol related cardiovascular disease, alcohol related liver disease and alcohol related cancer. Hospital admission for alcohol related mental health are similar to or worse than the national average, and are on the rise.
- 5.8 22% of adults in York binge drink in one sitting, i.e. drink at least twice the daily recommended amount of alcohol in a single drinking session, this is in line with the national average. This population are putting themselves at increased risk of experiencing acute alcohol related harm.
- 5.9 Excessive alcohol consumption is not just an issue for individuals, families and communities, but it has a significant impact on our public services, including the police and health services.
- 5.10 Whilst York has a lower rate of alcohol specific hospital admissions compared to the national average, amongst males, admissions continue to increase year on year. In 2006/2007 there were 280.56 alcohol specific admissions per 100,000 population, this rose to 373.60 per 100,000 in 2010/2011. Amongst females the rise in hospital admissions has slowed, but the current rate of admissions remains higher than five years ago, in 2006/2007 there were 166.71 alcohol specific admissions per 100,000 compared to 2010/2011 in which there were 186.72 admissions per 100,000.
- 5.11 Alcohol misuse also has a significant impact on our ambulance service and emergency departments. A recent audit showed that an estimated 10% of attendances at A&E are alcohol related attendances, with this proportion likely to be higher at weekends.
- 5.12 Over the last ten years drinking behaviour has changed in that more people consume alcohol in the home. More alcohol is purchased from the off-trade such as supermarkets and shops than in the on-trade such as pubs, bars, clubs and restaurants. A growing number of drinkers are more likely to drink at home before a night out, commonly know as 'pre-loading'. This change in drinking patterns is largely driven by low cost alcohol available from the off trade.
- 5.13 As the consumption of alcohol in the home increases then the impact of alcohol is more hidden, a number of domestic violence assaults and child protection cases are related to alcohol.
- 5.14 The availability of high strength alcohol products, such as high strength lager and cider, usually favoured by street / problem drinkers from the off-trade also has an impact on anti social behaviour, crime and disorder and public health. **Off licences selling single cans of lager, beer and cider can add to this issue.**

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6. General Approach to Licensing

- 6.1 The Council accepts the importance of licensed businesses to the culture, economy and vitality of the city. By using the opportunity presented by the Act and through this policy the Council can enhance the opportunities for businesses, residents and visitors while at the same time safeguarding residents and business amenities through the promotion of the licensing objectives.
- 6.2 In determining a licence application the overriding principle will be that each application will be determined on its own merits, having regard to the promotion of the licensing objectives and taking into account this licensing policy and the guidance issued under Section 182. Where it is necessary to depart from the guidance or this policy the Council will give clear and cogent reasons for doing so.
- 6.3 The Council will apply the requirements of the Act in such a way, so far as is possible, to avoid duplication with other regulatory regimes.
- 6.4 Within the general framework the Council would like to specifically address its policy in the following way:
- **Diversity** – the council strongly supports a mix of the different types of licensed premises, particularly in areas where there is a high density of such premises. It believes diversity will attract a broader range of customers from local residents and visitors, also giving greater choice for different age groups. It gives potential for positively changing and improving the ambience of the city. This in turn may have a positive effect in increasing the number of evening visitors to the city centre while improving safety and reducing nuisance, crime and disorder.
 - **Use of Public Space** – the Council wishes to continue to promote a broad range of entertainment within the city including live music, dancing, theatre and other entertainment.
 - **Local Business** – through its policy the Council will encourage the development of local businesses recognising the benefits to the local economy, by supporting local enterprise to the benefit of residents.
 - **Premises Serving Food and Drink in the Open Air** – the Council wishes to respond appropriately to applications from public houses, bars and restaurants requesting to serve food and alcohol in areas adjacent to or immediately outside their premises. Approvals may also be required from the planning and highway authorities.
 - **York's Licensed Heritage** – the Council recognizes the important part traditional and historic public houses play in our cultural and tourism heritage and would seek to preserve and enhance those assets for future generations.
 - **Live Entertainment and Performing Arts** – the Council encourages the development of venues for the provision of live entertainment and performing arts,

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recognizing the contribution made to the vitality of the city.

Application Procedure

- 6.5 All applications for premises licences, variations and provisional statements must be submitted in accordance with the Act and associated Regulations.
- 6.6 As part of the application process there is a requirement for the submission of an operating schedule. The Council will normally expect the operating schedule to have regard to the nature of the area where the premises is situated, the type of premises concerned, the licensable activities to be provided, operational procedures, and the needs of the local community in addressing the four licensing objectives.
- 6.7 Applicants are legally obliged to give notice of their application in two ways, by displaying a blue notice at the premises for a period of 28 days and placing a notice in a local newspaper. Each notice must clearly state the date by which representations must be received, where the application can be viewed in full and where representation must be sent.

Representations

- 6.8 Representations may be received from the responsible authorities and by other persons (as defined by the 2003 Act). Elected members may make representation in their own right, or on behalf of residents or the applicant; in both cases the elected member cannot take part in the decision process. Guidance on submitting a representation is available on the Councils website or by contacting the Licensing Section.
- 6.9 Members of the public who wish to submit a representation in regards to an application need to be aware that once submitted to the Council it becomes a public document. Their representation with personal details will be made available to the applicant, and will also be included in any report that is presented at a Licensing Sub-Committee Hearing. If this is an issue they may contact a local representative such as a ward councillor, parish or town councillor, or any other locally recognised body such as a residents association about submitting the representation on their behalf. The Council cannot accept anonymous representations.
- 6.10 'Relevant representations' are representations as defined by Section 18 of the 2003 Act:
- about the likely effect of the application on the promotion of the licensing objectives;
 - which have not been withdrawn and, in the case of representations made by other persons, are not, in the Council's opinion irrelevant, frivolous or vexatious.
- 6.11 Unless relevant representations are made by a responsible authority and/or other persons licences will be granted on the terms set out in the application.

Determination of Applications

- 6.12 The Council will consider each application on its own merits whilst having regard to the 2003 Act, the Section 182 guidance and this policy.

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- 6.13 Any delegated decision made by the Council will be carried out in accordance with the Scheme of Delegation.
- 6.14 Applications where there are relevant representations will be dealt with by a Licensing Sub-Committee, unless the Council, the applicant and everyone who has made representations agree that a hearing is not necessary.
- 6.15 Where possible, officers from the Council will act to mediate between applicants and persons making relevant representations to resolve issues, thereby preventing unnecessary hearings.

Composition of a Licensing Sub-Committee

- 6.16 A Licensing Sub-Committee shall comprise of any three elected members who serve on the Gambling, Licensing and Regulatory Committee (Licensing Committee). Where such a member has a personal or prejudicial interest, as defined in the members code of conduct, he/she must declare such interest, they will disqualify themselves from any involvement in the decision making process in respect of that application.

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7. Licensing Objectives

- 7.1 The Council will carry out its functions under the Act with a view to promoting the four licensing objectives:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 7.2 It is for the applicant to decide what measures to include, if any, in its operating schedule in order to address any potential concerns that might arise in the promotion of the licensing objectives. Applicants are reminded that measures proposed in the operating schedules will be converted into conditions on their licence.
- 7.3 The Council recommends that applicants risk assess their operation against the four licensing objectives to identify potential areas of concern. Responsible authorities and other person may make representations if they feel that the applicant's proposals do not adequately promote the licensing objectives.
- 7.4 The Council recommends early consultation with responsible authorities; this can be done directly or through the Council's Licensing Section. Contact details for responsible authorities can be found on the Council's website or by contacting the Licensing Section.
- 7.5 The Council will have regard to the location and character of premises and the impact of the operation and management of all proposed licence applications and variations.

Prevention of Crime and Disorder

- 7.6 Prevention of crime and disorder is both an objective of the Act and an important responsibility of the Council under the Crime and Disorder Act 1998.
- 7.7 There are many steps an applicant may take to prevent crime and disorder. The Council will look to the police for the main source of advice on these matters. In accordance with the Section 182 guidance, police views on matters relating to crime and disorder will be given considerable weight. Steps that an applicant may take include:
- CCTV - It is recommended that CCTV should be digital systems covering all areas where alcohol is sold and consumed, entrances and to cover queues. Recordings should display correct time/date, be available within 48 hours of a request from any responsible authority and kept for a minimum of 28 days.
 - Door Supervisors - Where appropriate an adequate number of door supervisors should be provided at premises. Whenever security supervisors are employed at licensed premises to carry out a security function they must be licensed by the Security Industries Authority (SIA).

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- Night-Time Economy Radio Scheme - It is recommended that city centre licensed venues participate in the Night-Time Economy Radio Scheme as agreed with the police. This radio link covers both the day-time and night-time economies, giving participating venues a link to the CCTV room, the police and the chance to share 'real time' information with each other.
- Capacity - To prevent overcrowding that is likely to lead to disorder and violence, it is recommended that applicants in certain classes of licensed premises to state in their operation schedule a maximum safe capacity for their premises and the management arrangement to ensure it is not exceeded.

Public Safety

- 7.8 The licensing system should protect the safety of those visiting and working in licensed premises. All licensed premises within the Council area should therefore be safe, well managed and maintained.
- 7.9 The Council will not normally impose conditions on a premises licence relating to matters that are dealt with by other legislation.

Prevention of Public Nuisance

- 7.10 Applicants need to focus on the effect of licensable activities on persons living and working in the area around the premises when considering the promotion of this objective.
- 7.11 Public nuisance is not narrowly defined and can include low level nuisance affecting one or a few person(s) living locally, as well as a major disturbance affecting the whole community. Issues will mainly concern noise nuisance, light pollution and litter.
- 7.12 Applicants should consider the following measures to address disturbance and nuisance:
- Hours of operations – the tolerance to disturbance is likely to be reduced at certain times and days. The later into the night the operation continues the greater the likelihood of public nuisance being caused. Particular consideration should be given to minimise disturbance during the night-time hours of between 11:00pm and 7:00am.
 - Customer management:
 - queuing outside premises – supervision of queues by door supervisors, CCTV covering queues;
 - dispersing from premises – prominent notices at exits, door supervisors and staff asking customers to leave the area quietly, directing customers away from sensitive areas;
 - outside drinking areas – supervision of outdoor areas by door supervisors and staff, CCTV covering outside area;
 - smoking areas – positioning smoking areas away from residential properties, supervision of smoking areas by door supervisors and staff, CCTV covering

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- smoking areas;
- o car parks – prominent notices in car parks asking customers to be quiet, not to slam car doors.

- Operation of premises:
 - o loud music escaping from licensed premises – closing windows and doors, installation of soundproofing, acoustic lobbies, carrying out noise monitoring checks.
 - o waste disposal – consider the timing of emptying waste on site and waste collections, particularly the emptying of bottle bins.

Further information is available in the Guide to Controlling Noise from Pubs and Clubs, produced by the Public Protection Section, which is available on the Council's website or by contacting the Public Protection Section on 01904 551555.

- Litter – excessive litter is generated from licensed premises in various forms, particularly takeaway food wrappers and event/venue promotion leaflets (flyers) and cigarette butts.
- Outdoor Music Events – further information is available in the Code of Practice and Guidance Notes on Noise Control for Concerts and Outdoor Events, produced by the Public Protection Section, which is available on the Council's website or by contacting the Public Protection Section on 01904 551555.

Protection of Children from Harm

7.13 The Act provides specific protection for children from the sale or provision of alcohol and regulated entertainment. The Council will not normally impose conditions requiring or prohibiting the admission of children to any premises as it believes that this should remain a matter of discretion of the licence holder. However, there are areas that will give rise to particular concern in respect of children and where additional controls are likely to be necessary. These include:

- where there have been convictions of the current management for serving alcohol to minors;
- where premises have a reputation for allowing under-age drinking and/or requirements of proof of age is not the norm;
- where premises have a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where adult entertainment is provided on an occasional basis and is not already licensed under other legislation.

7.14 In addition, licensees may identify that the access of children to particular parts of the premises poses more risk than others, and seek only to exclude children from areas of highest risk.

7.15 The Council may, as appropriate, consider whether conditions are necessary. If conditions are necessary these may include:

- limitations on the hours when children may be present;

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- limitations upon the presence of children of certain ages when specified activities are taking place;
- limits on the parts of the premises to which children may have access;
- age limitations;
- limitations or exclusions when certain activities are taking place;
- requirements for accompanying adults or stewarding.

7.16 It is a mandatory requirement for premises which sell or supply alcohol to have an age verification policy in place.

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8. Guidelines for Applicants

- 8.1 These guidelines are intended to help applicants by setting out criteria and considerations that they should consider when drawing up an operating schedule. Not all of these considerations necessarily apply, or apply equally, to all applications.
- 8.2 These considerations have been developed with reference to the licensing objectives following consultation with the responsible authorities. They therefore alert applicants to the matters which responsible authorities will be likely to consider when deciding whether to make representation on an application.
- 8.3 These considerations also draw the attention of applicants to matters that are likely to be the subject of conditions designed to promote the licensing objectives that may be attached to the grant of a licence if representations are made.
- 8.4 These considerations are based on experience and good practice established over the years in the city.

Planning

- 8.5 The use of premises for the sale or provision of alcohol, provision of regulated entertainment or late night refreshment is subject to planning control. Such use will normally require planning permission or must otherwise be lawful. Planning permission is generally required for the establishment of new premises or change of use of premises.
- 8.6 In line with the S182 guidance, planning and licensing regimes involve considerations of different (albeit related) matters. Licensing committees are not bound by the decisions made by a planning committee and vice versa.
- 8.7 While there is no obligation for an applicant to have planning permission before applying for a premises licence, provisional statement or for a substantial variation, it is recommended that lawful planning use is obtained initially. The planning authority is a responsible authority under the Act whom applicants are required to give notice of applications.
- 8.8 Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building control consent was lawful and correct. It will take into account what the impact of granting a licence will be on the licensing objectives.
- 8.7 It should be noted that any decision made by the Council does not relieve an applicant of the need to apply for building regulation authorisation.

Licensing Hours

- 8.8 The Council recognises, that in some circumstances, more flexible opening hours will help address the issue of large numbers of patrons leaving licensed premises at the same time. The intention behind this is to reduce disorder and disturbance such as

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friction at late night food outlets, taxi ranks and in the street.

- 8.9 A thriving and safe evening / night-time local economy are important considerations in relation to investment, local employment and attractive to residents and tourists. However, the Council believes that any licensable activity has the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. The noise generated by licensable activities, especially customers departing late at night can be intrusive when ambient noise levels are much lower, however dependant on the type, it could also be intrusive when ambient noise levels are higher.-
- 8.10 The Council believes that full consideration should be given to the risk of disturbance to local residents and possibly to businesses when licensable activities continue late at night and into the early hours of the morning.
- 8.11 The Council recognises that there is no general presumption in favour of lengthening licensing hours and the licensing objectives should be paramount considerations at all times. Restrictions may be made to the proposed hours of use where, if relevant representations are received, the Council considers it appropriate for the promotion of the licensing objectives to do so. Consideration will be given to the individual merits of an application.
- 8.12 Generally shops, stores and supermarkets will be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes unless there are good reasons, based on the licensing objectives, for restricting those hours.

Drinking up time / cooling down period

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

Dispersal

- 8.14 The effective dispersal of customers away from premises will be a consideration for the Council when it is required to determine licensing hours as crime and disorder and public nuisance is most likely where crowds gather to queue or wait after leaving licensed premises.

Designated Premises Supervisor (DPS)

- 8.15 An applicant for a premises licence which includes the sale and supply of alcohol must nominate a DPS. That person will normally have been given day to day responsibility for the running of the premises. The DPS will also be a personal licence holder.
- 8.16 The Act does not require the presence of the DPS at all material times. If the DPS is

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not present on the premises the Council would normally regard it as appropriate for a personal licence holder to be present on the premises at all times that alcohol is sold, and particularly where alcohol is sold late in the evening or early hours of the morning.

Authorising the Sale of Alcohol

- 8.17 It is a requirement of the Act that every supply of alcohol made under a premises licence must be made or authorised by a person who holds a personal licence. The Council strongly recommends that personal licence holders give specific written authorisation to any individuals that they are authorising to supply alcohol. It is recommended that the form of authorisation should include the following criteria:
- there should be an overt act of authorisation, for example, a specific written statement given to the individual being identified;
 - the person(s) authorised to sell should be clearly identified;
 - the authorisation should specify the acts which may be carried out by the person being authorised.
- 8.18 Also each and every sale or supply of alcohol by someone under 18 years must be specifically approved by a responsible person; unless the alcohol is sold or supplied with a table meal in a designated area, and the consumption of alcohol is ancillary to a meal.

Staff Training

- 8.18 The Council recommends that all persons employed on licensed premises who are engaged in the management of the premises, for example manager, assistant manager, duty manager and senior bar staff, are trained to raise awareness of the requirements of the premises licence, the mandatory licence conditions and offences contained within the Act.
- 8.19 It is recommended that all persons employed on licensed premises who are engaged in the sale and supply of alcohol are trained to raise awareness of their responsibilities and the offences contained within the Act.
- 8.20 It is also recommended that persons employed on premises providing entertainment for children and youths do training in basic child protection and safety, and if appropriate have the necessary Disclosure and Barring Service checks.
- 8.21 All persons employed on licensed premises should be provided with basic training on health and safety, food hygiene and the housekeeping arrangements for the premises.

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9. Cumulative Impact

- 9.1 Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Act. Cumulative impact assessments were introduced at Section 5A of the Act by the Police and Crime Act 2017, with effect from 6 April 2018. This provides provision for licensing authorities to publish a document, cumulative impact assessment, stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
- 9.2 Relevant authorisations means:
- premises licence
 - club premises certificate
- 9.3 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 9.4 The Council has included a Cumulative Impact Policy within its Statement of Licensing Policy since 2005, in relation to an area within York city centre. Due to the changes within the city centre, mainly the locations where licensed premises are predominately operating, this area has increased over the years.

Cumulative Impact Assessment

- 9.5 As required by the Act the Council has reviewed the cumulative impact area following the receipt of evidence provided by North Yorkshire Police and the Councils Public Protection Service (noise). The Council has published its first cumulative impact assessment (assessment) in relation to an area that has been identified in York city centre. The assessment is available on the Council website or from the Licensing Section. The assessment will be reviewed at least every three years as required by the Act. A map showing the area can be found in the assessment.
- 9.6 As required by the Act the Council has formally consulted on the assessment.
- 9.7 By publishing the assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the assessment when determining or revising this Statement of Licensing Policy. The assessment does not change the fundamental way that a licensing decision is made, each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council determines to grant an application reasons for granting the

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application will be given to the applicant, the Chief Officer of Police and all parties who made a relevant representation, with the reasons for departing from the Policy.

- 9.8 Where no relevant representations are received an application within the cumulative impact area will be granted in terms consistent with the operating schedule.
- 9.9 Applications for new premises licences or variations for premises situated within the cumulative impact area that are likely to add to the cumulative impact already experienced will normally be refused if relevant representations are received. The applicant must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
- 9.10 The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.

Cumulative Impact Area

- 9.11 The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
- prevention of crime and disorder
 - prevention of public nuisance
- 9.13 North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:
- drink led premises – pubs, bars, nightclubs and restaurants/cafes;
 - entertainment premises – pubs, bars and nightclubs providing entertainment, especially late at night into the early hours of the morning;
 - late night refreshment premises – takeaways; and
 - off licence premises – supermarkets and convenience stores.
- 9.14 A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have lead to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.

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10. Early Morning Restriction Orders (EMROs)

- 10.1 The power conferred to licensing authorities to make, vary or revoke an EMRO is set out in sections 172A to 172E of the Act. This power came into force on 31 October 2012 and the Government provided guidance as part of the S182 Guidance to Licensing Authorities.
- 10.2 This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am to 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 10.3 EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributed to specific premises.
- 10.4 An EMRO:
- Applies to the supply of alcohol authorised by premises licenses, club premises certificates and temporary event notices;
 - Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods on different days of the week;
 - Applies for a limited or unlimited period;
 - Applies to the whole or any part of the licensing authority's area;
 - Will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January every year);
 - Will not apply to the supply of alcohol to residents by accommodation providers between 12am – 6am, provided the alcohol is sold through mini-bars/room service;
 - Will not apply to a relaxation of the licensing hours by virtue of an order made under section 172 of the Act.
- 10.5 Before a licensing authority determines to make an EMRO it should be satisfied that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The licensing authority should consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence.
- 10.6 The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO. These measures include:
- Introducing a cumulative impact assessment;
 - Reviewing licences of specific problem premises;
 - Encouraging the creation of business-led best practice schemes in the area.
- 10.7 It is the intention of the Council to support businesses, whilst ensuring the promotion of the licensing objectives. However where this has deemed to fail then an EMRO could be considered as a possible solution.

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11. Personal Licences

- 11.1 A personal licence authorises an individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence. The licensing authority for the area where the applicant resides issues a personal licence.
- 11.2 The Council recognises it has no discretion regarding the granting of personal licences where
- the applicant is 18 or over,
 - possesses a licensing qualification,
 - has not had a licence forfeited in the last five years, and
 - has not been convicted of a relevant offence.
- 11.3 An application for a personal licence must be made in the form specified in Government guidance and regulations. The application must be accompanied by the requisite fee. The applicant should also be able to produce evidence of the relevant qualification.
- 11.4 Applicants should produce a Disclosure and Barring Service certificate which must be less than one calendar month old on submission.
- 11.5 Applicants from foreign jurisdictions are expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or a similar offence.
- 11.6 Applicants must prove that they have the right to work in the UK. A personal licence may not be issued to an individual who:
- Does not have the right to work or live in the UK; or
 - Is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.
- 11.7 The police may make objection on the grounds of an unspent relevant or foreign offence. If an objection is lodged a hearing has to be held unless otherwise agreed by all parties.

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12. Temporary Event Notices (TENs)

- 12.1 The Act does not require the issue of a licence for a temporary event, it is a notification process. The police and the Council's public protection section (noise) are the only parties permitted to make representation if they believe the licensing objectives would be undermined.
- 12.2 There are two types of TENs; a standard TEN and a late TEN. These have different notice periods. A standard TEN is given no later than 10 clear working days before the event to which it relates; a late TEN is given not before nine and not later than five working days before the event.
- 12.3 TENs are subject to various limitations. These are:
- Anyone aged 18 or over can give a maximum of 5 standard or two late TENs per year*
 - Personal licence holders can give a maximum of 50 standard or 10 late TENs per year*
 - Must involve no more than 499 people
 - Last up to 168 hours
 - No more than 15 can be given in respect of any particular premise in any year
 - Any particular premise can have a maximum aggregate duration of 21 days in any year
 - There must be a minimum of 24 hours between events
- *Late TENs count towards the total permitted number of TENs a person is permitted to give per year.
- 12.3 The police and the Council's public protection section (noise) may object to an event proposed under a TEN by serving an objection notice to the Council and the applicant on the grounds that one or more of the four licensing objectives will be undermined. An objection notice must be issued within three working days of being notified. If an objection notice is received to a late TEN the event will not be authorised to proceed. Therefore the Council encourages notice providers to give the earliest possible notice of events likely to take place. The Council may issue a counter-notice to the applicant if it considers it necessary for the promotion of the licensing objectives.
- 12.4 An intention notice for a temporary event must be made in the form specified by Government guidance or regulations. The notice must be accompanied by the requisite fee.

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13. Enforcement, Reviews and Suspension

Enforcement

- 13.1 Where necessary, enforcement action will be taken in accordance with the principles of the Regulators Compliance Code and the Council Enforcement Policy. Effective enforcement is needed to meet the licensing objectives and to support local residents and businesses.
- 13.2 The Council has adopted the fundamental principles recommended in the Hampton Report in its Enforcement Policy. Enforcement will be targeted on those premises and activities that give rise to the highest risk. Formal enforcement, such as a prosecution, will be a last resort and proportionate to the degree of risk. The key principles of consistency, transparency and proportionality will be maintained.
- 13.3 The Council recognises that the effectiveness of its licensing policy will be determined by enforcement action undertaken. The Council will undertake routine monitoring of licence conditions on a risk based programme. The Council will work with the police, fire authority, public protection section and other agencies to produce joint working practices.

Reviews of Licences

- 13.4 Following the grant of a premises licence a responsible authority or other person may apply to the Council for it to be reviewed. Applications for a review must relate to one or more of the licensing objections being undermined.
- 13.5 Before undertaking a review the Council must first consider whether the complaint made is not relevant, vexatious, frivolous or repetitious.
- 13.6 A review will be considered by a Sub-Committee of the Licensing Committee which has a range of options available to it under the Act. These include:
- To modify the conditions of the licence including imposing new conditions, altering existing conditions or removing conditions (permanently or temporarily)
 - To exclude a licensable activity for the scope of the licence (permanently or temporarily)
 - To remove the designated premises supervisor
 - To suspend the licence for a period not exceeding three months
 - To revoke the licence
- 13.7 Where a Magistrates Court makes a Closure Order under part 8 of the Act, on the grounds of disorder, the Council must carry out a review of the licence.
- 13.8 Where a Magistrates Court makes a Closure Order under ~~part 1 or part 3~~ [Chapter 3](#) of the Anti Social Behaviour, [Crime and Policing Act 2003](#) ~~2014~~, the police or the Council's public protection section may request a review of the licence.
- 13.9 The Violent Crime Reduction Act 2006 and the Licensing Act 2003 (Summary Review of

Draft

Premises Licence) Regulations 2007 provides the police and local communities with powers in the specific area of alcohol-related violence. The summary review procedure allows the police to initiate an expedited review of a premises licence if a senior police officer is under the opinion that the premises are associated with serious crime, serious disorder or both.

Matter for Consideration

13.10 When considering enforcement action or a request for a review the Council will take relevant circumstances into account. However the following matters will be viewed particularly seriously:

- use of premises for criminal activities such as the supply of drugs or money laundering
- failure to promptly respond to a warning given by a responsible authority
- previous convictions for licensing offences
- previous failure to comply with licence conditions and the requirements of the Act
- failure to engage with a responsible authority in an effective manner

Suspension for Non-Payment of Fees

13.10 The Council is required to suspend a premises licence if the annual fee has not been paid when it is due. Where a premises licence has been suspended, no licensable activities can be lawfully carried out at the premises until the annual fee has been paid. The suspension shall be lifted immediately upon payment of the fee and licensable activities may be resumed.

13.11 If an annual fee has not been paid by the due date, the licence holder shall be notified accordingly by the Council and given notice of the date that suspension shall take effect.

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14. Other Relevant Legislation, Information and Guidance

Legislation

- **Health and Safety at Work Act 1974 and associated legislation** – City of York Council is the authority for this legislation in relation to most licensed premises in the area.
- **Human Rights Act 1998** – City of York Council has a duty under the European Convention of Human Rights to protect both the rights of a resident to privacy and family life (Article 8) and the rights of a licensee to operator their business without undue interference (Article 1 of the first protocol).
- **Equality Act 2010** – licensees should make themselves familiar with this legislation as it covers matters relating to unlawful discrimination, for example disability, sex, race and age.
- **Crime and Disorder Act 1998 Section 17** – this Act requires local authorities and others to consider crime and disorder reduction while exercising all of their duties. It states “Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent
 - a) crime and disorder in its area; and
 - b) the misuse of drugs, alcohol and other substances in its area; and
 - c) re-offending in it area.”

