



## Notice of meeting of

### **Gambling & Licensing Acts Committee**

**To:** Councillors Cregan (Chair), D'Agorne, Funnell,  
Sue Galloway, Hyman, Merrett, Moore, Horton, Wiseman  
(Vice-Chair), B Watson, Taylor, Sunderland, Runciman,  
Reid and Gillies

**Date:** Friday, 