This reflects the reality that there are crime and/or disorder implications in decisions made across the full range of local authority services. The consideration of the specific licensing objective of the prevention of crime and disorder fulfils the requirements under this Act.

- **Violent Crime Reduction Act 2006** – Part 1 of this Act amends the Licensing Act 2003 and includes measures to tackle alcohol-related violence and disorder.
- **Policing and Crime Act 2009** – Part 3 of this Act amends the Licensing Act 2003 and includes measures to tackle alcohol misuse.
- **Police, Reform and Social Responsibility Act 2011** – Part 2 of the Act amends the Licensing Act 2003.
- **Anti-social Behaviour, Crime and Policing Act 2014** – Section 59 of this Act gives local authorities powers to make a Public Space Protection Orders. Orders can include Alcohol Restriction Zones (ARZ). In areas where an ARZ is in place it is an offence for a person who is consuming alcohol to not cease and/or surrender the alcohol when requested to do so by a police officer or other authorised person.
- **Policing and Crime Act 2017** – Part 7 of this Act amends the Licensing Act 2003.
- **Environmental Protection Act 1990** – this covers a wide range of types of pollution including noise.

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- **The Clean Neighbourhoods and Environment Act 2005** – this provides local authorities with an additional power to issue a fixed penalty notice to any licensed premises emitting noise that exceeds the permitted level between the hours of 11.00pm – 7.00am.
- **Anti-Social Behaviour Act 2003** – Section 40 and 41 of this Act provides that if the noise from a licensed premises is causing a public nuisance, an authorised environmental health officer will have the power to issue a closure order effective for up to 24 hours. This compliments the police powers under Part 8 of the Licensing Act 2003 to close licensed premises for temporary periods.
- **Health Act 2006 (Workplace Smoking Ban)** – the ban on smoking in all enclosed work places and public places came into force on the 1 July 2007. The ban includes smoking in pubs, restaurants and members clubs where bar or other staff are employed.
- **The Regulatory Reform (Fire Safety) Order 2005** – North Yorkshire Fire and Rescue Service enforce fire safety legislation. Further information of the legal requirements can be found on their website: <http://www.northyorksfire.gov.uk/>
- **Data Protection Act 2018** – applicants should have regard to the provisions of this Act in relation to their premises and in particular to the Information Commissioners Code of Practice on CCTV.

Information and Guidance Documents

- Licensing Act 2003 - <https://www.legislation.gov.uk/ukpga/2003/17/contents>
- Section 182 Guidance, Pool Conditions Supporting Guidance and Guidance on Persistently Selling Alcohol to Children - <https://www.gov.uk/>
- Alcohol Strategy - <https://www.gov.uk/government/publications/alcohol-strategy>
- Health, Safety and Welfare Music and Other Events - <https://www.thepurpleguide.co.uk/>
- Running a Safety Event - <http://www.hse.gov.uk/event-safety/running.htm>
- Risk Assessments - <http://www.hse.gov.uk/risk/controlling-risks.htm>
- Controlling Noise – <https://www.york.gov.uk/NoisePollution>
- Reducing litter - <https://www.gov.uk/government/publications/reducing-litter-caused-by-food-on-the-go-a-voluntary-code-of-practice-for-local-partnerships>

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Cumulative Impact Assessment 2018

Licensing Act 2003

1. Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Licensing Act 2003.
2. In April 2018 the Police and Crime Act 2017 introduced a new provision within the Licensing Act 2003, Section 5A. This provision provides that a licensing authority may, in appropriate circumstances, publish a document, cumulative impact assessment (Assessment), stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the Assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
3. Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
4. The Assessment must set out the evidence for the authority's opinion, must be consulted upon before it is published, it must be reviewed at least every three years to consider whether it remains of the opinion stated in the Assessment, a review must be consulted upon and any revisions must be published along with the evidence. Following the introduction of Section 5A of the Act, and in accordance with the Section 182 Statutory Guidance, the Council's previous approach and policies have been reviewed.
5. By publishing an Assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the Assessment when determining or revising the Statement of Licensing Policy. The Assessment does not change the fundamental way that a licensing decision is made, as each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the Assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of Police and all parties who made a relevant representation.
6. Where no relevant representations are received an application will be granted in terms consistent with the operating schedule.

7. An applicant wishing to obtain a new licence or vary a licence for premises, within the cumulative impact area, must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
8. The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly, with those authorities, or through the Council's Licensing Section.

Cumulative Impact – York City Centre

9. City of York Council (the Council) has included a Cumulative Impact Policy (known as the cumulative impact zone CIZ) within its Statement of Licensing Policy since 2005, following the receipt of evidence provided by North Yorkshire Police (the Police) and the Council's Public Protection Service (noise), in relation to an area identified within York city centre. This area was reviewed in accordance with the requirements of the Act. Due to the changes within the city centre, mainly the changing locations where licensed premises were predominately operating and following the receipt of further evidence from the Police and Public Protection this area has increased on two occasions over the years.

Cumulative Impact Assessment – York City Centre 2018 Review

10. As required by the Act the Council has reviewed the cumulative impact area. The Police have provided statistical data for the area, which includes crime associated with the consumption of alcohol and Public Protection has provided data relating to noise associated with the operation of licensed premises. The Council, in consultation with the Police, has developed its first draft Assessment in relation to an area that has been identified in York city centre. This area includes a red zone area.
11. This cumulative impact area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
 - prevention of crime and disorder
 - prevention of public nuisance
12. The Assessment relates to applications for the grant and/or variation of premises licences, club premises certificates or the issue of provisional statements. Throughout this Assessment a general reference to a premises licence, will include a club premises certificate and/or provisional statement.
13. The variation of premises licences relates to:
 - changing the style of operation;
 - extending the premises/licensed area;

- increasing capacity; and
- extending the licensed hours.

York City Centre Area

14. The key findings from Public Protection (noise) were:

- Overall noise complaints with the CIZ have increase 27% in 2017/18 compared to 2016/17. 24 complaints were received in 2016/17, and 33 were received in 2017/18.
- The complaints relate to noise from either music from licensed premises, people at or in the vicinity of licensed premises or deliveries/collections to and from licensed premises.
- The locations of the complaints are as follows:

Location	No Complaints 2016/17	No Complaints 2017/18
Blossom Street / The Crescent	0	3
Micklegate	3	9
George Hudson Street	2	1
Tanner Row / Toft Green	2	4
Low / High Ousegate	2	1
Clifford Street	2	5
Cumberland Street	2	0
Piccadilly	1	1
Pavement	1	0
Fossgate	2	5
Goodramgate	3	1
Low Petergate	1	0
Shambles Market	1	0
Kings Square	1	0
Coffee Yard	1	2
Little Stonegate	0	1

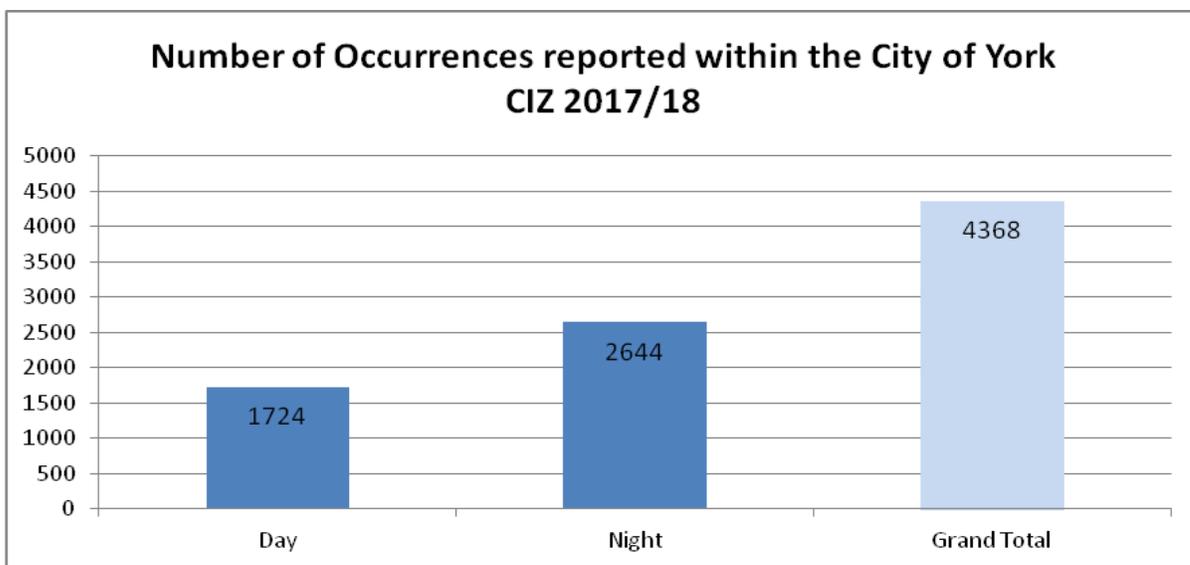
15. The key findings from the Police were:

- Whilst the majority of incidents within the current City of York Cumulative Impact Zone (CIZ) area are reported during the night-time economy period there is an identified period during Saturday afternoons.
- Overall, levels of Anti-Social Behaviour (ASB) have decreased by 10% in 2017/18 compared with 2016/17.
- ASB Nuisance is the most prevalent occurrence type representing no change compared with 2016/17. Almost half of occurrences (47%) are reported across the weekend; over two-thirds of weekend incidents are reported during the night-time economy period.

- Crime Violence occurrences also feature highly with an increase evident compared with 2016/17. Correspondingly, alcohol related Crime Violence also shows an increasing trend. Similar to ASB Nuisance, half of occurrences are reported across the weekend with three-quarters of violent weekend incidents reported during the night-time economy period.
- Violence Against the Person, Arson & Criminal Damage together with Public Order crimes predominate. Violence Against the Person and Public Order offences have increased this year compared with the last.
- Within the Violence Against the Person category, Assault Occasioning Actual Bodily Harm (AOABH) and Common Assault feature most highly - no change from 2016/17. Both offences have increased this latter year. Over half of offences are reported across the weekend - primarily during the night-time economy period.
- Racial/Religious assaults are also evident and have almost doubled compared with 2016/17, increasing from seven reports to 13.
- The highest concentration of occurrences is within areas where footfall is high. These zones encompass a higher concentration of public houses, off-licenses, late night eateries and cafes as well as hotel and retail premises.
- Micklegate, Blake Street and Clifford Street are consistently highlighted as areas with high levels of crime and ASB.
- Calls for police service are at their highest on weekends; Saturday and Sunday. This is consistent with previous years.
- Overall, reports are highest between 1400 and 1900 followed by a further increase between 2300 and 0400 - the traditional night-time economy period - and this pattern is mirrored across both years.
- Saturday afternoons also feature with increased visitation to the city by revellers, particularly from the North East and South Yorkshire, which has proven to impact on police and partner resources as well as affecting the perception of tourists and local families when visiting York during this period.
- Reported occurrences in 2017/18 are highest in March/April and July through to September. Isolated increases are also evident in October and December. Increased reporting during these periods is likely influenced by increased footfall to the city from tourists/visitors during school and bank holidays, York Races and other sports fixtures together with seasonal festivities such as the traditional Christmas Fair.

Occurrences

16. The majority of incidents reported within the City of York CIZ are during the Night-Time Economy period (NTE).



17. 4368 occurrences have been reported within the CIZ in 2017/18. The top tier of occurrence types is exemplified within the table below.

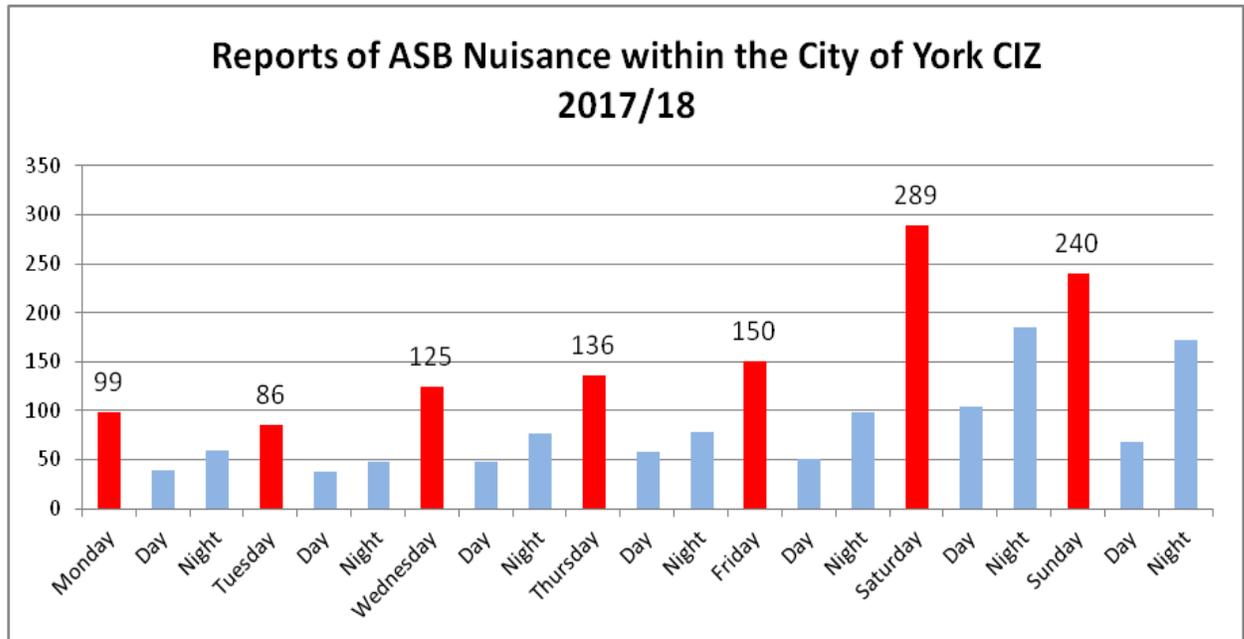
OCCURRENCE - Top 5 Reported Types	Count
ASB Nuisance	1125
Crime Violence	710
PSW ¹ Concern for Safety/Collapse/ Injury/Illness/Trapped	592
PSW Suspicious Circumstances/Insecure Premises/Vehicle	534
Admin Duplicate	205

18. ASB Nuisance continues as the most prevalent occurrence type representing no change from 2016/17 with almost half of occurrences (47%) reported across the weekend². Over two-thirds of weekend incidents are reported during the night-time economy period. These reports encompass complaints of begging and vagrancy, urination in public places and rowdy behaviour for example fighting, verbal abuse and youth related

¹PSW: Public Safety Welfare

² Saturday and Sunday

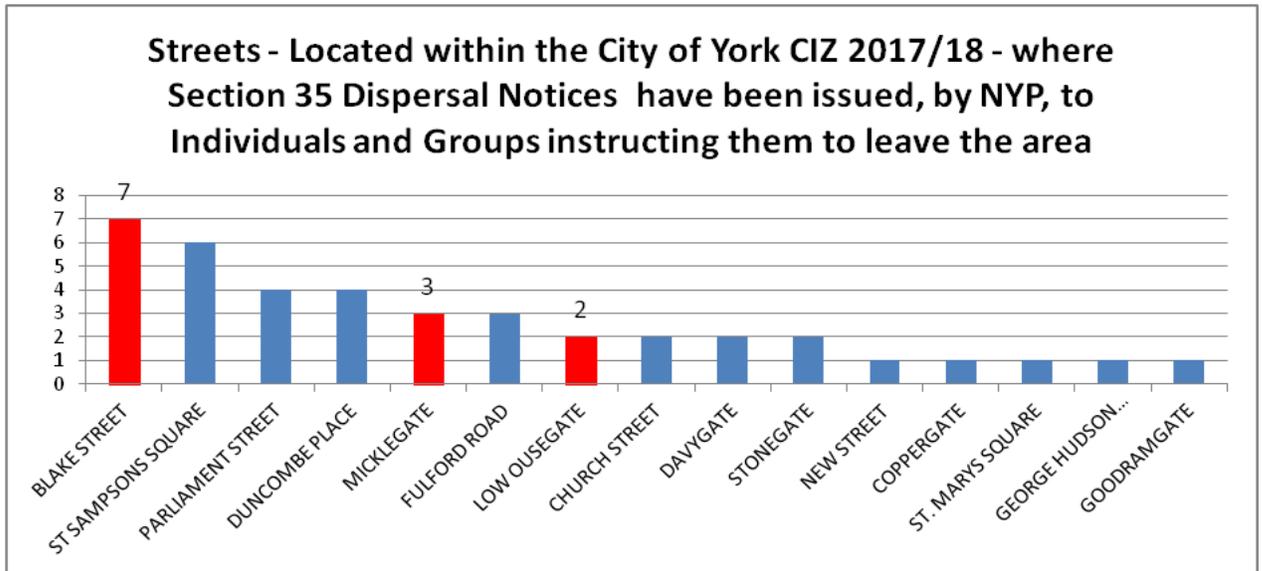
activity. It is estimated that 45% of ASB Nuisance occurrences are thought to be alcohol related although this is likely to be a conservative figure.³



- ASB Dispersal Notices⁴ are also included within the ASB Nuisance category. Forty ‘Section 35 Dispersal Notices’ were issued by police officers for behaviour related incidents within the CIZ during 2017/18 where individuals, and groups, were instructed to leave the city. This represents a 29% increase compared with 2016/17 (31). Almost three quarters (70%) were issued across the weekend period (day and night) and 30% issued within the top five streets highlighted within the ‘Location’ section of this document.

³ National Incident Category List (NICL Code) specified as ‘Alcohol’ within the occurrence/crime data

⁴ Under the Anti-Social Behaviour, Crime and Policing Act 2014, Officers can disperse people who they believe are likely to commit crime or disorder, or behave anti-socially.



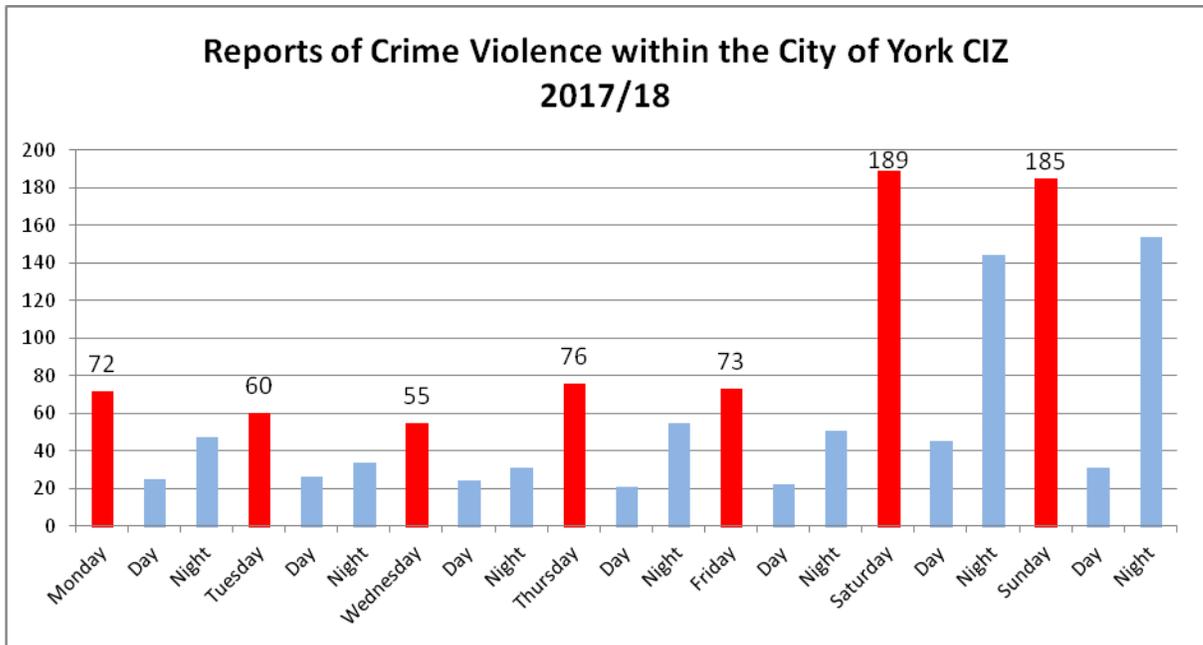
20. Overall, levels of ASB Nuisance, ASB Personal and ASB Environment have decreased this year compared with 2016/17.

ASB OCCURRENCE TYPE	2016/17	2017/18
ASB Nuisance	1237	1125
ASB Personal	98	76
ASB Environmental	55	47

21. The police and City of York Council (CYC) Community Safety Hub - co-located within the council offices - generally manage ASB complaints. The introduction of this Hub in 2014, together with the introduction of CYC Neighbourhood Enforcement Officers (NEOs) and York Business Improvement District (BID) Street Rangers has likely contributed towards the decrease in overall ASB.
22. Similar to 2016/17, Crime Violence continues to feature highly with an increase evident compared with the previous year (+24%).

OCCURRENCE TYPE	2016/17	2017/18
Crime Violence	572	710

23. Over half of Violence occurrences (52.7%) are reported across the weekend. 80% of weekend violence incidents are reported during the night-time economy period. It is estimated that almost half (47.7%) are likely to be alcohol related with an increase in related reports from 250 to 339 in 2017/18.



24. In addition to ASB Nuisance and Crime Violence, PSW Concern for Safety and PSW Suspicious Circumstances are also recorded within the top tier of occurrences. Levels remain relatively stable compared with 2016/17. Calls for Concern predominate and relate to people with vulnerabilities - adults and youths - by way of mental health problems or people in drink or affected by drugs and those potentially vulnerable because of circumstances such as rough sleeping or apparent injury.

OCCURRENCE TYPE	2016/17	2017/18
PSW Concern for Safety/Collapse/Injury/Illness/Trapped	608	592
PSW Suspicious Circumstances/Insecure Premises/Vehicle	502	534

Crime

25. 1127 crimes have been reported within the CIZ in 2017/18. The top tier of Crime Groups exemplified within the table below account for 91.7% of crimes reported.

OCCURRENCE - Top 5 Crime Groups	2016/17	2017/18
Violence Against the Person	502	665
Arson & Criminal Damage	141	128
Public Order Offences	108	116
Drug Offences	46	79

Sexual Offences	39	46
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26. The most reported crime types within the CIZ are;

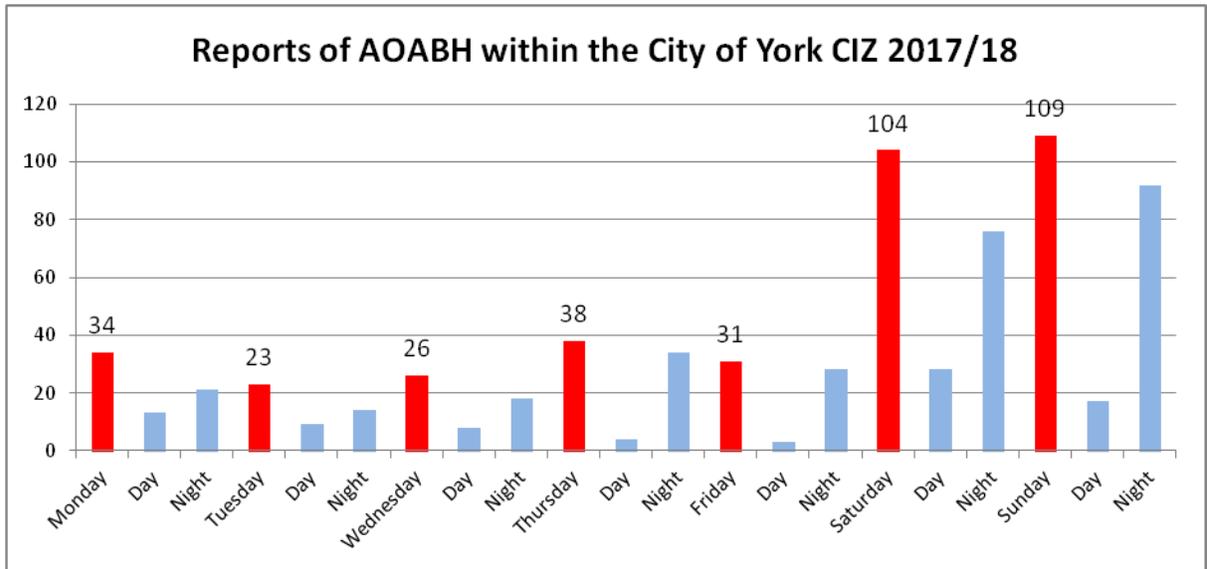
OCCURRENCE - Top 5 Crime Types	2016/17	2017/18
Assault Occasioning Actual Bodily Harm (AOABH)	250	365
Common Assault and Battery	175	205
£5000 or under - Criminal Damage to a building other than a dwelling	82	73
Having Possession of Cannabis	16	36
Fear or Provocation of Violence	24	34

27. The most reported crime types within the CIZ are:

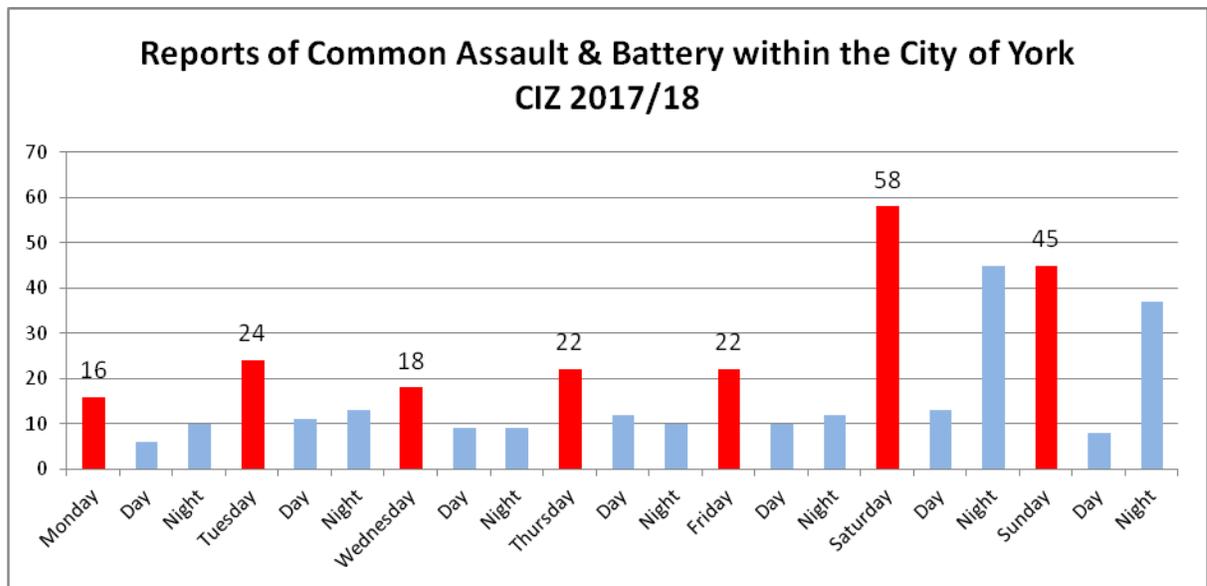
OCCURRENCE - Top 5 Crime Types	2016/17	2017/18
Assault Occasioning Actual Bodily Harm (AOABH)	250	365
Common Assault and Battery	175	205
£5000 or under - Criminal Damage to a building other than a dwelling	82	73
Having Possession of Cannabis	16	36
Fear or Provocation of Violence	24	34

28. Recorded alcohol related crime has increased from 351 to 439 occurrences in 2017/18.

29. Violence Against the Person offences have increased notably (+163) when compared with 2016/17 and this is reflected by corresponding increases in AOABH and Common Assault. Both crime types have featured highly across previous years. Over half of these violence offences are reported across the weekend - primarily across the night-time economy period.



30. Racial/Religious assaults are also evident - occurrences have almost doubled compared with 2016/17, increasing from seven reports to 13.

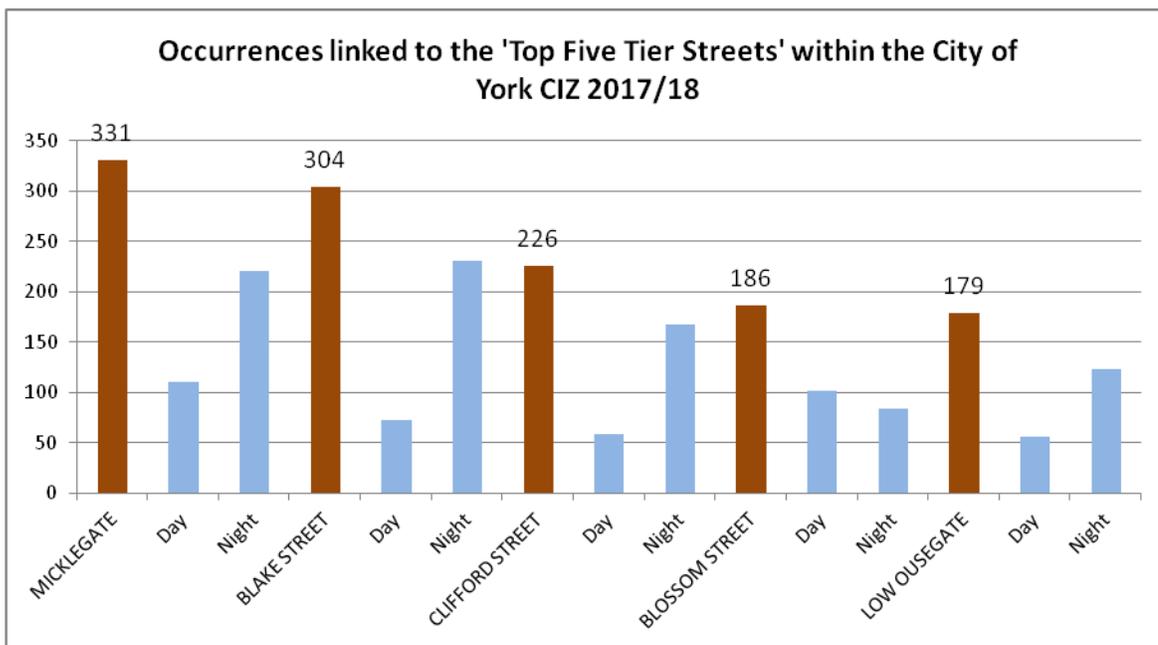


31. Public Order offences comprise primarily of Section 4, Section 5 and Affray offences (85%) which are committed mainly during the night-time period. These offences encompass behaviour in a public place including verbal abuse, verbal threats, spitting, shouting and swearing, urination and on one occasion, walking a seagull on a lead down a main thoroughfare.
32. Sexual offences have also recorded an increase compared with 2016/17 albeit the increase is in singular figures (+7). Reports of Sexual Assault on a female account for the highest level of offences within this crime group (21) followed by Rape of a Female aged 16 or over (13). Sexual assaults are reported primarily across the weekend period

specifically on Saturdays (day and night) with remaining reports across the week in general. Reported offences of Rape show no specific pattern and are consistent throughout the week.

Location

33. The 'Top Five Tier Streets', within the CIZ, that record the highest level of occurrences, are evidenced within the graph below. Micklegate, Blake Street and Blossom Street have been highlighted across previous years. These localities encompass a high concentration of licensed premises, off-license express supermarkets, late night eateries and cafes as well as hotel and retail premises. Consequently footfall is high.



34. The level of reported occurrences, within the above localities, is highest during the night-time economy period on weekends.

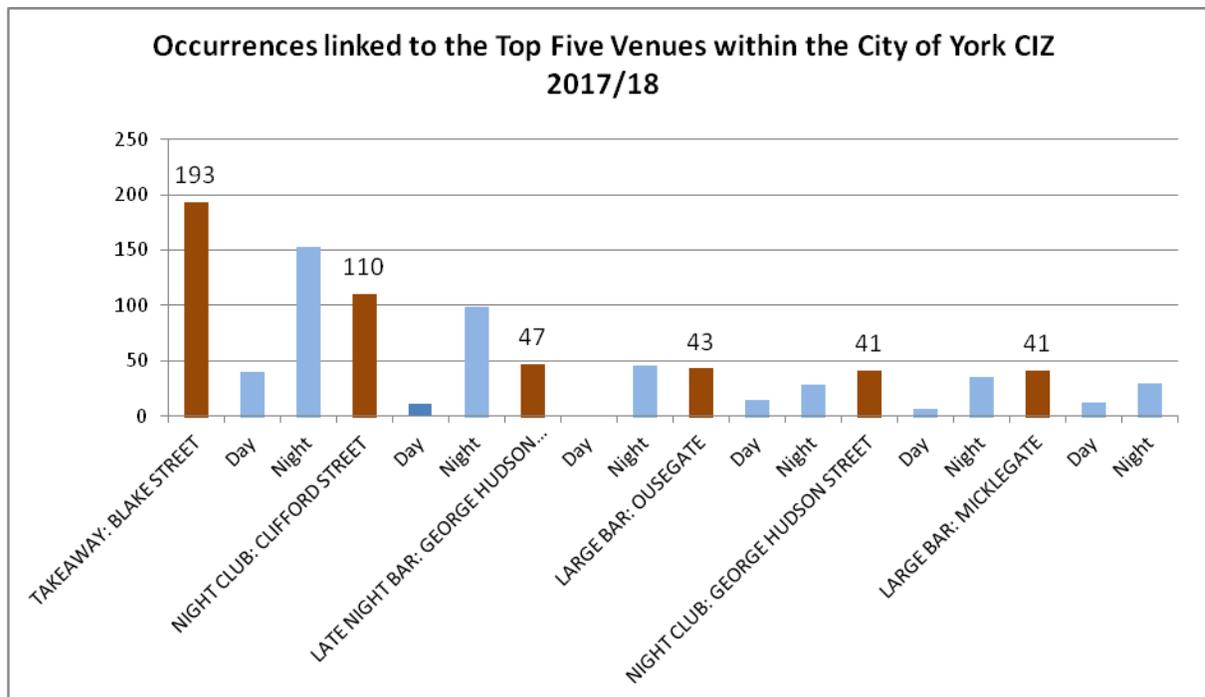
35. Local, anecdotal information suggests that high footfall in Micklegate is partly attributable to large crowds of pedestrians congregating outside a licensed premises, encouraged – in most part – by the hole-in-the-wall ATM machine. Additionally, two licensed premises located along this street are highlighted within the 'Top Five Venues' for 2017/18. Both factors are likely to have contributed to the high level of occurrences recorded.

36. Blake Street is consistently highlighted for high levels of occurrences. A takeaway restaurant is situated within this area and this premise also features within the 'Top Five Premises' list. Police resources have frequently been called to the area this year by recurring incidents of disorder and ASB from gangs of youths travelling into the city from

outside of York and North Yorkshire. These gangs of youths have also caused disorder along High Ousegate in the vicinity of a local restaurant and this is also likely to have impacted on the level of occurrences in this street, highlighting it as a top tier location for 2017/18. ASB Dispersal Notices have been utilised on a number of occasions to address this specific issue.

37. Similar to Micklegate, a nightclub located on Clifford Street - and listed within the top 'Top Five Premises' list - is likely to have impacted on the level of occurrences reported within this locality. High footfall drawn by these venues results in increased demand for service from both the police and partners.

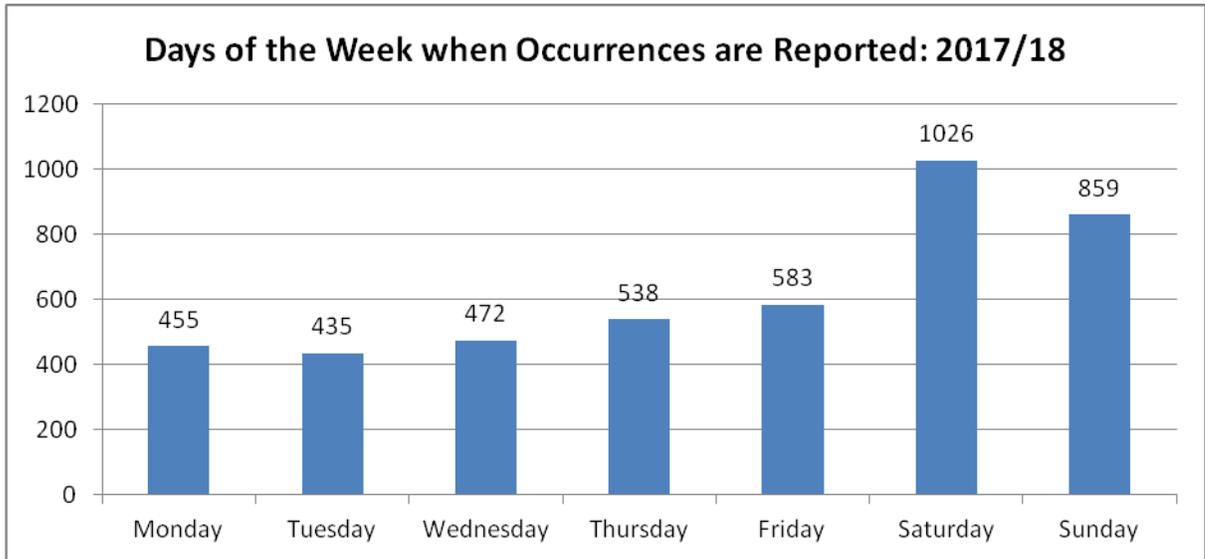
PREMISES TYPE & LOCATION - Top 5 Premises	2017/18
Takeaway: Blake Street	193
Nightclub: Clifford Street	110
Late Night Bar: George Hudson Street/Micklegate	47
Large Bar: Low Ousegate	43
Nightclub: George Hudson Street	41
Large Bar: Micklegate	41



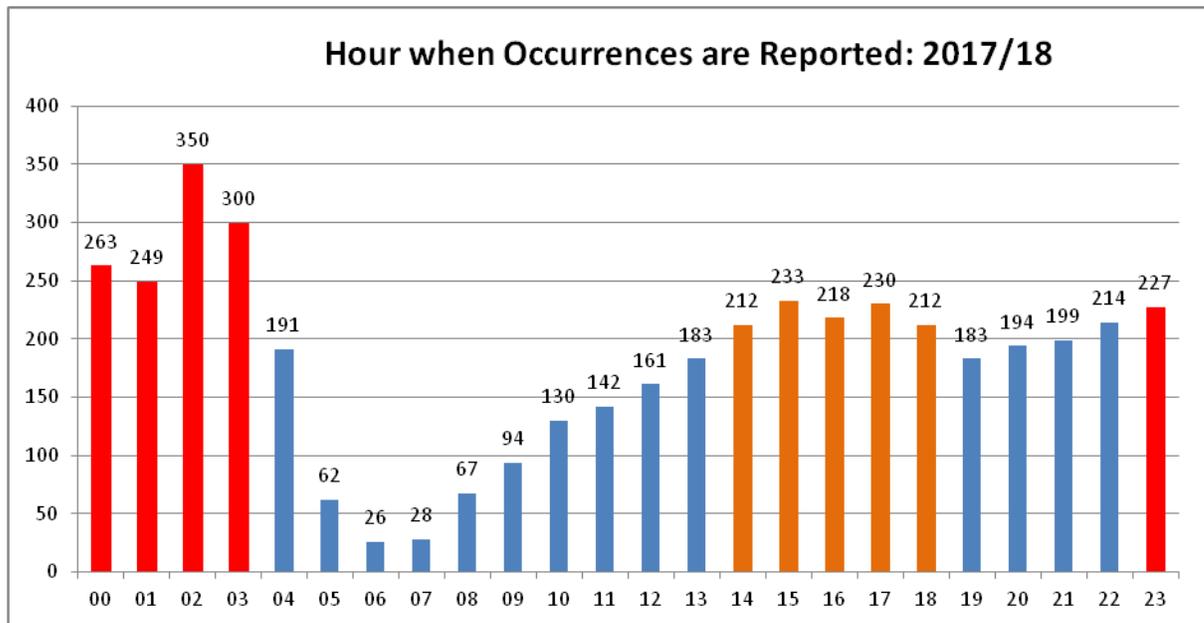
- 38. Occurrences in Blossom Street – in contrast with the remaining four ‘top tier’ streets – are reported mainly during the day-time economy period, likely influenced by reports linked to a local drug and alcohol integrated recovery service together with a cinema, newsagent and pharmacy. Several licensed premises and takeaway venues are also located along this street.

Temporal Information

- 39. Calls for police service are at their highest on weekends; Saturday and Sunday. This is consistent with previous years.



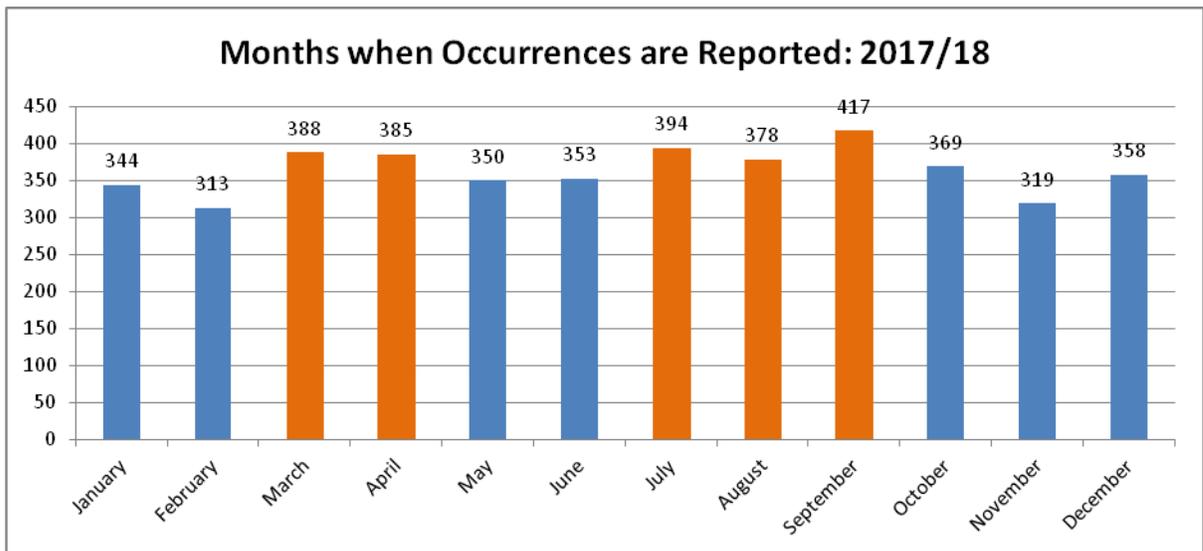
- 40. Overall, occurrences are at their minimum between 0500 and 1000 and this is mirrored across both years. During the daytime, the peak period for reported occurrences is between 1400 and 1900 followed by a further peak period between 2300 and 0400 - the traditional night-time activity period.



41. The daytime pattern can be attributed to a specific influx of revellers travelling in from other regions such as the North-East of England and South Yorkshire to enjoy the leisure facilities/activities offered in York during this time. These revellers include Hen and Stag parties. Revellers generally arrive at York Railway Station late morning and return back to their home towns during the evenings. Licensed premise representatives have previously reported a lull after the departure of these visitors until local revellers begin to emerge later in the night to enjoy activities and this pattern supports this theory.
42. The consequence of this temporal pattern means that traditional night-time economy hours have been superseded by a greater influx of visiting revellers into the City of York during Saturday afternoons which has resulted in traditional shopping activities of families and tourists - on a weekend - being affected by the ASB activities of the revellers as well as increasing resource implications for, not only NYP, but also partner agencies including British Transport Police (BTP) and respective train companies. External research in 2014 by Planning Express⁵ indicated that standards of behaviour in the city centre, whilst not reported as ASB or constituting a crime, can be perceived by residents and visitors as inappropriate.
43. Similar to many other towns and cities in England and Wales, a pre-loading culture also exists in the City of York and this includes consumption of alcohol on many of the trains bringing revellers into the city from surrounding counties albeit periodic 'dry trains' have been implemented on Saturdays by the rail networks in an attempt to control behaviour prior to arrival in York.

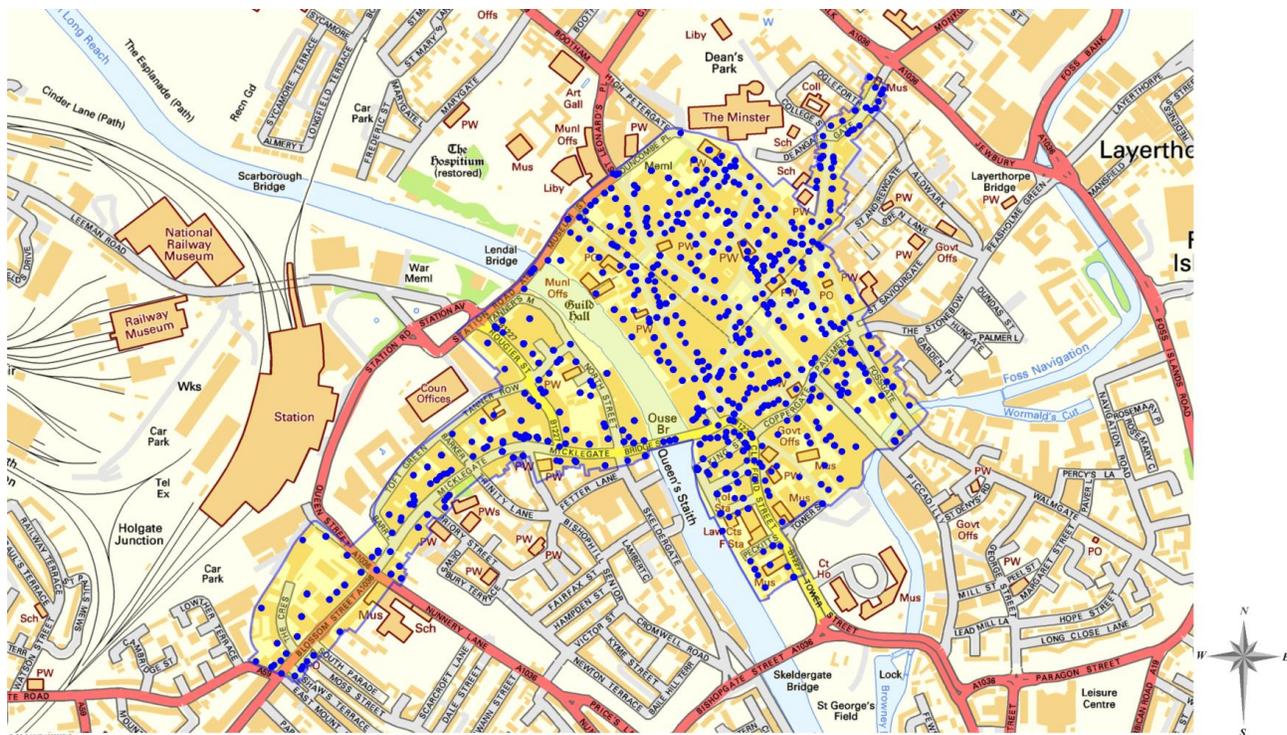
⁵ North Yorkshire Police and Crime Commissioner (NYPCC) Report 'Reducing the Risk of Harm to Vulnerable People in York's NTE, 28 October 2014

- 44. Operation Erase and Operation Safari - led by NYP - continue to operate within the city centre on Saturday afternoons and during the night-time economy period.
- 45. Reported occurrences in 2017/18 are relatively consistent across all months with increases evident March - April and July - September. Isolated increases are also evident in October and December.
- 46. The months highlighted above incorporate school and Bank Holiday periods and - commencing May - the onset of the seasonal increase in tourists/visitors to the City attending recurrent events such as York Races. Increases during December are likely influenced by increased footfall to the city attending events such as Christmas Fairs and other associated festivities as well as increased social activities at licensed venues as a consequence of Christmas and New Year.

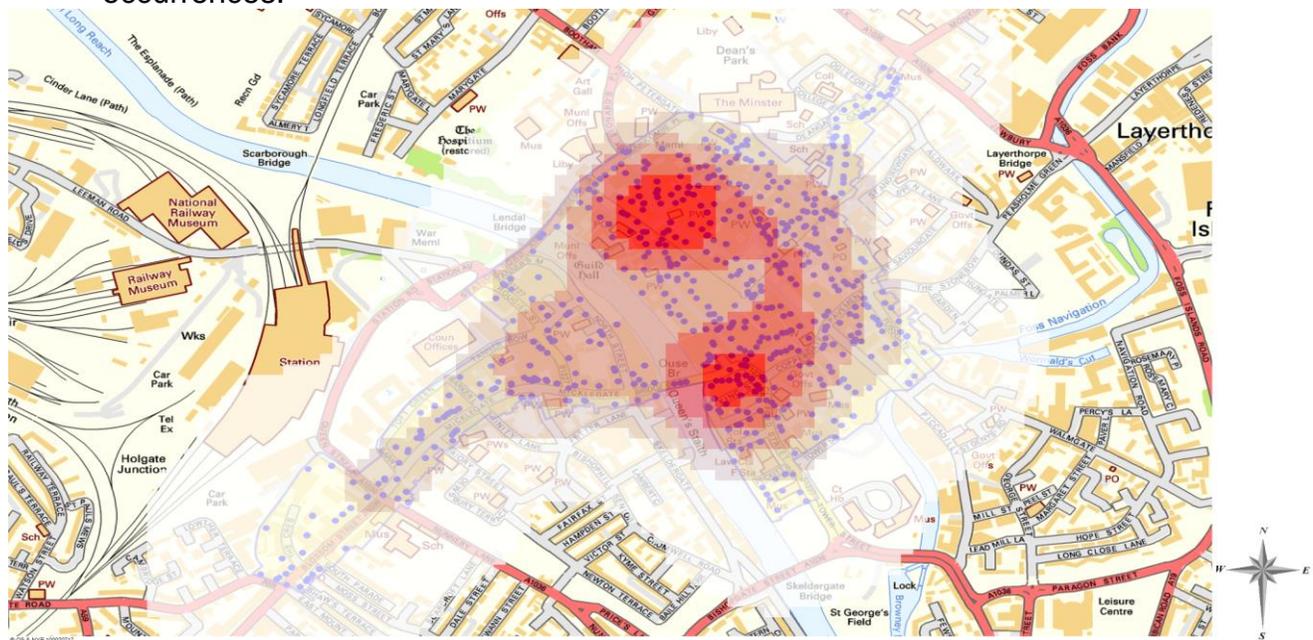


Maps

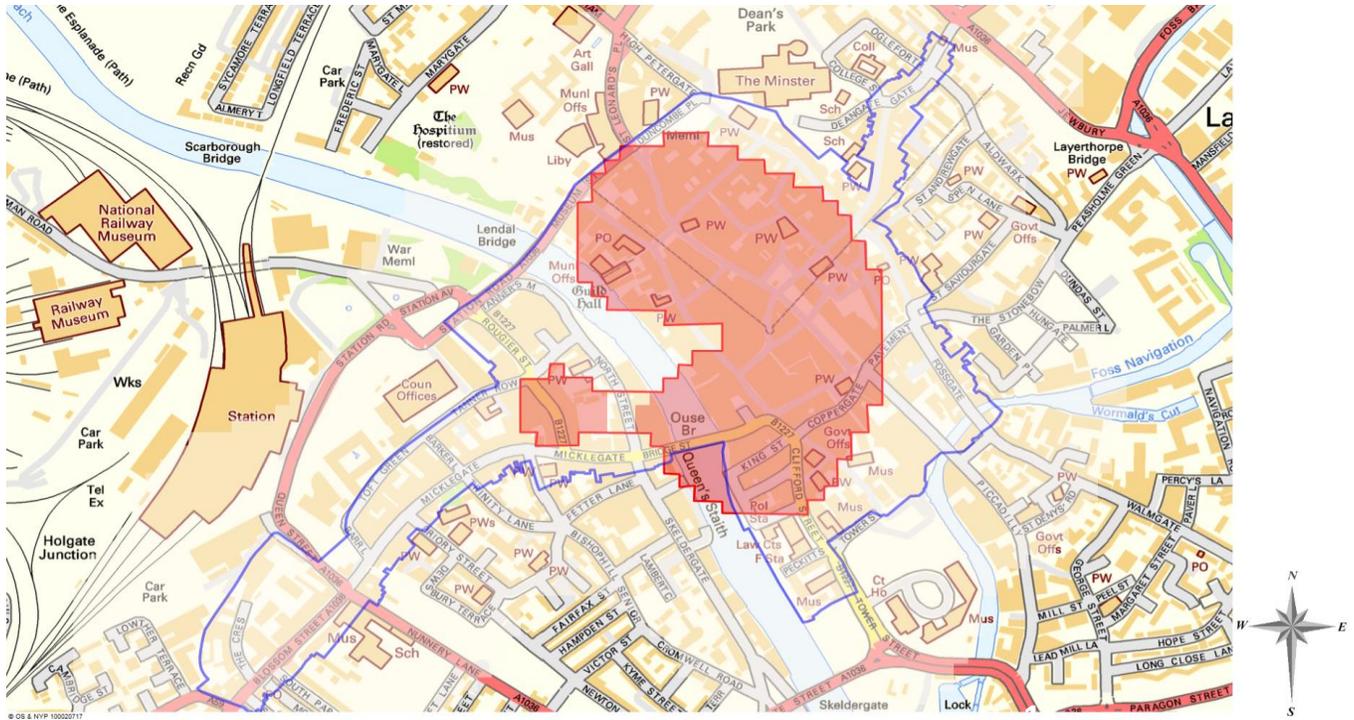
- 47. Map of the City of York showing the Cumulative Impact Zone as indicated by the blue boundary lines together with all occurrences and crimes (represented by blue dots) committed within the CIZ between 01/04/2017 and 31/03/2018.



- 48. Hot Spot Map showing the concentration of occurrences within the City of York Cumulative Impact Zone between 01/04/2017 and 31/03/2018. Red shading indicates highest density and graduating red / pink / white shading showing lowest density of occurrences.



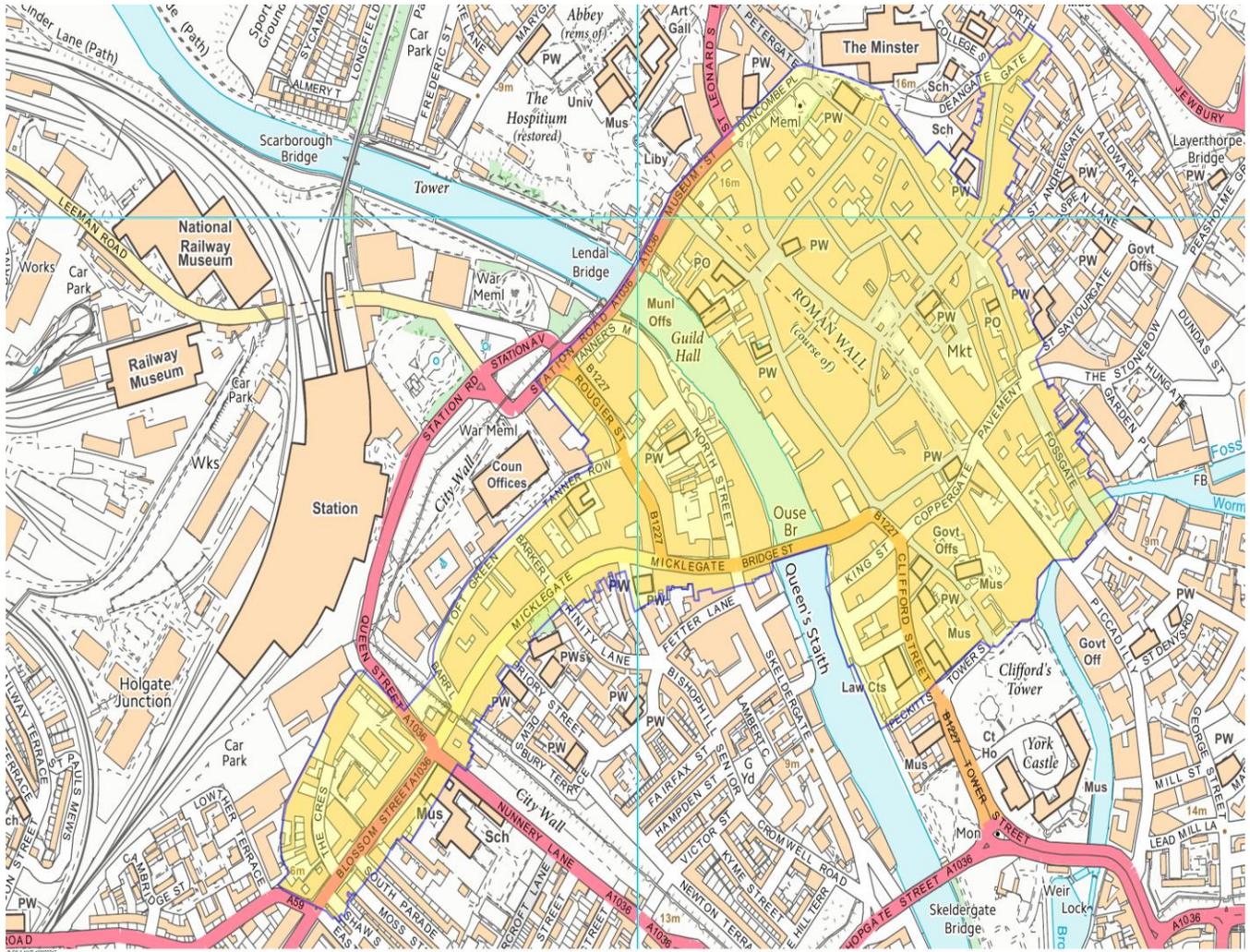
49. Hot Spot Map showing the concentration of occurrences within the City of York Cumulative Impact Zone between 01/04/2017 and 31/03/2018. Red shading indicates highest density of occurrences.



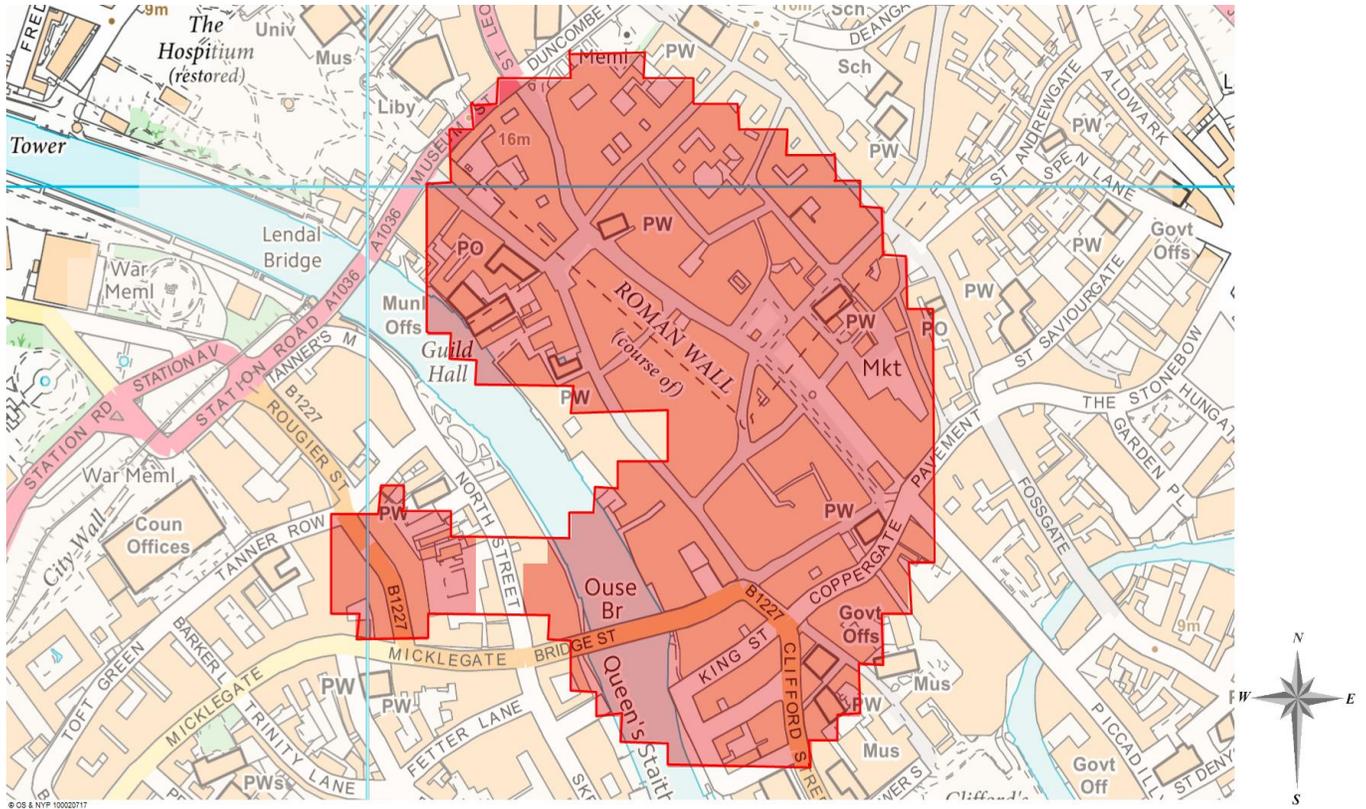
Conclusion

50. The Assessment has been carried out in accordance with the Section 5(a) of the Licensing Act 2003. This Assessment has been published because the Council considers that the number of relevant authorisation in respect of premises in one area described in the assessment is such that it is likely that it would be inconsistent with the Council's duty under the Act to grant any further relevant authorisations in respect of premises in that part.
51. Based on the statistical data evidence above and the hot spot map, the Council has determined that an area of the city centre should remain as a cumulative impact area. The area should be altered (reduced) to match the 'Top Five Tier Streets' identified at paragraph 32 and the area identified on the hot spot map at paragraph 46. A red zone area is to be introduced, this is the area identified on the hot spot map at paragraph 47 which shows the highest density of occurrences.

52. The cumulative impact area is defined in the map below:



53. The red zone area is defined in the map below:

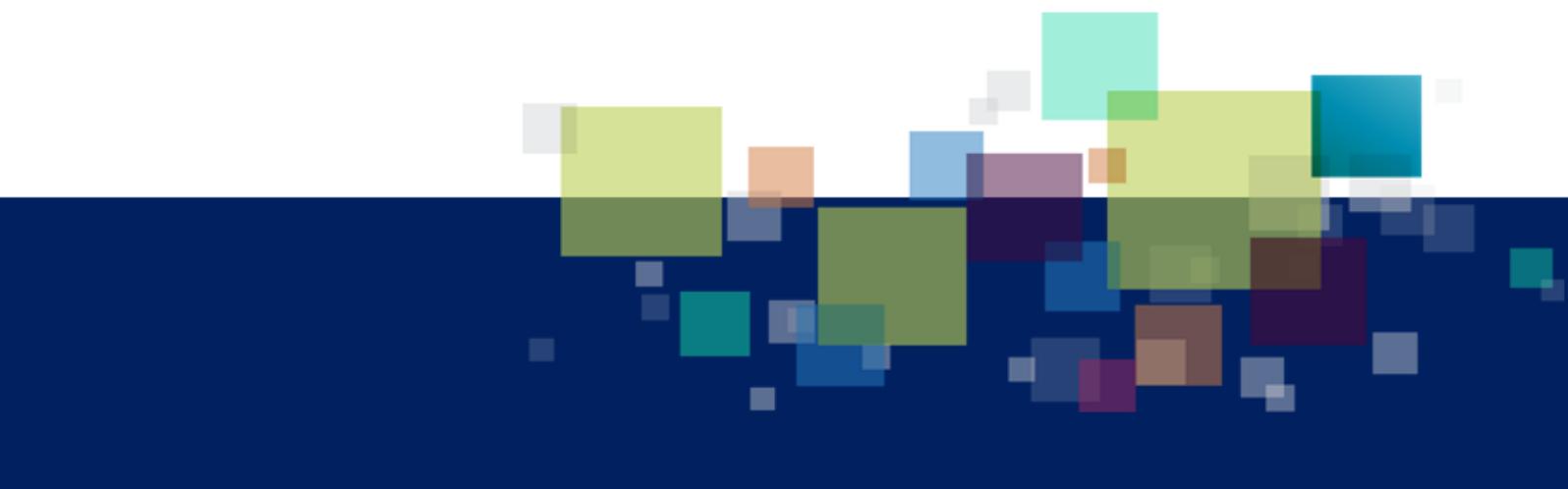


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Crime Pattern Analysis

Alcohol Related Crime, ASB and PSW Occurrences
within the City of York CIZ area 2017/18



Contents

Section	Page
Document Information	3
Introduction	3
Methodology	
Report Constraints	
Key Findings	4
Performance	5
Occurrences	
Crime	
Location	10
Temporal Information	12
Acknowledgements	14
Appendices	15
Appendix A: List of Occurrences included within the Analysis	
Appendix B: Maps	

Document Information

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File: Alcohol Related Crime, Anti-Social Behaviour and PSW Occurrences within the City of York CIZ area 2017/2018

Date: September 2018

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Weed Date: publication plus 6 years

Introduction

This report has been commissioned by North Yorkshire Police (NYP) to provide an objective analysis of calls for police service including Alcohol Related Crime, Anti-Social Behaviour (ASB) and Public, Safety and Welfare (PSW) occurrences reported within the City of York Cumulative Impact Zone (CIZ) area.

Please refer to [Appendix A](#) for a list of Occurrence Types included for analysis and [Appendix B](#) for maps.

Methodology

Data within this review will focus on the following period; 01/04/2017 to 31/03/2018. Activity will be compared with a previous report; 'York CIZ 2017' published in September 2017, which reviewed activity within the City of York CIZ between 01/04/2016 and 31/03/2017. This will assist in identifying trends, patterns and hot spot areas associated with alcohol-fuelled disorder attributed to licensed premises. The analysis is relevant in order to liaise with the City of York authority for the purpose of reviewing the CIZ boundary as per the Statement of Licensing Policy.

For the purpose of this report, alcohol-fuelled disorder during the day-time economy period is identified as between the hours of 0600 and 1759 and alcohol-fuelled disorder during the night-time economy period, between 1800 and 0559.

Report Constraints

Data quality is an important aspect in analysis to be able to draw inferences and hypotheses as well as occasional conclusions. It should be noted that NYP systems are currently designed to facilitate the collection of data to inform and manage short-term policing activities rather than support research and analysis.

Every effort has been made to accurately extract the relevant information. As with all reports, accuracy of data is dependent upon the correct and detailed completion of NYP records. Consequently some specialist data, for example that relating to alcohol is likely to be a conservative estimate.

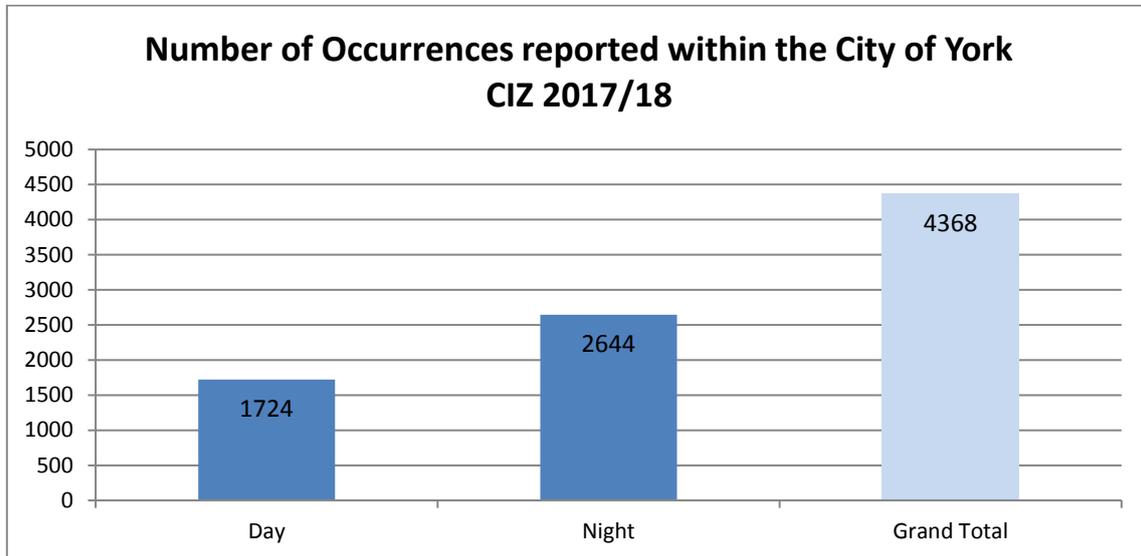
Key Findings

- Whilst the majority of incidents within the City of York Cumulative Impact Zone (CIZ) are reported during the night-time economy period there is an identified period during Saturday afternoons.
- Overall, levels of Anti-Social Behaviour (ASB) have decreased by 10% in 2017/18 compared with 2016/17.
- ASB Nuisance is the most prevalent occurrence type representing no change compared with 2016/17. Almost half of occurrences (47%) are reported across the weekend; over two-thirds of weekend incidents are reported during the night-time economy period.
- Crime Violence occurrences also feature highly with an increase evident compared with 2016/17. Correspondingly, alcohol related Crime Violence also shows an increasing trend. Similar to ASB Nuisance, half of occurrences are reported across the weekend with three-quarters of violent weekend incidents reported during the night-time economy period.
- Violence Against the Person, Arson & Criminal Damage together with Public Order crimes predominate. Violence Against the Person and Public Order offences have increased this year compared with the last.
- Within the Violence Against the Person category, Assault Occasioning Actual Bodily Harm (AOABH) and Common Assault feature most highly - no change from 2016/17. Both offences have increased this latter year. Over half of offences are reported across the weekend - primarily during the night-time economy period.
- Racial/Religious assaults are also evident and have almost doubled compared with 2016/17, increasing from seven reports to 13.
- The highest concentration of occurrences is within areas where footfall is high. These zones encompass a higher concentration of public houses, off-licenses, late night eateries and cafes as well as hotel and retail premises.
- Micklegate, Blake Street and Clifford Street are consistently highlighted as areas with high levels of crime and ASB.
- Calls for police service are at their highest on weekends; Saturday and Sunday. This is consistent with previous years.
- Overall, reports are highest between 1400 and 1900 followed by a further increase between 2300 and 0400 - the traditional night-time economy period - and this pattern is mirrored across both years.
- Saturday afternoons also feature with increased visitation to the city by revellers, particularly from the North East and South Yorkshire, which has proven to impact on police and partner resources as well as affecting the perception of tourists and local families when visiting York during this period.
- Reported occurrences in 2017/18 are highest in March/April and July through to September. Isolated increases are also evident in October and December. Increased reporting during these periods is likely influenced by increased footfall to the city from tourists/visitors during school and bank holidays, York Races and other sports fixtures together with seasonal festivities such as the traditional Christmas Fair.

Performance

Occurrences

1. The majority of incidents reported within the City of York Cumulative Impact Zone (CIZ) are during the Night-Time Economy period (NTE).



2. 4368 occurrences have been reported within the CIZ in 2017/18. The top tier of occurrence types is exemplified within the table below.

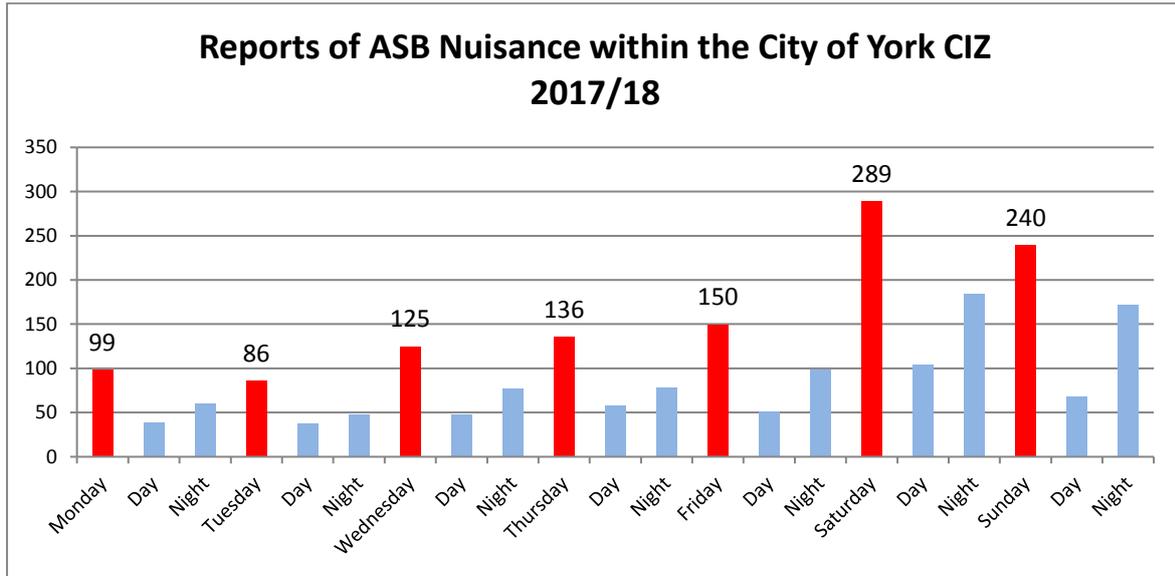
OCURRENCE - Top 5 Reported Types	Count
ASB Nuisance	1125
Crime Violence	710
PSW ¹ Concern for Safety/Collapse/ Injury/Illness/Trapped	592
PSW Suspicious Circumstances/Insecure Premises/Vehicle	534
Admin Duplicate	205

3. ASB Nuisance continues as the most prevalent occurrence type representing no change from 2016/17 with almost half of occurrences (47%) reported across the weekend². Over two-thirds of weekend incidents are reported during the night-time economy period. These reports encompass complaints of begging and vagrancy, urination in public places and rowdy behaviour for example fighting, verbal abuse and youth related activity. It is estimated that 45% of ASB Nuisance occurrences are thought to be alcohol related although this is likely to be a conservative figure.³

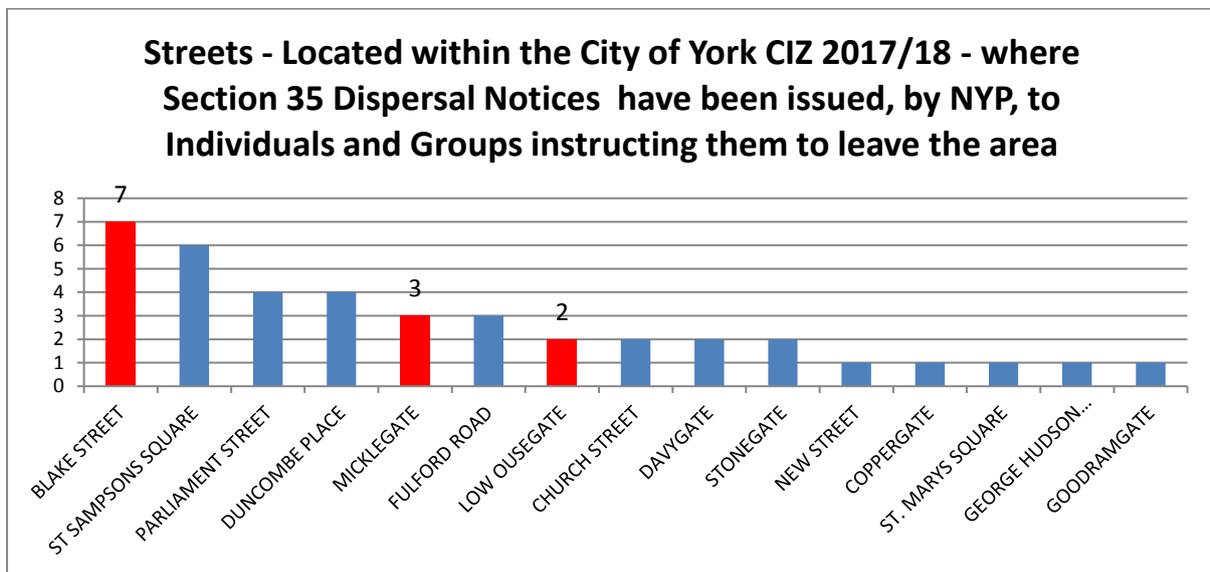
¹PSW: Public Safety Welfare

² Saturday and Sunday

³ National Incident Category List (NICL Code) specified as 'Alcohol' within the occurrence/crime data



4. ASB Dispersal Notices⁴ are also included within the ASB Nuisance category. Forty ‘Section 35 Dispersal Notices’ were issued by police officers for behaviour related incidents within the CIZ during 2017/18 where individuals, and groups, were instructed to leave the city. This represents a 29% increase compared with 2016/17 (31). Almost three quarters (70%) were issued across the weekend period (day and night) and 30% issued within the top five streets highlighted within the ‘Location’ section of this document.



5. Overall, levels of ASB Nuisance, ASB Personal and ASB Environment have decreased this year compared with 2016/17.

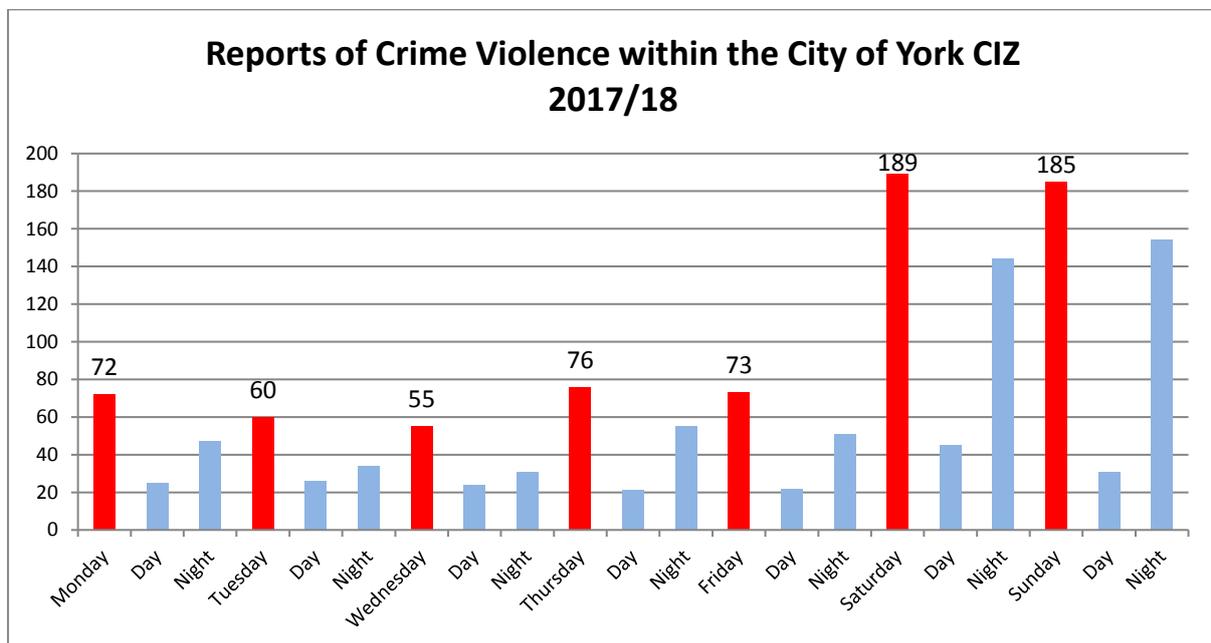
⁴ Under the Anti-Social Behaviour, Crime and Policing Act 2014, Officers can disperse people who they believe are likely to commit crime or disorder, or behave anti-socially.

ASB OCCURRENCE TYPE	2016/17	2017/18
ASB Nuisance	1237	1125
ASB Personal	98	76
ASB Environmental	55	47

- The police and City of York Council (CYC) Community Safety Hub - co-located within the council offices - generally manage ASB complaints. The introduction of this Hub in 2014, together with the introduction of CYC Neighbourhood Enforcement Officers (NEOs) and York Business Improvement District (BID) Street Rangers has likely contributed towards the decrease in overall ASB.
- Similar to 2016/17, Crime Violence continues to feature highly with an increase evident compared with the previous year (+24%).

OCCURRENCE TYPE	2016/17	2017/18
Crime Violence	572	710

- Over half of Violence occurrences (52.7%) are reported across the weekend. Eighty% of weekend violence incidents are reported during the night-time economy period. It is estimated that almost half (47.7%) are likely to be alcohol related with an increase in related reports from 250 to 339 in 2017/18.



- In addition to ASB Nuisance and Crime Violence, PSW Concern for Safety and PSW Suspicious Circumstances are also recorded within the top tier of occurrences. Levels remain relatively stable compared with 2016/17. Calls for Concern predominate and relate to people with vulnerabilities - adults and youths - by way of mental health problems or people in drink or affected by drugs and those potentially vulnerable because of circumstances such as rough sleeping or apparent injury.

OCCURRENCE TYPE	2016/17	2017/18
PSW Concern for Safety/Collapse/Injury/Illness/Trapped	608	592
PSW Suspicious Circumstances/Insecure Premises/Vehicle	502	534

Crime

10. 1127 crimes have been reported within the CIZ in 2017/18. The top tier of Crime Groups exemplified within the table below account for 91.7% of crimes reported.

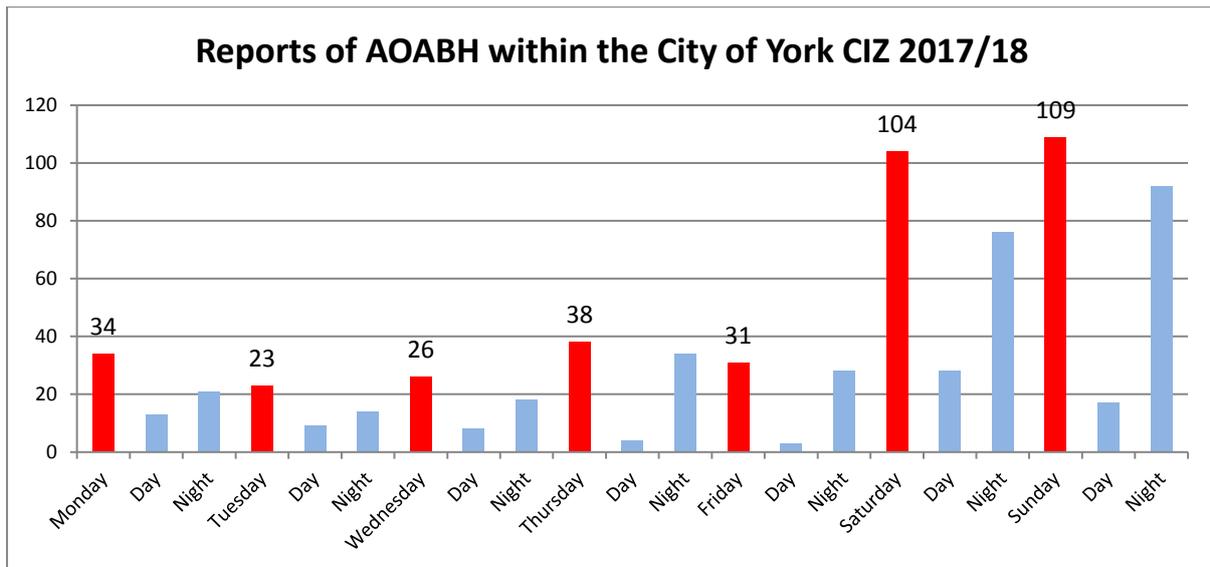
OCCURRENCE - Top 5 Crime Groups	2016/17	2017/18
Violence Against the Person	502	665
Arson & Criminal Damage	141	128
Public Order Offences	108	116
Drug Offences	46	79
Sexual Offences	39	46

11. The most reported crime types within the CIZ are;

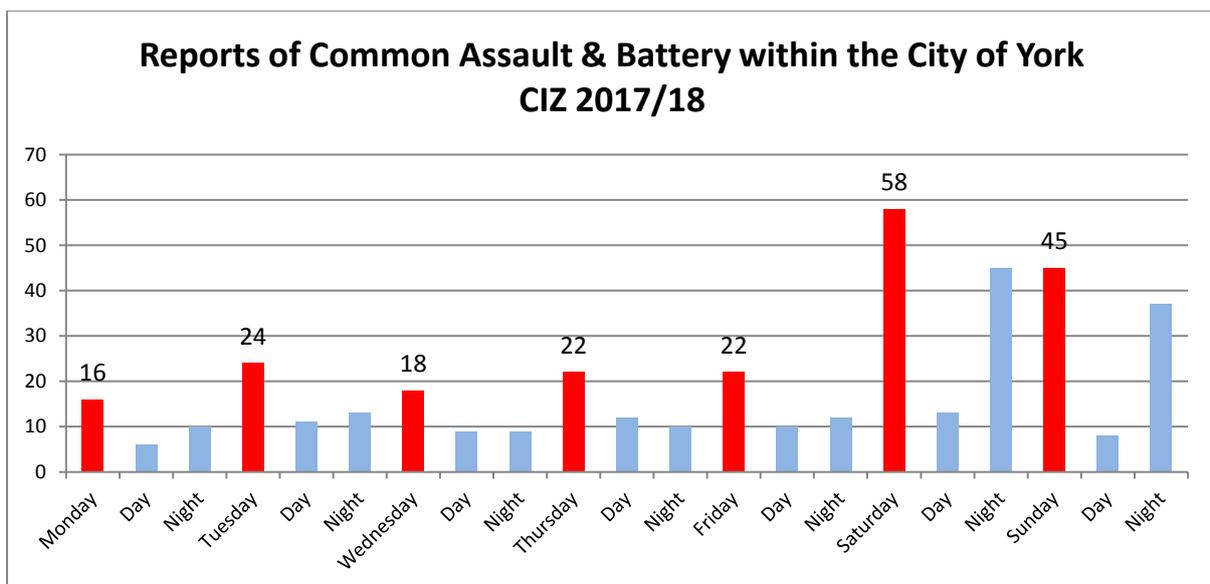
OCCURRENCE - Top 5 Crime Types	2016/17	2017/18
Assault Occasioning Actual Bodily Harm (AOABH)	250	365
Common Assault and Battery	175	205
£5000 or under - Criminal Damage to a building other than a dwelling	82	73
Having Possession of Cannabis	16	36
Fear or Provocation of Violence	24	34

12. Recorded alcohol related crime has increased from 351 to 439 occurrences in 2017/18.

13. Violence Against the Person offences have increased notably (+163) when compared with 2016/17 and this is reflected by corresponding increases in AOABH and Common Assault. Both crime types have featured highly across previous years. Over half of these violence offences are reported across the weekend - primarily across the night-time economy period.



14. Racial/Religious assaults are also evident - occurrences have almost doubled compared with 2016/17, increasing from seven reports to 13.

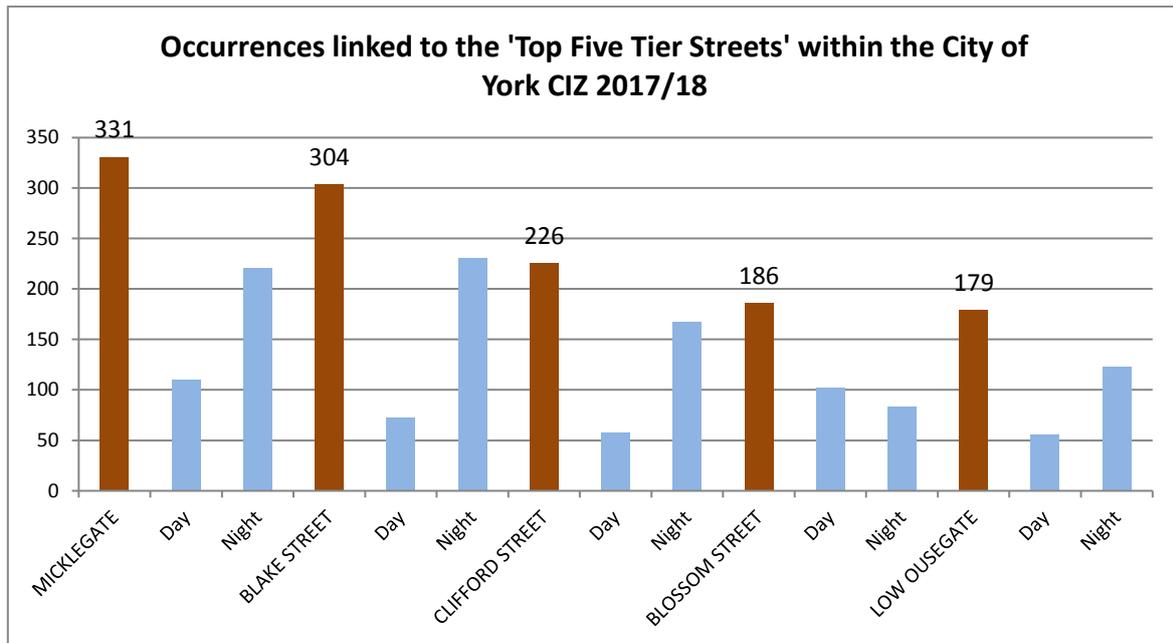


15. Public Order offences comprise primarily of Section 4, Section 5 and Affray offences (85%) which are committed mainly during the night-time period. These offences encompass behaviour in a public place including verbal abuse, verbal threats, spitting, shouting and swearing, urination and on one occasion, walking a seagull on a lead down a main thoroughfare.

16. Sexual offences have also recorded an increase compared with 2016/17 albeit the increase is in singular figures (+7). Reports of Sexual Assault on a female account for the highest level of offences within this crime group (21) followed by Rape of a Female aged 16 or over (13). Sexual assaults are reported primarily across the weekend period specifically on Saturdays (day and night) with remaining reports across the week in general. Reported offences of Rape show no specific pattern and are consistent throughout the week.

Location

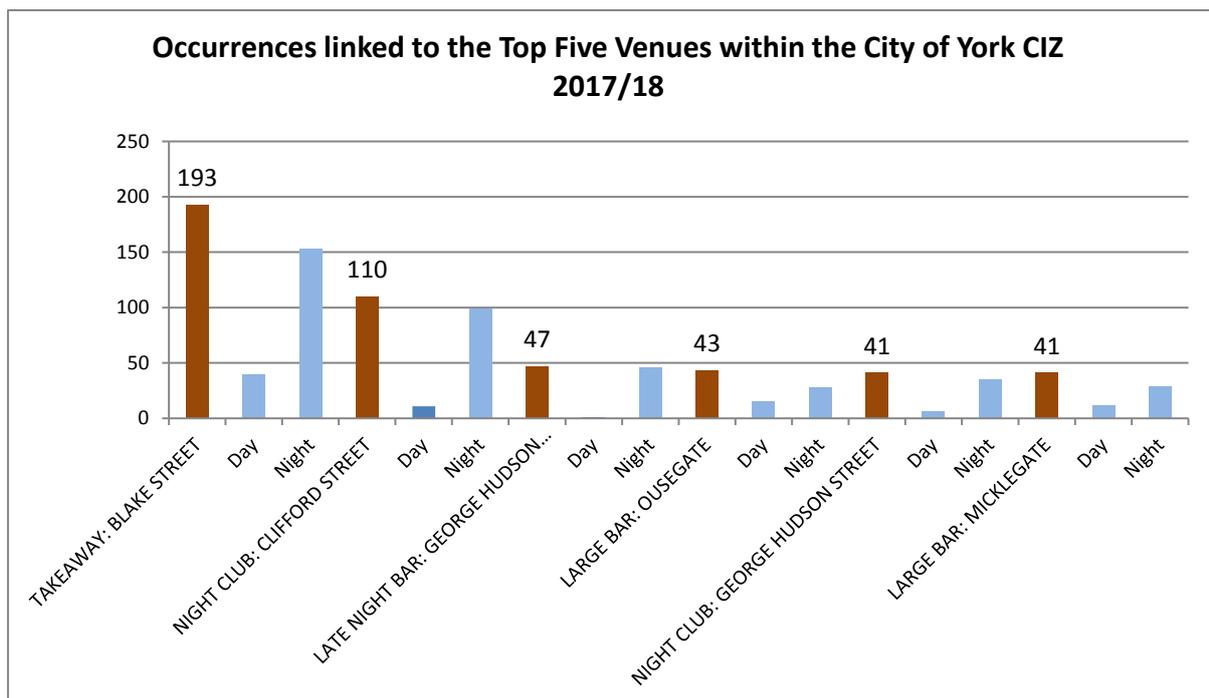
17. The 'Top Five Tier Streets', within the CIZ, that record the highest level of occurrences, are evidenced within the graph below. Micklegate, Blake Street and Blossom Street have been highlighted across previous years. These localities encompass a high concentration of licensed premises, off-license express supermarkets, late night eateries and cafes as well as hotel and retail premises. Consequently footfall is high.



18. The level of reported occurrences, within the above localities, is highest during the night-time economy period on weekends.
19. Local, anecdotal information suggests that high footfall in Micklegate is partly attributable to large crowds of pedestrians congregating outside a licensed premise, encouraged - in most part - by a hole-in-the-wall ATM machine. Additionally, two licensed premises located along this street are highlighted within the 'Top Five Venues' for 2017/18. Both factors are likely to have contributed to the high level of occurrences recorded.
20. Blake Street is consistently highlighted for high levels of occurrences. A takeaway restaurant is situated within this area and this premise also features within the 'Top Five Venues' list. Police resources have frequently been called to the area this year by recurring incidents of disorder and ASB from gangs of youths travelling into the city from outside of York and North Yorkshire. These gangs of youths have also caused disorder along High Ousegate in the vicinity of another local restaurant and this is also likely to have impacted on the level of occurrences in this street, highlighting it as a top tier location for 2017/18. ASB Dispersal Notices have been utilised on a number of occasions to address this specific issue.
21. Similar to Micklegate, a nightclub located on Clifford Street - and listed within the top 'Top Five Venues' list - is likely to have impacted on the level of occurrences reported within this locality.

High footfall drawn by these venues results in increased demand for service from both the police and partners.

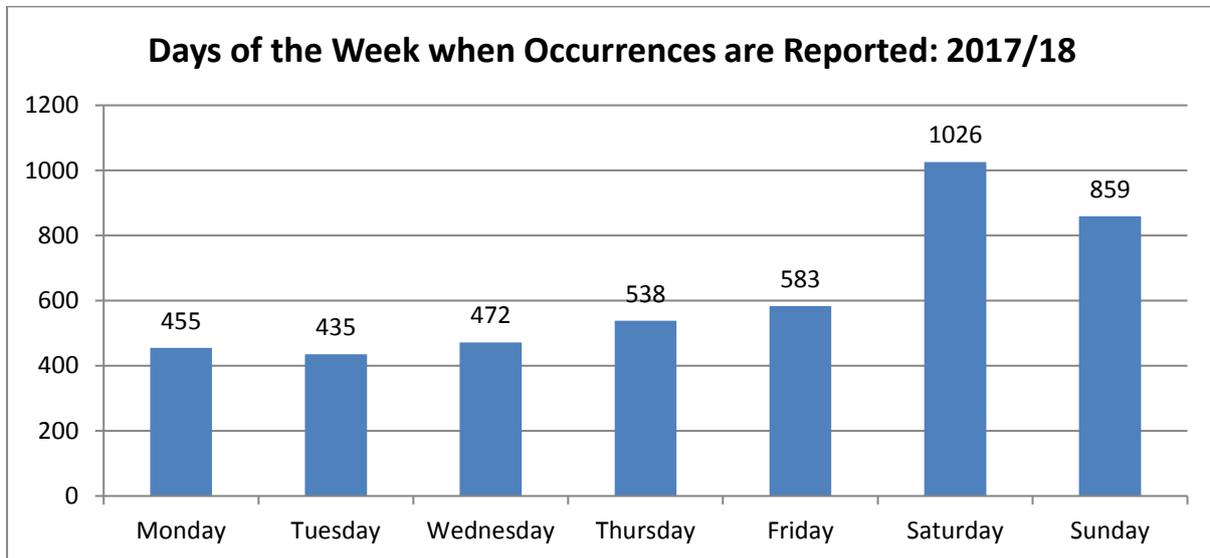
LOCATION - Top 5 Venues	2017/18
Takeaway Restaurant: Blake Street	193
Night Club: Clifford Street	110
Late Night Bar: George Hudson Street/Micklegate	47
Large Bar: Ousegate	43
Night Club: George Hudson Street	41
Large Bar: Micklegate	41



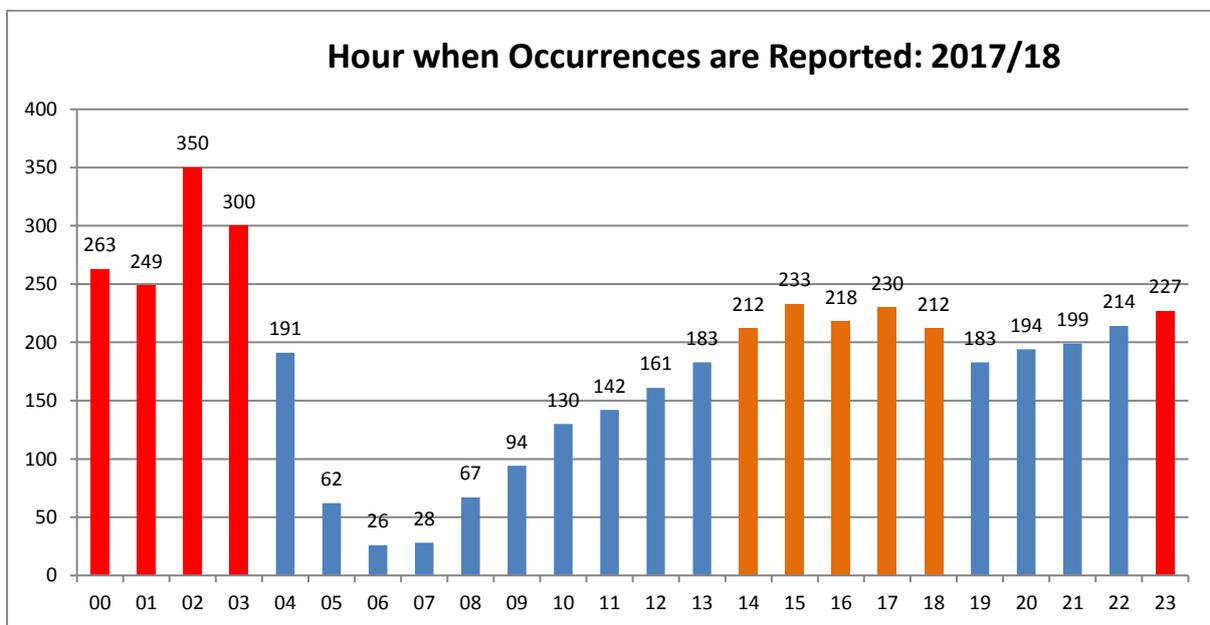
22. Occurrences in Blossom Street - in contrast with the remaining four 'top tier' streets - are reported mainly during the day-time economy period, likely influenced by reports linked to a local drug and alcohol integrated recovery service together with a cinema, newsagent and pharmacy. Several licensed premises and takeaway venues are also located along this street.

Temporal Information

23. Calls for police service are at their highest on weekends; Saturday and Sunday. This is consistent with previous years.



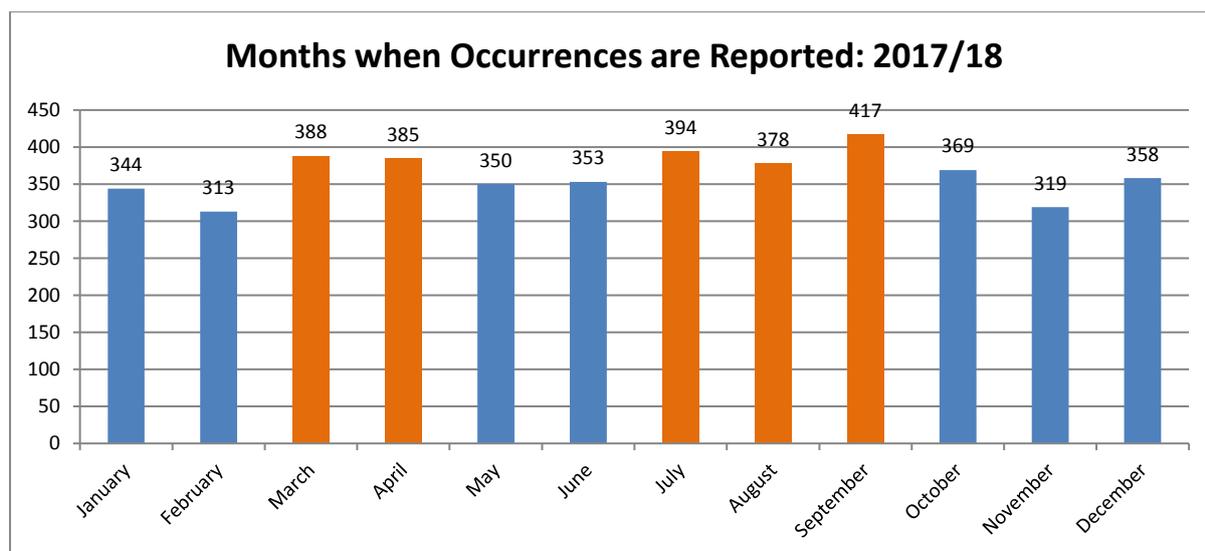
24. Overall, occurrences are at their minimum between 0500 and 1000 and this is mirrored across both years. During the daytime, the peak period for reported occurrences is between 1400 and 1900 followed by a further peak period between 2300 and 0400 - the traditional night-time activity period.



25. The daytime pattern can be attributed to a specific influx of revellers travelling in from other regions such as the North-East of England and South Yorkshire to enjoy the leisure facilities/activities offered in York during this time. These revellers include Hen and Stag parties.

Revellers generally arrive at York Railway Station late morning and return back to their home towns during the evenings. Licensed premise representatives have previously reported a lull after the departure of these visitors until local revellers begin to emerge later in the night to enjoy activities and this pattern supports this theory.

26. The consequence of this temporal pattern means that traditional night-time economy hours have been superseded by a greater influx of visiting revellers into the City of York during Saturday afternoons which has resulted in traditional shopping activities of families and tourists - on a weekend - being affected by the ASB activities of the revellers as well as increasing resource implications for, not only NYP, but also partner agencies including British Transport Police (BTP) and respective train companies. External research in 2014 by Planning Express⁵ indicated that standards of behaviour in the city centre, whilst not reported as ASB or constituting a crime, can be perceived by residents and visitors as inappropriate.
27. Similar to many other towns and cities in England and Wales, a pre-loading culture also exists in the City of York and this includes consumption of alcohol on many of the trains bringing revellers into the city from surrounding counties albeit periodic 'dry trains' have been implemented on Saturdays by the rail networks in an attempt to control behaviour prior to arrival in York.
28. Operation Erase and Operation Safari - led by NYP - continue to operate within the city centre on Saturday afternoons and during the night-time economy period.
29. Reported occurrences in 2017/18 are relatively consistent across all months with increases evident March - April and July - September. Isolated increases are also evident in October and December.
30. The months highlighted above incorporate school and Bank Holiday periods and - commencing May - the onset of the seasonal increase in tourists/visitors to the City attending recurrent events such as York Races. Increases during December are likely influenced by increased footfall to the city attending events such as Christmas Fairs and other associated festivities as well as increased social activities at licensed venues as a consequence of Christmas and New Year.



⁵ North Yorkshire Police and Crime Commissioner (NYPCC) Report 'Reducing the Risk of Harm to Vulnerable People in York's NTE, 28 October 2014

Acknowledgements

North Yorkshire Police

- PS133 Jackie Booth, Partnership Sergeant - York
- Rupert Carey, GIS Application Support Engineer
- Helen Reed, Strategic Intelligence Lead - nexus
- Richard Wilkinson, Intelligence Analyst - Cleveland & North Yorkshire Major Investigation Team

City of York Council

- Lesley Cooke, Licensing Manager

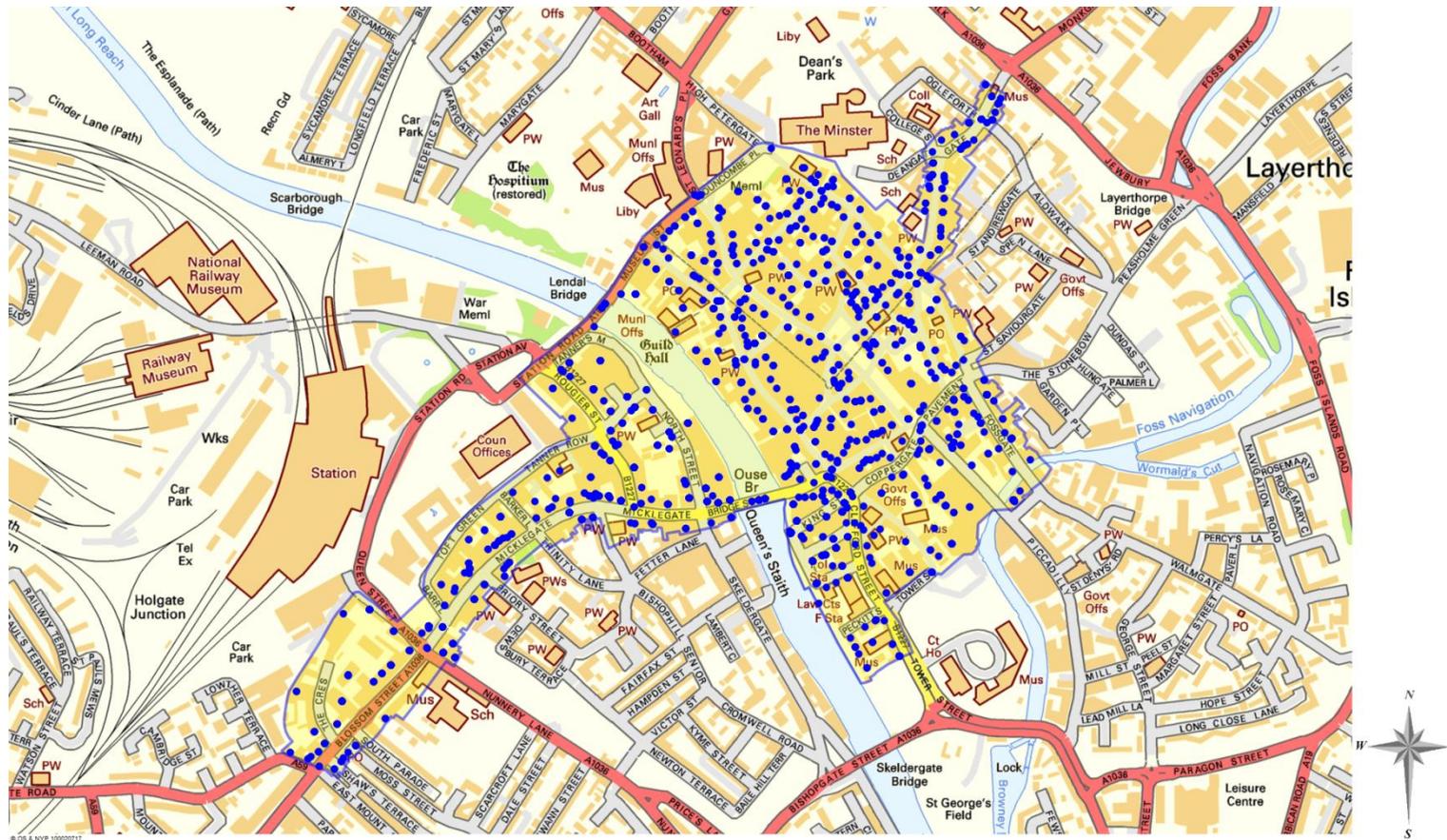
Appendices

Appendix A: List of Occurrences included within the analysis of the report - those highlighted within the table have not been included

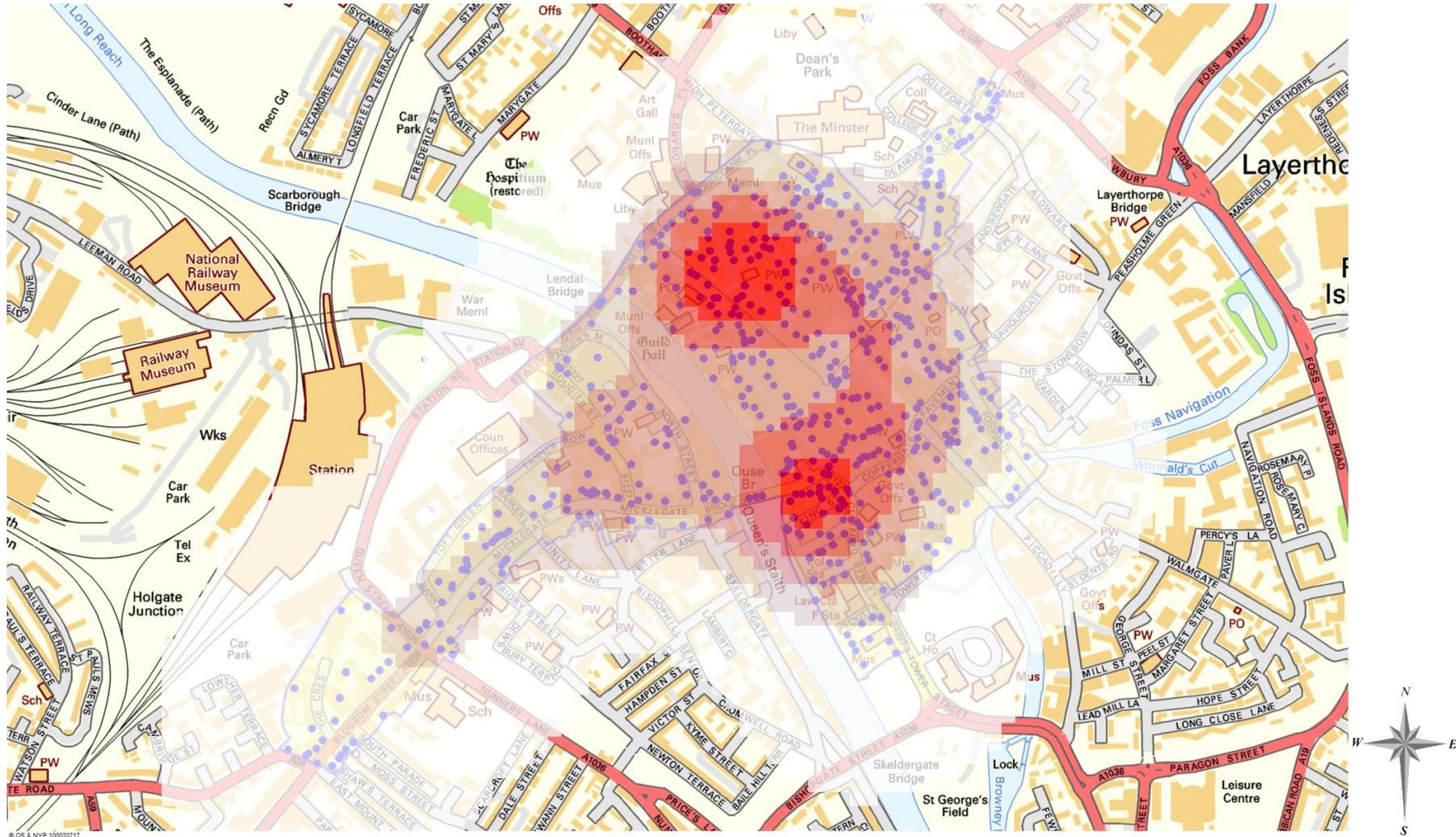
Occurrence Type			
	Admin Police Generated Resource Activity	Admin Lost/Found Property / Found Person	RTC - Death/Injury
ASB Nuisance	PSW Abandoned Call	Crime Drugs	Admin Pre-Planned Events
Crime Theft General	Crime Criminal Damage	Crime Other Offences	Crime Burglary Residential
PSW Concern for Safety/Collapse/Injury/Illness/Trapped	Road Related Offence	Crime Sexual Offence	Admin Messages
PSW Suspicious Circumstances/Insecure Premises/Vehicle	RTC - Damage Only	Highway Disruption	PSW Missing Person
Crime Violence	ASB Personal	PSW Hoax Calls	PSW Multi Agency Info Sharing
PSW Absconder/AWOL/Wanted Persons/Police Court Orders/Bail	Crime Crime related incident	PSW Civil Dispute	Crime Autocrime
Admin Contact Record	PSW Alarm	Crime Burglary Business and Community	Crime Fraud & Forgery
Admin Duplicate	PSW Domestic Incident	ASB Environmental	PSW Animals/Wildlife
PSW Safeguarding (Children)	Crime Robbery	PSW DVDS	PSW Firearms
PSW MARAC	Crime SMV	Admin Problem Solving Plan	Admin Test/Training
PSW Suspicious Package/Object	Admin Cancel/Exit/Error	PSW Natural Disaster/Incident/Warning	PSW Safeguarding (Adults)
PSW Sudden Death	PSW Licensing	PSW Protest/Demonstration	PSW Industrial Incident/Accident
Complaints Against Police/Dissatisfaction with Service	PSW Immigration	Crime Arson	Rail/Air/Marine Incident Not Recorded Elsewhere

Appendix B: Maps

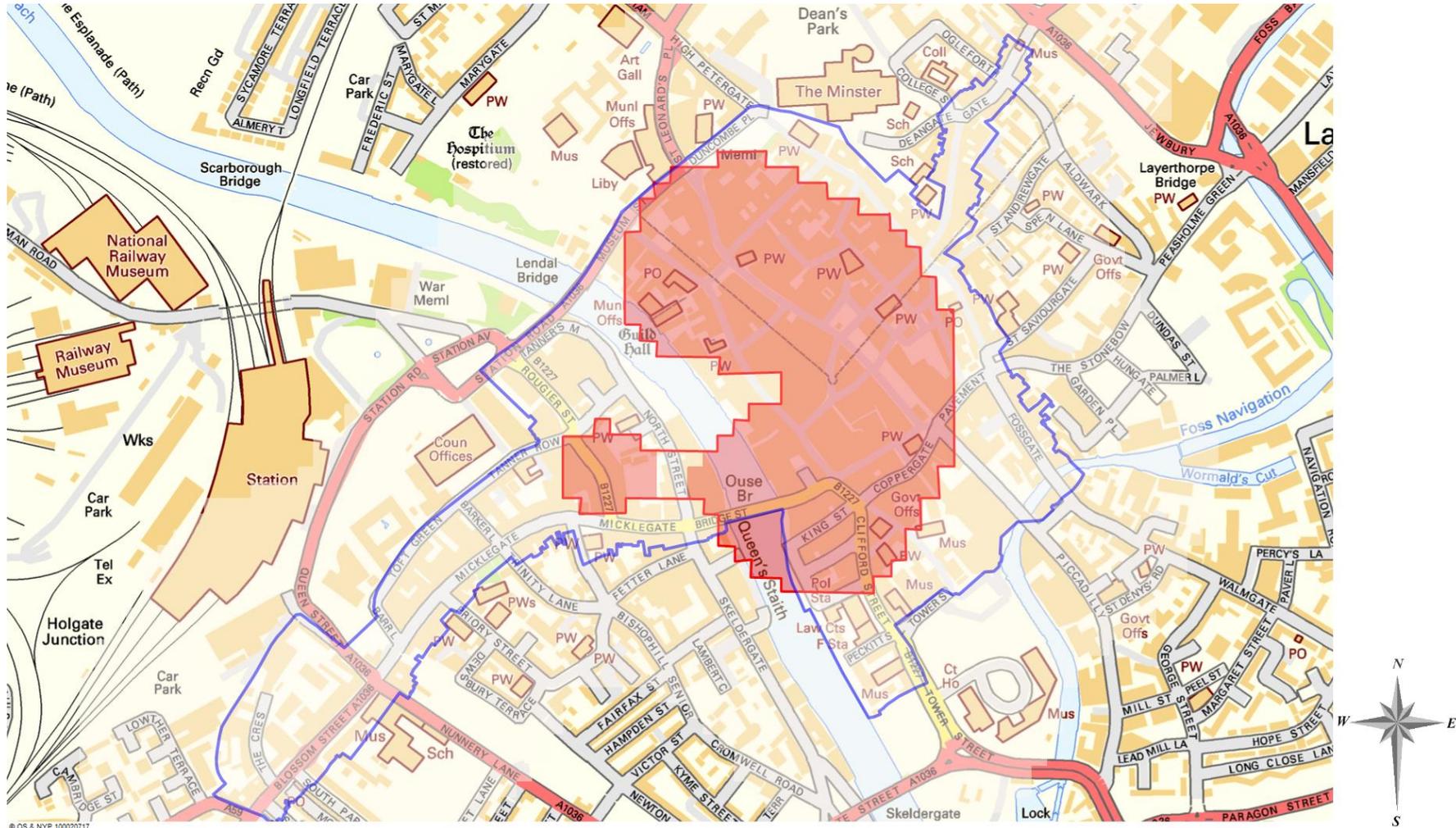
1. Map of the City of York showing the Cumulative Impact Zone as indicated by the blue boundary lines together with all occurrences and crimes (represented by blue dots) committed within the CIZ between 01/04/2017 and 31/03/2018.



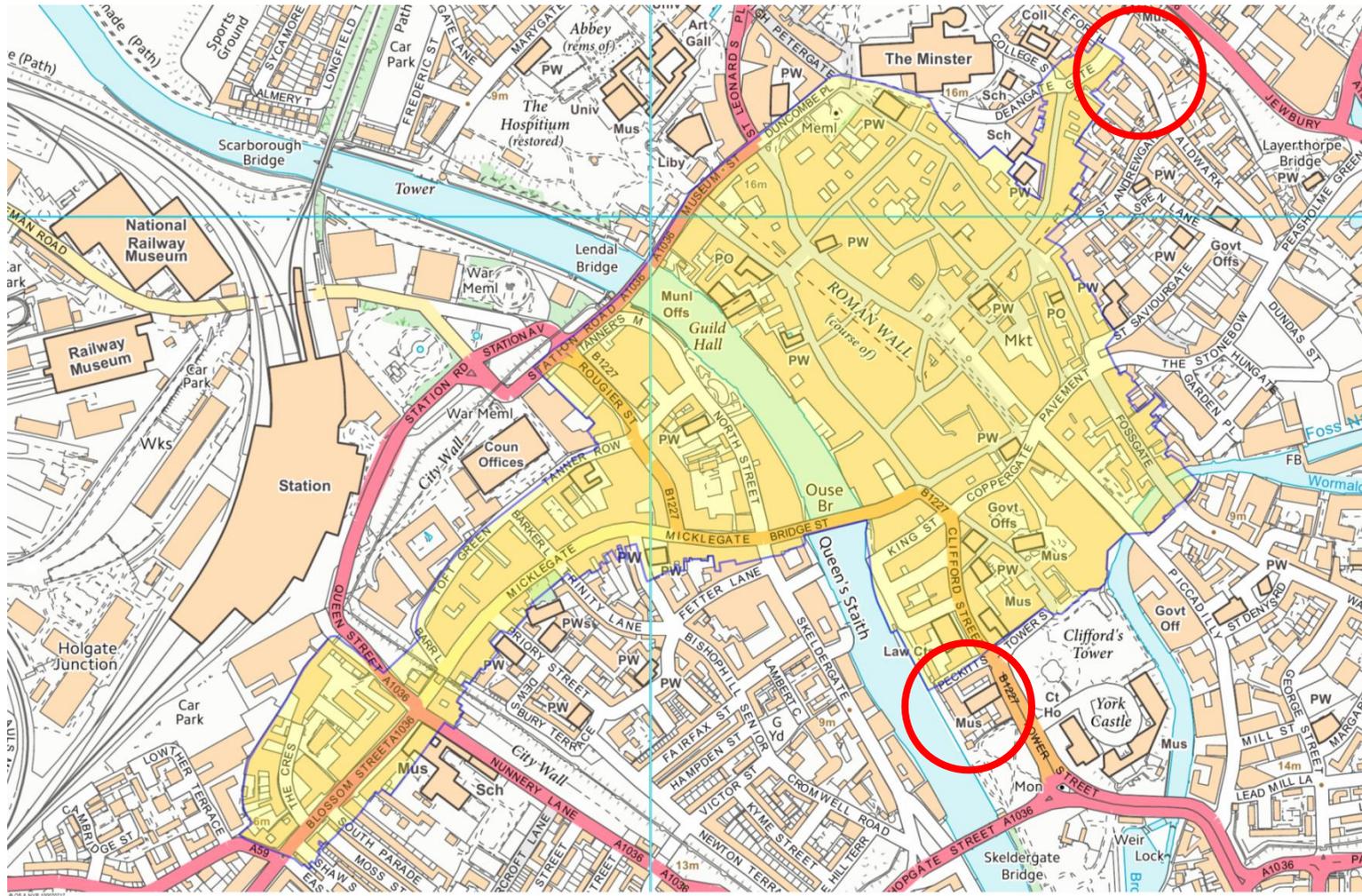
2. Hot Spot Map showing the concentration of occurrences within the City of York Cumulative Impact Zone between 01/04/2017 and 31/03/2018. Red shading indicates highest density and graduating red / pink / white shading showing lowest density of occurrences.



3. Hot Spot Map showing the highest density of occurrences within the City of York Cumulative Impact Zone between 01/04/2017 and 31/03/2018 - as indicated by the red shading.



5. Map of the City of York showing the proposed Cumulative Impact Zone as indicated by the blue boundary lines. Changes in the boundary area are highlighted by the two red circles.



Licensing Policy Consultees**ANNEX 4**

Coppergate Centre
 Vangarde York
 Monks Cross Shopping Outlet
 Clifton Moor Shopping Park
 York Designer Outlet
 West & North Yorkshire Chamber of Commerce
 York & North Yorkshire Chamber of Commerce
 York Retailers Forum
 CAB
 CVS
 Older Citizens' Advocacy York
 York Age Concern
 York Older Peoples Assembly
 BII -
 British Beer & Pub Association
 Federation Of Licensed Victuallers Associations
 CAMRA York
 Club and Institute Union (CIU)
 York Private Hire Association
 York Taxi Association
 Independent Taxi Association
 Make it York
 Make it York Head of Visit York
 BID
 Chief Superintendent, North Yorkshire Police (York)
 City Centre Inspector, North Yorkshire Police
 Licensing Manager, North Yorkshire Police
 British Transport Police
 North Yorkshire Fire & Rescue Service
 Yorkshire Ambulance Service
 YDH– Chief Executive
 CYC Corporate Director Economy & Place
 CYC Corporate Director of Children, Education and Communities
 CYC Deputy Chief Executive and Corporate Director of Customer and Corporate Services
 CYC Corporate Director Health, Housing and Adult Social Care
 CYC Director of Public Health
 CYC Assistant Director Legal & Governance
 CYC Assistant Director of Planning & Public Protection
 CYC Head of Development Services
 CYC Head of Public Protection
 CYC Public Protection Managers
 CYC Assistant Director Communities, Culture & Public Realm
 CYC Assistant Director of Children & Families
 CYC Assistant Director Housing & Community Safety
 CYC Head of Community Safety
 CYC Community Safety Manager
 CYC Assistant Director Consultant in Public Health
 CYC Public Health Specialist Practitioner
 CYC Operations Manager
 CYC Head of Transport
 Ward Councillors
 Parish Councils

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Consultation Responses

Ref :	Name & Address	Comments	Officer Comments
1	Micklegate premises licence holder and resident	<p>One of the major issues that is affecting Micklegate at the moment is the off licenses. <i>Micklegate off licence named</i> is a magnet for the street drinkers, my wife seeing them regularly at 7am waiting for their beer when she is taking the dog out, and often getting things said (although not usually aggressive thankfully, but usually unwelcome comments) she was recently approached by one, just asking for the opening times, didn't specify for alcohol, she answered that <i>off licence named</i> was already open, but he replied that they would not serve him beer!</p> <p>We regularly have to move them on from drinking in our alleyway as it is licensed and most days see them sitting on doorsteps up and down the street drinking high strength cheap beer / cider and there are not many places that sell that locally.</p> <p>I have looked at the licenses for both <i>Micklegate off licence named</i> and <i>off licence named</i> and there is a massive difference. There are very few conditions on <i>Micklegate off licence named</i> as its an old license, in terms of container size, security, alcohol pricing etc. Although <i>off licence named</i> don't help in terms of selling cheap drink to the students, they are not serving the problem drinkers.</p> <p>I understand you would struggle to add conditions to a specific licence without a full official review, but can the policy be more general, maybe prevent the sale of single cans from off licences, I'm not sure if there is any way of putting a minimum price per unit, or potentially not allowing them to sell before 10am as it is making a massive problem on our street.</p> <p>Otherwise a review of their license would not be out of order as they</p>	<p>Para 5.14 amended to include the selling of single cans</p>

		are certainly not upholding the objective of preventing public nuisance and regularly serve people who are obviously very drunk.	
2	Copmanthorpe WI	<p>Very interesting reading, many people we know don't like to go into town on a weekend night or day as there are so many drunken slobs about and it's very embarrassing showing visitors around.</p> <p>I support your new policy and endeavours and many of us would like to see no more pubs, bars, clubs, etc. York is getting known just for drunken loutish behaviour, too many drinking places and not enough shops and far too much student accommodation.</p> <p>'Walking a seagull on a lead down a main thoroughfare' is a new one on me though!</p>	Comments noted and shared with NYP colleagues.
3	PS Jackie Booth North Yorkshire Police	<p>Thank you for affording me the opportunity to comment on York's Draft Statement of Licensing Policy 2019-2024.</p> <p>The author of the document has produced a clear easy to read document which should be beneficial for any individual who wishes to seek advice or clarity regarding Licensing protocol within the City of York.</p> <p>My only observations that you may wish to consider are as follows:-</p> <p>1. Para 5.4 refers to the decrease in the last 10 years of violent crime. This is contradictory to what is set out in the Cumulative Impact Assessment Consultation which states at Para 22 "<i>an increase evident compared with the previous year (+24%)</i>". The inference is certainly that since 2016 there has been an increase in violent crime and the reference to crime patterns and trends should be consistent across both documents as they are likely to be read in conjunction with each other.</p>	Para 5.4 amended to include increase in crime stats

		<p>2. Para 13.7 and Para 13.8 refer to Closure notices. However there is no reference within the draft document to closure under The Anti-Social Behaviour, Crime and Policing Act 2014. The Act consolidated and amended powers which had been available to close licenced premises (under s161 and 165(2)(b)-(d) of the Licensing Act 2003), noisy premises (s.40 of the Anti-Social Behaviour Act 2003 'ASBA 2003'), premises associated with persistent disorder or nuisance (s.11B of the ASBA 2003) and drugs closures (s.2 ASBA 2003). The changes to the law now provides the police/local authority further recourse to closure powers by initially serving a Notice of Closure for a longer period of time which is now quick, easy and reliable, further supported with a formal Closure Order which can be obtained and endorsed by the Courts. Courts have to consider applications for closure orders/extensions (within 48 hours) making the process more efficient and streamlined in comparison to the process under the Licensing Act 2003. The legislation is a tool that can be used for Enforcement on Licensed Premises.</p> <p>Regarding the Cumulative Impact Assessment Consultation I am grateful to the Licensing Manager from the City of York Council in liaising with North Yorkshire Police collating the relevant information on Crime statistics and ASB for the document. I would support the recommendations for a continued Cumulative Impact Area, including a specific Red Zone.</p>	<p>Para 13.8 amended to include the update in legislation</p> <p>Comments noted</p>
4	Mike Southcombe Public Protection Manager	<p>In addition to the licensing objectives, we would like to see reference to the Regulators' Code 2014 with its' priority for regulators to carry out their activities in a way that supports those they regulate to comply and grow. This is consistent with City of York Council's priorities to support the economy, create growth and help businesses to thrive and to create good quality jobs (section 4.2).</p> <p>The hospitality, tourism and leisure activities are vital to York's</p>	New para 2.7 added to include the Regulators' Code

		<p>economy and are major employers including of less skilled workers. The figures quoted in 3.3 may have further increased. It is important to recognise that York's licensed premises are not just for tourists but the residents and businesses of York.</p> <p>There will soon be 4 cinemas in York when the new cinema at Monks Cross, Huntington opens in Summer 2019 (section 3.6).</p> <p>Section 7.12 Final bullet point - change phone number for Public Protection team to 01904 551525</p> <p>Section 8.9 Noise from patrons of licensed premises leaving the premises may not only cause disturbance when ambient noise levels are low, but also when they are higher, if the types of noise from the licensed premises and customers are distinctive.</p> <p>Section 14, p.29 Environmental Protection Act 1990 not 1991. The CNEA powers on night time noise were not adopted.</p>	<p>Updated figures received prior to the consultation</p> <p>Para 3.6 amended to include Community Stadium complex</p> <p>Amended</p> <p>Para 8.9 amended</p> <p>Act year amended, the other point is not relevant to this policy</p>
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**Gambling, Licensing & Regulatory Committee****11 February 2019**

Report of the Assistant Director – Planning and Public Protection

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by Policing and Crime Act 2009**Renewal of Sex Establishment Licence for Upstairs (Mansion),
53-55 Micklegate, York, YO1 6LJ****Summary**

1. This report seeks Members determination of an application to renew a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ.
2. Name of applicant: Upstairs VIP Limited
3. Summary of Application: A copy of the application is attached at Annex 1 of this report and is summarised as follows. This is an application for the renewal of a Sex Establishment Licence which authorised hours of opening Monday to Sunday 21:00 hours to 03:00 hours and 18:00 hours to 04:30 hours on York Racecourse Race Days only.
4. A sex establishment licence is valid for 12 months, the licence holder must submit an application to renew the licence to the licensing authority before the existing licence expires if they wish to continue running a sexual entertainment venue. A copy of the licence to be renewed is attached at Annex 2.
5. The premises currently has a premises licence issued under the Licensing Act 2003. A copy of the premises licence is attached at Annex 3 and is summarised as follows:

Licensable Activity	Permitted Days & Hours
Films	Monday to Sunday 10:00 – 05:00
Live Music	Monday to Sunday 10:00 – 05:00
Recorded Music	Monday to Sunday 10:00 – 05:00
Performance of Dance	Monday to Sunday 10:00 – 05:00
Activities like Performance of dance	Monday to Sunday 10:00 – 05:00
Late Night Refreshment	Monday to Sunday 23:00 – 05:00
Supply of Alcohol (on and off sales)	Monday to Sunday 10:00 – 04:30
Opening Hours	Monday to Sunday 10:00 – 05:00
Non Standard Timings	From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day. On York Racecourse race days 10:00 - 06:00 An additional hour on the morning clocks go forward.

Recommendations

- Members are asked to determine the application for the grant of the licence in accordance with the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by the Policing and Crime Act 2009.

Reason: To consider renewal of the sexual entertainment licence as required by the legislation.

Background

- On 6 April 2010, section 27 of the Policing and Crime Act 2009 was introduced. This legislation reclassified lap dancing clubs and other similar venues as 'sexual entertainment venues'; for which a sex establishment licence is required under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This allows Local Authorities who have adopted the provisions of the legislation to regulate lap dancing clubs and similar venues under the same regime as sex shops.
- Sexual entertainment venues are defined in the legislation as 'any premises at which relevant entertainment is provided for a live audience

for the financial gain of the organiser or the entertainer'. The meaning of relevant entertainment is 'any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)'.

9. This Authority adopted the provisions of the legislation on 7 October 2010 when the resolution was approved by full council.
10. City of York Council's Licensing of Sex Establishments Licensing Policy was reviewed and a revised policy was adopted on 27 April 2017 with immediate effect. A copy of this policy can be found at https://www.york.gov.uk/downloads/file/2964/sexual_entertainment_venues_-_policy_and_procedurepdf.
11. A copy of City of York Council's Standard Conditions for Sexual Entertainment Venues is attached at Annex 4.

Consultation

12. Consultation was carried out by the applicant and the Licensing Authority in accordance with paragraph 10 of Schedule 3 of the 1982 Act relating to the process which the applicant must follow for the application for renewal to be considered valid.
13. No objections were received.
14. A map showing the location of Upstairs, 53-55 Micklegate is attached at Annex 6.

Relevant Legislation – Grounds for Refusal

15. When considering the renewal application, the Authority does not have an unfettered discretion as to whether to refuse an application or grant a renewal. The grounds on which an application could be refused are set out in paragraph 12 to Schedule 3 of the 1982 Act.

Mandatory grounds for the refusal of an application

16. The mandatory grounds for the refusal of an application for a sex establishment licence are that the applicant:
 - a) is under the age of 18;

- b) is for the time being disqualified from holding a sex establishment licence;
- c) is not a body corporate, and is not in resident or has been resident in an EEA state for six months immediately preceding the date of the application;
- d) is a body corporate which is not incorporated in an EEA state;
- e) has in the period of twelve months preceding the date of application been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the reversal has been reversed on appeal.

17. There are no mandatory grounds for refusing this application.

Discretionary grounds for the refusal of an application

18. Discretionary grounds for the refusal of an application for a sex establishment licence are that:

- a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or any other reason;
- b) if the licence were to be granted, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;
- c) the number of sex establishments, or sex establishment of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) the grant would be inappropriate, having regard –
 - to the character of the relevant locality;
 - to the use to which any premises in the vicinity are put;
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

19. When considering the suitability of the applicant to hold a licence the council will take into account such matters it considers to be relevant.

20. Guidance on relevant locality can be found at Annex 6, paragraphs 3.32 to 3.38.

21. Within the licensing policy the council has determined a suitable locality for sexual entertainment venues, an area within the city centre. A limit on the number of sexual entertainment venues permitted within this locality has also been determined; the appropriate number of sexual entertainment venues in the city centre area is a maximum of two, providing those premises are not to near and/or do not impact properties with sensitive uses or in sensitive locations.

Options

22. By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee have the following options available to them in making their decision:
23. Option 1: Grant a renewal of the licence as requested.
24. Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.
25. Option 3: Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Analysis

26. The following could be the result of any decision made by this Committee:
27. Option 1: This decision cannot be appealed at Magistrates Court by an objector to the application. Objectors could judicially review the decision.
28. Option 2: This decision could be appealed at Magistrates Court by the licence applicant.
29. Option 3: With the exception of a decision to refuse an application on a ground specified in paragraph 12(3) (c) or (d) of Schedule 3 to the 1982 Act, the licence applicant may appeal against the decision made to the Magistrates' Court.

Council Plan

30. The approved City of York Council Policy will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

31. The implications arising directly from this report are:

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – The Council has the ability to control the licensing of sexual entertainment venues having adopted Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

Paragraph 8 of Schedule 3 to the 1982 Act provides that where it determines to grant a sex establishment licence, the Council is empowered to impose such conditions or restrictions as it deems appropriate.

Paragraph 12 of Schedule 3 to the 1982 Act sets out a number of mandatory grounds for refusal of a sex establishment licence and also discretionary grounds for refusal of a sex establishment licence.

In considering this application the Committee should have regard to:

- Schedule 3 to the 1982 Act, as amended by Policing and Crime Act 2009.
- The Council's Policy for the Determination of Applications for Sexual Entertainment Venues.
- The Home Office – Sexual Entertainment Licence – Guidance for England and Wales which states that "Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12" [of Schedule 3 to the 1982 Act].

In addition when making their decision Members must give consideration to the rights the applicant has under the European Convention on Human Rights. Article 1 (entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression) are particular rights that may be relevant. Members should consider whether interference with these rights is necessary and proportionate for the prevention of crime or disorder, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, whether interference can be justified in the general interest.

Members of the Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the licence and shall only determine the application on its own merit.

- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

32. All Members are aware that any decision which is unreasonable or unlawful could be open to legal challenge resulting in loss of reputation and potential financial penalty.
33. The report details the options available to the panel in determining the application and recommends that a decision be reached. Provided the decision complies with the proper grounds for considering the application as set out within this report, there are no known risks involved with this recommendation.

Contact Details

Author:
Lesley Cooke
Licensing Manager
01904 551515

Chief Officer Responsible for the report:
Mike Slater
Assistant Director (Planning and Public Protection)
01904 551300

**Report
Approved**



Date 30/01/19

Specialist Officer Implications: None

Wards Affected: Micklegate



Annexes

Annex 1 - Copy of application for renewal

Annex 2 - Copy of current Sex Establishment Licence to be renewed

Annex 3 - Copy of Premises Licence issued under the Licensing Act 2003

Annex 4 - Copy of CYC Standard Condition for Sexual Entertainment Venues

Annex 5 - Map showing location of premises

Annex 6 - Legislation Extracts – Renewal Applications



CITY OF YORK COUNCIL
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10 3DS

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED
SCHEDULE 3 – CONTROL OF SEX ESTABLISHMENTS
Application for the Grant / Renewal / Transfer of a Sex Establishment Licence

TYPE OF VENUE

- Sexual Entertainment Venue** **Sex Shop** **Sex Cinema**

TYPE OF APPLICATION

- Grant** **Renewal** **Transfer**

APPLICANT DETAILS

1. Is the applicant:

- An individual (please answer questions 2, 5 to 9)
 A company or other corporate body (please answer questions 3, 5 to 9)
 A partnership or other unincorporated body (please answer questions 4, 5 to 9)

2. Full name of applicant (individual):

Former or previous names:

Home address:

Post town:

Post code:

Telephone numbers:

Date of birth:

Email address:

3. Name of applicant (company name):

Address of registered or principal office:

Post town:

Post code:

Registration number:

Email address:

Upstars VIP Ltd.
53-55 Micklegate
York YO1 6LJ.
Post code:
07831359
MansonYork@Mail.com

4. Name and address of applicant:

Names and addressed of applicant's partners (please use additional sheet):

5. Are there any other persons responsible for the management of the premises/business other than the partners? Please state their names and addresses:

Andrew G. WHITNEY
Gemma PRIESTLEY.

- 6. a. Has the applicant ever been known by any other name? ~~YES~~ NO
- b. Has the applicant ever been convicted of a criminal offence? ~~YES~~ NO
- c. Has the applicant ever been refused a sex establishment licence? ~~YES~~ NO
- d. Has the applicant ever had a sex establishment licence revoked? ~~YES~~ NO
- e. Has the applicant ever been served with a winding up petition? ~~YES~~ NO

If the answer to any of these questions is yes, please provide details:

7. Applicants' trading address or head office (other than the premises)

53-55 Micklegate
York
YO1 6LJ.

8. Will the business for which this licence is sought be carried on for the benefit of a person other than the applicant? ~~YES~~ NO .

If the answer is yes, state the name, address, place of registration, registered number and the identity of all directors, company secretary and those with a greater than 10% shareholding (use separate sheet if necessary).

9. Does the applicant operate any other sex establishments, licensed or otherwise? Please state name, address, and type of sex establishment of each.

No.

PREMISES DETAILS	
10. Please state the name the business will be known as:	Upstars VIP.
11. Is the premises a	<input checked="" type="checkbox"/> Building <input type="checkbox"/> Vehicle <input type="checkbox"/> Vessel <input type="checkbox"/> Stall
12. Where is it proposed to use the vehicle, vessel or stall?	
13. Does the company propose to only operate on the Internet? (f yes answer Q14 to 19 only)	
14. Premises address	53-55 Wicklegate York
Post town	Post code YO1 6LJ
Telephone number at premises	01904 500995.
15. Which part of the premises is to be used as a sex establishment?	Upstars - First Floor.
16. Is the applicant	<input type="checkbox"/> owner <input checked="" type="checkbox"/> lessee <input type="checkbox"/> sub-lessee <input type="checkbox"/> other
17. If the applicant rents the property state:	
a. Name and address of landlord:	
b. Name and address of the superior landlord:	
c. Total annual rental:	
d. Length of unexpired term:	
e. Notice required to terminate tenancy:	
18. Please provide details of the building management company (if appropriate):	N/A.
19. State the current use of the premises:	Nightclub, Bar & SEV.

20. Has planning permission, or a certificate of lawful use, been obtained for the use of the proposed premises? YES / ~~NO~~

21. Can members of the public access the premises:
 a. Directly from the street?
 b. From other premises?
 c. Not at all? (Internet sales only) YES / ~~NO~~
~~YES~~ / ~~NO~~
 YES / NO

22. Are the premises currently being used as a sex establishment?
 Please provide details of the business currently operating the business:
 Upstars VIP.

OPERATING SCHEDULE

23. Opening hours: (If internet sales only please tick here and continue to Q 26)

Monday	Tuesday	Wednesday	Thursday	Friday
21:00 - 03:00	21:00 - 03:00	21:00 - 03:00	21:00 - 03:00	21:00 - 03:00
Saturday	Sunday			
21:00 - 03:00	21:00 - 03:00			

Any non-standard timings:
 18:00 - 04:30 on York Race Days.

24. Has the applicant entered into any written or oral agreement in connection with the business, for example a management agreement, partnership agreement or profit share arrangement? Please provide details.

a. Please provide details of any lender, mortgage or others providing finance:
 N/A.

b. Please provide details of any merchandising agreements:
 N/A.

PREMISES MANAGEMENT

25. Please state the name of the person who will be in day to day control of the premises (the manager).

a. Will the manager be based at the premises YES / ~~NO~~
 b. Will the management of the premises be the manager's sole occupation YES / ~~NO~~

26. Who will be in control of the premises in the manager's absence (relief manager)?

a. Will the relief manager be based at the premises in the absence of the manager? YES / ~~NO~~

If you have ticked no to any of the above please provide details.

EXTERNAL APPEARANCE AND ADVERTISING – DO NOT COMPLETE FOR RENEWAL APPLICATION	
27.	<p>Please describe the proposed exterior signage and advertising. Please include nature, content and size of each sign and any images to be used:</p> <p>Please note that a drawing of the front elevation is required to be submitted with this application.</p>
28.	<p>Please describe how the interior of the premises is obscured to passersby:</p>
29.	<p>Please describe any proposed window displays:</p>
30.	<p>Please describe how the business is to be advertised, ie business cards, billboard advertising, personal solicitation, advertising on motor vehicles, radio or television advertising:</p>
APPLICATIONS FOR SEXUAL ENTERTAINMENT VENUES ONLY	
31.	<p>Is the proposal for full nudity? YES / NO</p>
32.	<p>Describe the nature of the entertainment eg lap-dancing, pole dancing, stage strip tease:</p>
33.	<p>State measures to ensure employees age and right to work in the UK:</p>
34.	<p>Describe training and welfare policies:</p> <p>Please enclose a copy of the welfare policy for performers (or equivalent document).</p>
35.	<p>Please set out any further information you wish the authority to take into account.</p>

36. Is there any information on this form you do not wish to be seen by members of the public?
If so state which information and the reasons why you do not wish it to be seen.

CHECKLIST & ENCLOSURES

Enclosures

I have made or enclosed payment of the fee
I have enclosed three sets of plans of the premises
I have enclosed a drawing of the street elevation of the premises
In the case of an application to transfer the licence, include the completed Consent to Transfer form



DECLARATION

I declare that I have served notice of this application on North Yorkshire Police.

I declare that a public notice advertising this application has today been displayed upon the proposed premises where it may be conveniently read by the public and will remain thereon for a period of 21 days. A copy of the notice and the standard declaration is enclosed.

I declare that within seven days of the date of this application a public notice advertising this application will be publicised in the legal notices column of the local press.

A copy of the relevant press edition will be forwarded to the City of York Council Licensing Section.

I understand that if I do not comply with the above requirements my application will be rejected.

Any person who, in connection with an application for a grant, renewal or transfer of a sex establishment licence, makes a false statement which he knows to be false in any material respect of which he does not believe to be true is guilty of an offence and liable on summary conviction to an unlimited fine.

SIGNATURES

Signature of applicant	Authorised agent, If signing on behalf of the
Signature	Signature
Name (print) Andrew G. WHITNEY	Name (print)
Date 30th Nov. 2018	Date
Capacity Director	Capacity

Contact name (where not previously given) and address for correspondence associated with this application:

Andrew G. Whitney

Post town Post code

Telephone number (if any)

If you would prefer us to correspond with you by email, your email address (optional)



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SCHEDULE 3 AS AMENDED BY POLICING AND CRIME ACT 2009

SEX ESTABLISHMENT LICENCE

The City of York Council hereby grant renewal of a Sex Establishment Licence to:

Upstairs VIP Ltd
53-55 Micklegate
York
YO1 6LJ

to use the premises known as:

Upstairs
(1st Floor Mansion Nightclub)
53-55 Micklegate
York
YO1 6LJ

for the purposes of a sex establishment comprising a sexual entertainment venue as defined in Schedule 3 to the above Act.

This Licence is granted subject to the conditions set out in the schedule below.

A fee of £924.00 (787268) has been paid for this licence.

This licence shall continue in force from 1 December 2017 until 30 November 2018 unless previously revoked.

Renewal Granted on
20 June 2018

Signed
For and on behalf of the
Director of Economy & Place

SCHEDULE

1. A copy of this Licence and any Regulations prescribing standard conditions made by the authority must be kept exhibited in a position visible to customers.
2. Any external indication of the nature of the business is prohibited.
3. The creation of any new windows or other openings in the external structure of the building is prohibited.
4. This licence only covers the first floor of 53-55 Micklegate, York, YO1 6LJ.
5. That the standard hours of opening be limited to Monday to Sunday 21:00 hours to 03:00 hours. Non-standard hours of opening to be extended on York Racecourse Race Days only 18:00 hours to 04:30 hours.
6. Where a Licensee is a body corporate or an un-incorporated body any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change. Such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
7. The Licensee or a responsible person nominated by him in writing for the purpose of managing the sex establishment in his absence and of whom details (including 2 photographs) have been supplied to and approved in writing by the Council shall be in charge of and upon the premises during the whole time they are open to the public. This condition shall be read in conjunction with condition 8 below.
8. The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the sex establishments in his unavoidable absence, and the names and addresses of those employed in the sex establishment. The register is to be completed each day within 30 minutes of the sex establishments opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
9. The name of the person responsible for the management of a sex establishment be he/she the Licensee or a Manager approved by the Council shall be prominently displayed within the sex establishment throughout the period during which he/she is responsible for its conduct.
10. The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.
11. The Licensee shall maintain good order in the premises.
12. A notice stating that persons under the age of 18 may not enter the premises shall be prominently displayed at the entrance.
13. The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
14. No part of the premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.

15. Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of personal solicitation outside or in the vicinity of the premises.
16. A copy of the licence and of these conditions shall be exhibited in a prominent place within the premises where the public may see and read them. These displays shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and the copy of these conditions shall be retained in a clean and legible condition.
17. No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
18. No change between the uses of a sex shop, sex cinema or sexual entertainment venue shall be effected without the consent of the Council.
19. The Licence Holder shall comply with requirements relating to external appearance of the licensed premises as the Council may consider reasonably necessary. The Licensee shall give prior notice to the Council of any proposed change to the external appearance of the premises and shall support the prior notice by the submission of detailed drawings to show the proposed changes.
20. Without prejudice to the generality of condition 19 above, no display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises unless the prior approval of the Council has been received in writing.
21. The entrance doors to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.
22. Windows and openings to the premises other than the entrances shall be obscured in a manner and with such material as may be approved by the Council. Plans and drawings showing the proposed scheme shall be submitted to the Council for prior approval. This condition shall not be construed as lessening the obligation of the Licensee under condition 21 hereof.
23. Lighting in all parts of the premises as approved by the Council shall be in operation continuously during the whole of time that the sex establishment is open to the public.
24. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:
 - a) All doors or openings approved by the Council shall be clearly indicated on the inside by the word "Exit".
 - b) Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "Private".
 - c) Save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent.

25. No fastening of any description shall be fitted upon any booth or cubicle within the sex establishment nor shall more than 1 person (including employee be present in any such booth or cubicle at any time).
26. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
27. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.
28. The premise will be conducted in a decent, sober and orderly manner at all times. Steps will be taken to ensure that none of the following takes place:
 - a) indecent behaviour including sexual intercourse
 - b) the offer of any sexual or other indecent service for reward
 - c) unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971.
 - d) any acts of violence against persons or property and/or the attempt or threat of such act likely to cause a breach of the peace.
29. All performers shall be over 18 years of age.
30. Notices to be displayed within the premises and at the entrance informing customers of the "House Rules" that affect them and a warning that "adult entertainment" is provided within the premises.
31. Written information shall be given to the dancers/entertainers advising them of the house rules for performers and customers and possible consequences of failure to comply.
32. Adult entertainment shall not take place in a location that could be viewed from outside the premises.
33. Advertising of adult entertainment either on the premises or otherwise shall not include any photographs or images which indicate that entertainment involving nudity or sexual performance takes place on the premises.
34. CCTV for both monitoring and recording shall be installed, maintained and operated in accordance with Data Protection guidelines and will cover all areas where dancing takes place, including each dance booth. All cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a period of 28 days with times and dates indicated. These recordings shall be kept secure and shall be made available to an authorised officer of the Local Authority or a Police Officer on request. The new CCTV system must be in place by 1st June 2015.
35. Performers shall be provided with separate dressing/changing rooms which shall be located so as to be separate and set apart from the public facilities. No person other than performers and authorised staff will be allowed in or near the dressing/changing room. Safe and controlled access to the dressing/changing room will be maintained at all times.
36. There shall be at least one female member of staff authorised to be responsible for the safety and welfare of the performers.

37. At least two SIA (Security Industry Authority) registered door supervisors shall be present when the sexual entertainment premises are open to the public with one SIA door supervisor being positioned on the first floor landing throughout the performance (therefore being present in the area in which the performance takes place) and one at the main entrance to the premises on the ground floor.
38. Dance entertainment shall be given only by performers/entertainers who are engaged exclusively for that purpose. Audience participation shall not be permitted.
39. Dance entertainment shall only be performed in the areas of the club as marked on the plans deposited with the Licensing Authority and with the Authority's approval. These areas can only be changed with the approval of the Licensing Authority.
40. If performers are invited to have a drink with a customer, the performer will remain fully clothed during this period. Performers will not be paid commission on the sale of beverages.
41. On leaving the premise performers will be escorted to their transport by a door supervisor.
42. Adult entertainment shall not take place before 9.00 pm, except for York Race Days as specified elsewhere in the licence.
43. The premises licence holder shall ensure that the house rules for both customers and performers are strictly adhered to.
44. Dancers will be provided with separate secure dressing rooms, facilities to secure valuables and proper sanitation facilities. No person other than performers and authorised staff will be allowed in or near the dressing rooms, therefore safe and controlled access will be maintained at all times.

ANNEX 1

House Rules (Customers)

1. Dancers may only dance to seated customers.
2. Customers must remain clothed at all times.
3. Dancers must not be touched by the customer while they are dancing except for the placing of gratuities into the hand or garter of the dancer at the beginning or conclusion of the performance.
4. No person shall take any video recordings or photographs by any means of the authorised adult entertainment.
5. No persons other than performers and authorised staff shall be permitted in the dressing/changing rooms.
6. Dancers shall re-dress at the conclusion of the performance.
7. Customers who fail to comply with these rules shall be removed from the premise by the management or security staff
8. No customers shall be admitted to the premises or allowed to remain on the premises if they appear to be intoxicated or unruly.
9. The duty manager and security staff will ensure that all customers and performers adhere to the house rules.

ANNEX 2

House Rules (Performers)

1. All performers shall be over 18 years of age. Prior to engagement all performers will provide documentation that they are aged 18 years or over. Checks will be made to make sure the necessary legal work permits to work in the United Kingdom are in place. Should performers be employed from an agency the same checks will be carried out. Management shall keep written record of these checks which shall be available to authorised officers of the council and the Police.
2. No performer shall be allowed to work, if under the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.
3. No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982).
4. Performers shall not use any props or clothing in the act which portrays them as a minor.
5. Garters worn for the collection of gratuities shall be situated no higher than mid thigh.
6. Dancers shall re-dress at the conclusion of the performance and are to remain clothed (minimum bikini top and bottoms) at all times except when giving a performance.
7. Performances of adult nature must be restricted to the designated areas.
8. All staff and performers are forbidden to give personal details including real name and address or other contact details of any other performer or staff member to a customer. Performers are strongly advised not to pass their own personal details to customers.
9. The duty manager and security staff will ensure that all customers and performers comply with the house rules.

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LICENSING ACT 2003

PREMISES LICENCE

Schedule 12

Part A

Part 1 Premises details

Premises licence number
CYC - 009397

Postal address of premises:

Mansion Nightclub
53-55 Micklegate

Post town: **York**

Post code: **YO1 6LJ**

Telephone number: 01904 620602

Expiry date: This licence has no expiry date.

Licensable activities authorised by the licence:

Films
Live Music
Recorded Music
Performances of Dance
Activities like music/dance
Late Night Refreshment
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:

FILMS

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
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Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00
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LIVE MUSIC
Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
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Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00
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RECORDED MUSIC

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
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Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00
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PERFORMANCES OF DANCE

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
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Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00
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ACTIVITIES LIKE MUSIC/DANCE

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
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Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00
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LATE NIGHT REFRESHMENT

Indoors

Monday 23:00 - 05:00	Tuesday 23:00-05:00	Wednesday 23:00-05:00	Thursday 23:00-05:00
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Friday 23:00-05:00	Saturday 23:00-05:00	Sunday 23:00-05:00
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SUPPLY OF ALCOHOL

Monday 10:00-04:30	Tuesday 10:00-04:30	Wednesday 10:00-04:30	Thursday 10:00-04:30
Friday 10:00-04:30	Saturday 10:00-04:30	Sunday 10:00-04:30	

Non Standard Timings for Films, Live Music, Recorded Music, Performance of Dance and Activities like Music/Dance:

On York Racecourse race days 10:00 - 06:00

An additional hour on the morning clocks go forward.
Non Standard Timings for Supply of Alcohol:

From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

On York Racecourse race days 10:00 - 05:30
An additional hour on the morning clocks go forward.

The Opening Hours of the Premises

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

Non Standard Timings:

From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

On York Racecourse race days 10:00 - 06:00

An additional hour on the morning clocks go forward.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:

On and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:

Name: Mansion Nightclub Limited

Address: 53-55 Micklegate
York
YO1 6LJ

Telephone number: 01904 620602

Email address:

Registered number of holder, for example company number, charity number (where applicable):

8235320

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:

Name: Mr Andrew Whitney

Annex 1 – Mandatory conditions

MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
 - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
 - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

MANDATORY CONDITION - ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula –

$$P = D + (D \times V)$$

where –

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must –
 - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed –
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to –
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section –
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

MANDATORY CONDITION: EXHIBITION OF FILMS

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where -
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Embedded Restrictions

STANDARD PRE-EXISTING CONDITIONS APPLICABLE TO ON LICENCE WITH NO CHILDREN'S CERTIFICATE

- 1) The restrictions to permitted hours do not prohibit:
 - a) the sale or supply of alcohol to, or consumption of alcohol by, any person residing at the licensed premises
 - b) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied
 - c) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

Private Entertainment

As the provisions of the Private Places of Entertainment (Licensing) Act 1967 was previously adopted and applied throughout the City of York Council area, private entertainment for gain may be provided throughout the premises without limitation by virtue of the previous Justices Licence.

Recorded Music

Recorded music may be played throughout the premises without limitation in line with previous provisions as set out in Section 182 of the Licensing Act 1964.

Annex 2 – Conditions consistent with the operating schedule

Licensing Objectives

Prevention of Crime & Disorder

1. SIA registered door staff will be employed at the premises.
2. CCTV cameras cover both the interior and the exits to the club.
3. The premise will participate in any radio link scheme linking a majority of local licensed premises to the police.
4. The maximum occupancy of the premises will be 500 persons.
5. All off sales of alcohol shall be made in sealed containers.

Public Safety

6. Complies with current local authority and fire service safety regulations with regard to emergency lighting, fire alarms and electrical installation checks etc.

Public Nuisance

7. Notices will be displayed at the Micklegate exit asking customers to leave the premises quietly.
8. During the operation of amplified equipment and regulated entertainment all doors, including fire doors, shall be kept shut when not in use. With the exception to the front door which may remain open during opening hours, providing that the noise emanating does not cause a nuisance to any noise sensitive premises.
9. Notices will be displayed in the car park asking customers to have regard for neighbours by leaving the area quietly.

Protection of Children from Harm

10. No under 18s are allowed on the premises unless at an arranged under 18 event run in conjunction with the local authority and police.
11. Proof of age scheme is in operation.

Annex 3 – Conditions attached after a hearing by the licensing authority

Review Conditions

1. All music in the basement area shall be via the dBX DriveRack PA noise limiter or similar noise limiter to be agreed with City of York Council's Environmental Protection Unit prior to use.
2. Prominent, clear and legible signs shall be displayed in the DJ area to inform DJs that all music is to be played through the noise limiter provided.

3. An alarm system shall be installed and be operational during hours of opening to the public which alerts staff when the rear fire door has been opened.
4. Prominent, clear and legible notices shall be displayed on all fire exits stating that fire exits are for emergency use only.
5. Documented patrols shall be carried out by members of staff at no less than hourly intervals during the hours of opening to the public. These checks shall be undertaken outside the building to the front and rear to check for noise from inside the premises and noise from customers outside the venue to ensure compliance with Condition 8.
6. Staff training shall be given and documented regarding all matters relating to the licence and its conditions. Records of training shall be kept for 3 years.
7. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.
8. No music or amplified sound shall be audible at the boundary of the car park to the rear of the premises.
9. During hours the premises is open to the public, fire doors shall be fitted with non-locking restrictions which prevent their opening except in an emergency.

Hearing Conditions

1. There will be no entry / re-entry to the premises (save for persons who have gone to the designated smoking area) after 04:00hrs.
2. A CCTV system will be installed and maintained at the premises. Images will be retained for a minimum period of 28 days and be made available to officers of the responsible authorities on request.
3. The outside smoking area will be monitored by a designated member of staff whose duty it is to ensure that no disturbance is caused by those using the smoking area.
4. The premises will operate a written queuing and dispersal policy to ensure customers leave quietly. That policy will be operated and a copy made available to officers of the responsible authorities on request.
5. Bottle bins will be emptied between 09:00hrs and 23:00hrs.
6. All windows and doors opening onto the rear car park area of the premises shall be kept closed during regulated entertainment. Except for any door used for access which forms a lobby consisting of a minimum of 2 doors, one at each end of the lobby. These lobby doors shall be kept closed except for ingress and egress and fitted with a self closing device.
7. In relation to Review Condition 5. The documentation of patrols shall be made in the course of the patrol or on completion of each patrol. The patrol documents shall be kept for a minimum of 3 months and made available to the Licensing Authority or any responsible authority on reasonable request.

Annex 4 – Approved Plan

Plan Number Y-BSP-3422-13-100

For and on behalf of
The Director of Communities
& Neighbourhoods

Date: 23/07/2015

Licensing Services
Hazel Court EcoDepot
James Street
York
YO10 3DS

Phone: 01904 552512
Fax: 01904 551590
Email: licensing.unit@york.gov.uk
Website: www.york.gov.uk/licensing

Standard Conditions

Sexual Entertainment Venues

General

1. In accordance with Home Office guidance, where a condition conflicts with a condition in a Licensing Act 2003 premises licence, the more onerous applies.
2. Unless stated otherwise, the licence hereby granted will remain in force for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
3. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
4. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.
5. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the Council in writing.

Exhibition of the licence

6. The licence or a certified copy must be prominently displayed at all times so as to be readily and easily seen by all persons using the premises and all authorised officers. A copy of the conditions attached to the licence must be kept on the premises and be available for inspection by an authorised officer of the Council.

Hours of opening

7. Except with the written consent of the council, the premises will only open to the public during the following hours:

Monday	21:00 – 03:30	Friday	21:00 – 04:30
Tuesday	21:00 – 03:30	Saturday	21:00 – 04:30
Wednesday	21:00 – 03:30	Sunday	21:00 – 03:30
Thursday	21:00 – 03:30		

Conduct of the premises

8. Relevant entertainment will only be performed by the dancer. There must be no audience participation.
9. Dancers will only perform on the stage area, or in booths/areas for VIPs as identified on the plan attached.

10. There must be no physical contact (touching) by a customer of a dancer while a performance is taking place, except for the placing of gratuities into the hand of the dancer at the beginning or conclusion of the performance. A dancer may have physical contact with the customers while the performance is taking place, this is restricted to touching the customers knees (including sitting on their knee), lower legs, upper chest, arms, face and head. There will be no physical contact of the pubic area or genitals.
11. Any performance will be restricted to dancing and the removal of clothes. There will not be any other form of sexual activity or stimulation which, for the avoidance of doubt, includes kissing.
12. Sex toys must not be used and penetration of the genital area by any means must not take place.
13. Dancers shall re-dress at the conclusion of the performance.
14. Customers will not be permitted to throw money at the dancers.
15. No customers shall be admitted to the premises or allowed to remain on the premises if they appear to be intoxicated or unruly.
16. No person shall take any photographs, videos or other similar recordings (including mobile phones and video streaming) of the authorised relevant entertainment.

External appearance

17. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE

This premises operates a Challenge 25 policy.

Persons who appear to be under the age of 25 will be required to show proof of age.

18. The external appearance of the premises must be approved by the council in writing. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council in writing before work is undertaken.
19. Access to the licensed area of the premises should be through a lobby area which is constructed in such a way that the inside of the licensed premises where relevant entertainment takes place is not visible to passing members of the public when the doors of the premises are opened.
20. Windows and opening to the premises, other than entrances, shall be obscured in a manner and with such material approved by the council. Door entrances shall also be obscured by blinds or material approved by the council so as to prevent any member of the public from seeing through to the premises whilst relevant entertainment is taking place.

21. External signage will only be illuminated between 9.00pm and 5.00am, and movable signs placed outside the premises will be removed between 4.30am and 9.00pm.

Advertising

22. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
23. Staff employed or subcontracted by the premises will not verbally or otherwise promote, tout or advertise the premises, except by way of flyers. Staff employed or subcontracted by the premises will not direct potential customers to transport connected with the premises.
24. The distribution of flyers will only be permitted in such a way where it does not cause public offence. Therefore, the distribution of flyers is only permitted between the hours of 9.00pm and 3.30am. The licensee will remove any leaflets/flyers from the highway within a 100 metre radius of the premises by 5.00am. Flyers must not be distributed by and to persons Under the age of 18 years.

Layout of the premises

25. Access to ground floor premises may only be through two or more doors placed consecutively, so arranged that when a person enters or leaves the premises the interior of the premises is not recognisable to persons outside the premises. The first set of entry doors must be fitted with a device to provide for their automatic closure and such a device shall be maintained in good working order.
26. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
27. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.
28. Where works necessitate the premises being closed for a long period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the council of the satisfactory completion of the work.
29. All parts of the premises shall be well maintained and kept in a clean condition to the satisfaction of the council.

Management of the premises

30. Where the licensee is a body corporate, or an un-incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.

31. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue ("the manager") will have personal responsibility for and be present on the premises whilst relevant entertainment is being performed. Any such nomination will be produced on demand to an authorised officer of the council or the police.
32. The licensee will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to about at all times when they are in charge of the premises.
33. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue ("the manager"), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.
34. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises affected by the termination of a lease or other event affecting the licensee's control of the premises.
35. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
36. No person under the age of 18 will be admitted to the premises.
37. The licensee will operate a Challenge 25 age verification policy. People who appear to be under the age of 25 will be required to show proof of ID prior to admittance. A notice to this effect, in accordance with condition 18 will be displayed on the premises.
38. The licence holder will not employ any person under the age of 18 in any capacity.
39. The licensee will comply with all statutory provisions and any regulations made hereunder.
40. The licensee will provide, for approval in writing of both the police and the licensing authority, a code of practice for the dancers. This code must be given to all dancers and displayed in staff areas. This code must be made available upon request to both the police and Authorised officers.
41. The licensee will provide, for approval in writing of both the police and the licensing authority, a code of conduct for customers, this must be printed in a manner which is clear and easy to read during normal operation of the premises. This code must be prominently displayed at each entrance to the premises, at the entrance to any private dance areas and in suitable locations within the licensed premises, such locations to be agreed with the council, such as at bars.
42. Price lists for both drinks and sexual entertainment will be clearly displayed at each entrance to the premises, at each bar and at each table.
43. Suitable and sufficient training will be provided to all staff including the nominated responsible person. The training will be recorded and the training records must be made available upon request to both the police and authorised officers.

44. The name of the person responsible for the management of the premises, whether the licensee or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he/she is responsible for its conduct.

Safety and security

45. A colour digital CCTV system will be maintained and operational at the premises at all times when licensable activities are being carried out and at any other times when member of the public are present on the premises.
46. The CCTV system will cover all areas of the premises occupied by the public under the terms of the licence, including corridors, stairways, each dance booth and VIP areas (excluding within toilets and changing rooms). The CCTV system will cover the main entrances and external areas of the premises occupied by the public, for example queuing areas, beer gardens, smoking areas and car parks.
47. The locations of CCTV cameras are identified on the site plan of the premises. No amendments to the locations of the cameras will be made without prior consultation with North Yorkshire Police and the council.
48. The CCTV system will be of a satisfactory resolution quality which will enable the identification of persons and activities, and other fine details such as vehicle registration number plates.
49. Recorded CCTV images will be maintained and stored for a continuous period of 28 days. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.
50. Where CCTV is recorded onto a hard drive system, any DVDs subsequently produced will be in a format so it can be played back on a standard DVD player.
51. The nominated person ("the manager") must be trained in the use of any such CCTV equipment and be able to produce CCTV images to the police or Licensing Authority.
52. CCTV footage will be controlled and kept in a secure environment to prevent tampering and unauthorised viewing.
53. The data controller, under the Data Protection Act 1998, who is responsible for any CCTV images captured on cameras on the premises will, on the lawful request of the police or an authorised officer of the council, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. Where the CCTV images are not supplied at the time of the request being made the data controller will ensure that they are secured to prevent any overwriting.
54. A minimum of two Security Industry Authority registered door staff (numbers to be subject to police and licensing authority approval) will be present on the premises during the performance of relevant entertainment.
55. A refusals/incident/accident register will be maintained and shall record all refusals relating to alcohol, access to the premises and all incidents or accidents.

56. The licensee will ensure that a fire safety risk assessment is carried out in connection with the premises, and is retained on the premises at all times and available for inspection by an authorised officer or a member of the Fire Authority.
57. The licensee will maintain good order in the premises at all times, and ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents in the vicinity and persons passing by.

Staff welfare

58. Dancers will be aged 18 years or over.
59. Before a dancer is permitted to work on the premises the licensee will ensure that the dancer:
 - a) has not been convicted of theft, drug offences or prostitution
 - b) has the right to work in the UKThe licensee will keep records of the checks, including copies of any documentation such as a basic disclosure, passport, visa, driving licence or national insurance number provided by the dancer.
60. All premises that provide relevant entertainment will provide dancers with copies of the following documents:
 - a) A copy of the conditions attached to the Sex Establishment Licence;
 - b) Details of any other conditions applied by management of the premises;
 - c) A copy of the code of practice for dancers;
 - d) A copy of the code of conduct for customers;
 - e) Price lists for drinks and sexual entertainment.
61. Dancers will be provided with separate secure dressing rooms, facilities to secure valuables and proper sanitation facilities. No person other than performers and authorised staff will be allowed in or near the dressing rooms, therefore safe and controlled access will be maintained at all times. The documents detailed in condition 60 will be displayed in the dressing rooms.
62. There will be at least one female member of staff authorised to be responsible for the safety and welfare of the dancers. This staff member must be on the premises at all times when licensable activities are taking place.
63. All booths and VIP areas used for private dances must be visible to supervision and must not have closing doors, any curtains used must be approved by the council in writing.
64. All booths and VIP areas used for private dances must be directly supervised by either a SIA registered door supervisor, or a member of staff who has direct contact with a SIA registered door supervisor working on the premises at all times the booths/areas are in use. Direct supervision does not include remote supervision by CCTV.
65. Dancers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.
66. Any person on the premises who can be observed from outside the premises will be properly and decently dressed.

67. The practice of fining is prohibited.
68. Customers and staff must not be allowed to interact while using the smoking area, and where possible a separate smoking area should be provided for staff. Dancers must be covered up at all times with knee length robes or coats whilst using the smoking areas.
69. Throughout the lap or table dance customers will remain seated and fully clothed, with their hands clearly visible, either resting on the arms of the chair/sofa or on the seat cushion, or customers must be asked to sit on their hands.
70. If a dancer is invited to have a drink with a customer, the dancer will remain fully clothed during this period. Dancers will not be paid commission on the sale of beverages.
71. On leaving the premises dancers will be escorted to their transport by a SIA registered door supervisor.

Vessels, vehicles and stalls

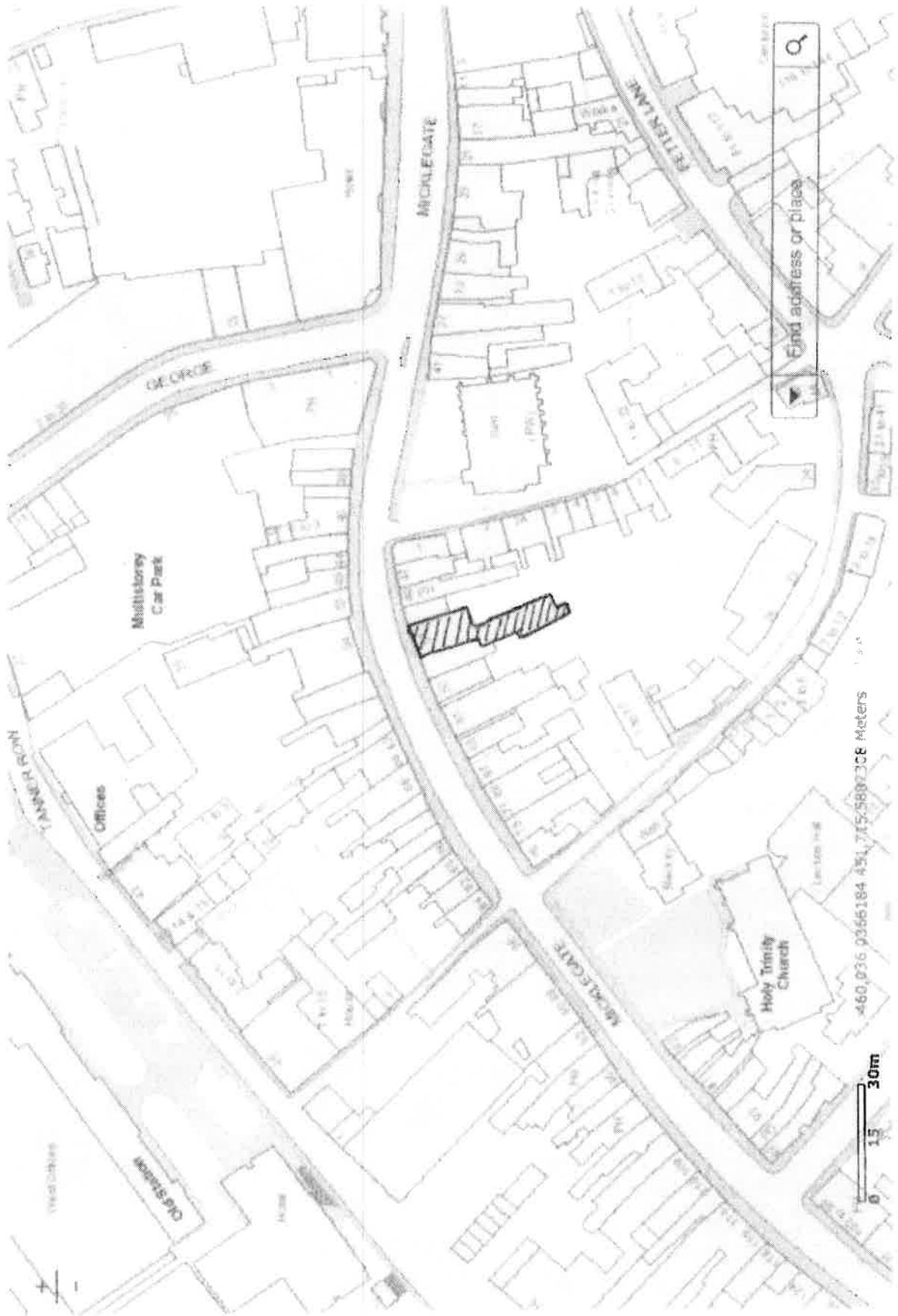
72. In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel, vehicle or stall from the location specified in the licence unless 28 days written notice is given to the council of such intended removal. The council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application.
73. The requirements of condition 72 will not apply to a vessel, vehicle or stall habitually operating from a fixed location, which is regularly moved, whether under its own propulsion or otherwise, from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that specified in the licence.
74. Vehicles must not be used for personal solicitation, touting or advertising.

Variation of conditions

75. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
76. The licensee may apply to the council to vary any of the terms of the licence.
77. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the grant, renewal or transfer of the licence.

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ANNEX 5



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Legislation and Policy Considerations

1. The following provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) apply to this application:
 - Paragraph 10 (Grant, renewal and transfer of licences for sex establishments) relates to the process which the applicant must have followed for the application to be considered valid.
 - Paragraph 12 (Refusal of licences) relates to the grounds under which an application shall not be granted and also describes the powers by which the licensing authority has a discretion to refuse the licence.
 - Paragraph 13 (Power to prescribe standard conditions).

2. The following provisions of the Home Office Guidance apply to this application:
 - Paragraphs 3.23 – 3.24 (Objections) explain who can object and how this is done and that the applicant must be made aware of the general grounds for the objection before the application is determined.
 - Paragraphs 3.25 – 3.26 (Hearings) explain that the applicant must be given the opportunity to appear and be heard in front of the sub-committee considering the application. Schedule 3 does not make any explicit provision for objectors to be heard, this is left to the discretion of the appropriate authority.
 - Paragraphs 3.27 – 3.31 (Grounds for refusal).
 - Paragraphs 3.32 – 3.38 (Relevant locality) define the meaning of “relevant locality” and the powers of the appropriate authority to decide the maximum number of premises allowed in a particular locality.
 - Paragraphs 3.39 – 3.42 (Licence conditions) explain that once the decision is made to grant, the appropriate authority can attach conditions specific to the individual premises and/or standard conditions for the particular type of establishment. These conditions should not duplicate conditions placed on a premises licence issued under the Licensing Act 2003 and should be appropriate to the activities authorised by the licence.
 - Paragraphs 4.19 – 4.21 (European Convention on Human Rights) explain whilst applications from existing operators can be refused on one or more grounds set out in paragraph 12 of schedule 3 of the 1982 Act, account must be taken of rights existing operators may have under Article 1 of Protocol 1 to the European Convention

which protects the peaceful enjoyment of their possessions (including licences) and article 10 (freedom of expression).

4. City of York Council's Policy for the Licensing of Sex Establishments Licensing Policy and the Standard Conditions for Sexual Entertainment Venues applies to this application.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.
7. The Committee is reminded that it must comply with the Council's Public Sector Equality Duty (as required to do so under s.149 of the Equality Act 2010), and have due regard to the potential impact on gender equality.

NOTE FOR MEMBERS

Extracts from Home Office Guidance for England and Wales relating to Sexual Entertainment Venues.

3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant, However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.

3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no obligation to offer an oral hearing to objectors, they may do so at their discretion. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

Refusal of a Licence

3.27 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

A licence must not be granted:

- a) to a person under the age of 18;

- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.28 A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard -
 - i. to the character of the relevant locality;
 - ii. to the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.29 A decision to refuse a licence must be relevant to one or more of the above grounds.

3.30 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

3.31 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it if one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- (a) in relation to premises, it is the locality where they are situated; and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding two sex establishments 200 miles away from one another were in the same locality. Case law indicates that a relevant locality cannot be an entire local authority area or an entire town or city.

3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the ‘character’ of the relevant locality

and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.

3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

Licence Conditions

3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.

3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:

- The hours of opening and closing
- Displays and advertisements on or in sex establishments
- The visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another

3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.

3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licence or clubs premises certificates and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.



Gambling, Licensing & Regulatory Committee**11 February 2019**

Report of the Assistant Director - Planning and Public Protection

Update Report – Private Hire Licensing**Summary**

1. This update report is for Members to note, at the request of the Chair. It explains the Council's present position regarding the interpretation of the law relating to private hire licensing and the ability to work outside the area within which they are licensed.
2. An alternative interpretation of the law has been put forward by members of the trade. The Opinion of their legal adviser is attached for Members information at Annex 1.

Recommendations

3. That the Report be noted.

Reason: To update the Committee on the Council's present position regarding the interpretation of the law relating to private hire licensing and the ability to work outside the area within which they are licensed.

The Council's Legal Position

4. At present, the Council considers the settled legal position to be as follows:

Provided the three licences required in relation to a private hire vehicle (operator, vehicle and driver) have all been issued by the same authority, then the private hire vehicle (PHV) can undertake journeys anywhere in England and Wales. That is irrespective of where the journey commences, areas through which the journey passes and, ultimately, the area where the journey ends.

See Adur District Council v Fry [1997] RTR 257.

In this case, a PHV was licensed by Hove Borough Council – operator, driver and vehicle. The situation concerned a booking for a journey that commenced, ended and throughout its length was within the district of Adur District Council.

The High Court determined that no offence was committed, and it was lawful for the PHV to undertake a journey that is wholly outside the district in which it is licensed. This is due to the limited meaning of the term “operate” contained in Local Government (Miscellaneous Provisions) Act 1976, Section 80(1), which meant “in the course of business to make provision for the invitation or acceptance of booking for a PHV” and could not be construed more widely.”

The Trade’s Legal Interpretation

5. On 19th November 2018, the Private Hire Association shared a legal Opinion it had obtained from Queen’s Counsel, that argues that operators of ‘out of town vehicles’ and their drivers are illegally operating in York. (Annex 1) It is important to stress, that this alternative view that has not been tested in the Courts.
6. The Council has instructed separate Counsel to advise, and await a comprehensive advice note. As there are ongoing applications at other Council’s pending determination concerning similar arguments, the Council has asked that the Opinion await these outcomes so that the advice note can have regard to these.

Council Plan

7. Seeking independent counsel advice supports the council’s priority to meet its statutory duties.

Implications

8. There are no implications associated with this report as it is for information only

Risk Management

9. There are no implications associated with this report as it is for information only.

Contact Details

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Report **Date** 01/02/19
Approved

Specialist Implications Officer(s) List information for all

Alison Hartley
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Wards Affected: List wards or tick box to indicate all **All**

For further information please contact the author of the report

Annexes

Annex 1 Legal Opinion – Private Hire Association

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RE: UBER BRITANNIA LIMITED**UNLICENSED PROVISION FOR THE INVITATION OF PHV BOOKINGS
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976****YORK PRIVATE HIRE ASSOCIATION**

OPINION

Introduction

1. On 12 December 2017 York city Council (“the council”) refused to renew the York private hire vehicle operators’ licence held by Uber Britannia Limited (“Uber”).
2. The refusal appears to have made little or no difference: Uber vehicles and drivers continue to present themselves in York and invite potential customers to book their services on their smartphones. Uber encourages and incentivises drivers to do so. The result is that out-of-town private hire drivers, and vehicles not meeting York’s licensing requirements, are undertaking PHV bookings on the City’s streets.
3. I have been asked by the York Private Hire Association whether the continued activities of Uber and its drivers in York is lawful. For the reasons given below, I am strongly of the opinion that Uber and Uber drivers are acting as unlicensed operators, contrary to section 46(1)(d) of the LGMPA 1976.

The law

4. It is important to recognise that the statutory provisions applying to PHV drivers and vehicles are materially different from the provisions applicable to PHV operators.

Vehicles

5. The owner of a vehicle may not use it as a private hire vehicle in a controlled district unless the vehicle is licensed under section 48 LGMPA 1976: section **46(1)(a)**.

Drivers

6. A private hire vehicle may not be driven in a controlled district otherwise than by someone licensed under section 51: section **46(1)(b)**. (It is also an offence for the owner of a vehicle to employ as a driver someone who is not so licensed: **46(1)(c)**).
7. No offence under sections 46(1)(a), (b) or (c) is committed, however, if a driver’s licence and a vehicle licence issued in a different controlled district are in force: section 75(2).

8. The so-called “right to roam” of PHV drivers and vehicles derives from section 75(2). It means that licensed drivers and vehicles may lawfully undertake journeys (not ‘accept bookings’) “which ultimately have no connection with the area in which they are licensed” (per Latham LJ in *Shanks v North Tyneside BC* [2001] LLR 706).
9. The right is not unqualified: PHV drivers and vehicles may not solicit custom, and may only fulfil a booking accepted by an operator licensed by the same authority as licensed them: *Dittah v Birmingham City Council* [1993] RTR 356. Thus all three licences (operator’s, driver’s and vehicle) must be issued by the same authority: *Dittah*.

Operators

10. Section 80(1) LGMPA 1976 provides:

“operate” means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle.
11. An operator may only make provision for the invitation or acceptance of PHV bookings in the controlled district in which he is licensed: LGMPA section **46(1)(d)**, applying section 80, subsections (1) & (2).
12. **Section 75 of the LGMPA 1976 does not provide an exemption for operators from section 46(1)(d):** (i.e. there is no equivalent exemption to that provided for drivers and vehicles from sections 46(a), (b) & (c)). Thus, whilst drivers and vehicles may lawfully undertake *journeys* “which ultimately have no connection with the area in which they are licensed” (*Shanks*), provision for the invitation or acceptance of bookings may only be made in the controlled district in which the operator is licensed.
13. Whether or not provision has been made in breach of section 46(1)(d) is a question of fact. The following guidance emerges from the cases -
 - “It is simply a question of asking, in common sense terms, whether there has been provision made in the controlled district for invitation or acceptance of bookings”: *Kingston Upon Hull City Council v Wilson* (1995) WL 1082181, per Buxton J.
 - “There could well be provision for invitation of bookings in one place and for acceptance in another”: *East Staffordshire BC v Rendell* (1995) WL 1084118, per Simon Brown LJ.
 - “As the authorities clearly show, the [main] question is not where the act of accepting any particular booking or bookings take place, but where the provision is made”: *idem*
 - “The determining factor is not whether any individual booking was accepted, let alone where it was accepted, but whether the person accused has in the area in question made provision for the invitation or acceptance of bookings in general”: *Windsor and Maidenhead v Khan* [1994] RTR 87, per McCullough J.

Invitation of bookings

14. Uber customers make bookings using the Uber Rider App on a smartphone. The App is licensed by Uber BV. When customers activate the Uber Rider App, they are immediately presented with a map of their local area, showing the position of each nearby Uber vehicle that is currently available for hire. Each vehicle is continuously advertising its availability for hire and inviting potential customers in the vicinity to commence the process of booking.
15. *Rose v Welbeck* [1962] 1 WLR 1010 was a decision on the prosecution of a driver for plying for hire: but the court's analysis of the facts, and discussion of what amounted to an invitation to book, are relevant. There, a PHV vehicle was parked in a public street, bearing the inscription "Welbeck Motors, Minicabs" on both its sides, together with a telephone number. Winn J said: "At the very lowest, the evidence in the present case discloses behaviour and appearance on the part of this vehicle which amounts to an invitation:

'Get in touch one way or another with my owner and see whether he is willing for you to take me as a vehicle which you are hiring.'"

Lord Parker CJ said: "The vehicle was saying:

'Not only do I, if I may personify the vehicle, recommend you to Welbeck Motors Ltd., where you can hire a minicab, but further I am one of those minicabs and I am for hire.'"

16. In terms of 'invitation to book' there is no meaningful distinction to be drawn between the invitation made by vehicles displayed on the Uber Rider App, and that made by the parked *Welbeck* vehicle: the former is merely a modern, internet-assisted manifestation of the latter.
17. By exhibiting (on the Rider App) their physical presence in York, and their availability for immediate hire, Uber drivers and vehicles self-evidently invite bookings for their services. Provision for that invitation is made by 'Uber'; and it is made in York, where Uber are unlicensed.

Uber's 'Regions'

18. On 14 February 2018 Uber announced its unilateral decision to divide the UK into nine 'regions', each of which spans several different licensing districts, with their own standards and local licensing requirements.
19. UBL has told drivers on the Uber platform that if they hold a vehicle/driver's licence from any licensing authority within one of Uber's so-called regions, they will have exclusive rights to work as Uber drivers anywhere within that region.

20. Uber has placed York within its wide “Yorkshire Region” (which includes other local authority areas such as Leeds, Bradford and Kirklees). Uber uses surge pricing to encourage ‘out-of-town’ Uber drivers, including those licenced by Leeds, Bradford and Kirklees, to come to York and activate the Driver App. I have been shown screen shots of a Leeds Driver App showing how Leeds drivers are encouraged to go York where there is surge pricing.
21. The only discernible difference to Uber’s operations in York, since the refusal to renew its licence there, is that York licensed drivers who were working on the Uber platform on 12 December 2017 are no longer eligible to do so: the entirety of Uber’s provision in York is now made by ‘out-of-town’ vehicles and drivers licensed by other authorities.

Surge Pricing

22. ‘Surge pricing’ (also known as “dynamic pricing”) is a feature of the Uber model. It applies a multiple to its standard rates for journeys that commence in certain areas. These areas, and the applicable multiple, are broadcast to drivers via the Driver App. Drivers who commence journeys in areas where surge pricing is in force receive a multiple of whatever fare they would otherwise have received. Surge pricing therefore provides a strong incentive for drivers to travel to areas where ‘surge’ is in operation, in the expectation of receiving enhanced rewards for their work.

Local Licensing Control

23. Uber’s conduct is in no way a ‘technical breach’ of the statutory provisions. It goes to the heart of the licensing regime and its purposes. The Courts have said that “*the hallmark of the licensing regulatory regime is localism*”¹, and that “*that the authorities responsible for granting licences should have the authority to exercise full control*” over “*all vehicles and drivers being operated ... within its area.*”²
24. The undermining of local licensing control is a nationwide concern. In its representation to TfL, on the opposed renewal of Uber’s London licence, the Mayoress of Watford wrote:

“Uber’s method of operation seems inconsistent with the principles of a locally determined licensing regime that allows for each authority area to decide what is best in the interests of public safety for residents and visitors...”

I understand there to be every bit as great concern in York about the lack of local licensing control as there is in Watford - and as there is in licensing authorities throughout the Country.

¹ *Blue Line Taxis v Newcastle upon Tyne City Council* [2012] EWHC 2599 (Admin).

² *Shanks v North Tyneside Borough Council* [2001] EWHC 533 (Admin).

Conclusions

25. The licensing requirements of PHV drivers and their vehicles, and the exemptions therefrom, are different from those made of PHV operators. The gross oversimplification - “*cross-border hiring is lawful*” – is a misreading of the relevant case law (*Shanks*) and suggests a failure to recognise that distinction. There is no “loophole” in the law that allows Uber to operate a private hire vehicle in an area in which neither Uber, the vehicle nor the driver are licensed.
26. Uber is not a licensed operator in York.
- a. Uber supplies Uber drivers (who are not licensed in York) with the means (smartphone and App) by which the drivers advertise their presence in York, and their availability for immediate hire there.
 - b. Uber actively encourages and incentivises Uber drivers (not licensed in York) to trade in York.
 - c. Uber drivers, so supplied with the means, and so incentivised, come to York and invite potential passengers to make bookings with Uber, via the Uber App.
27. I have no doubt at all that Uber, together with Uber drivers, are making unlawful provision in York for the invitation of PHV bookings, contrary to section 46(1)(d) of the LGMPA 1976.

Gerald Gouriet QC

Francis Taylor Building
Inner Temple

Friday, 16 November 2018

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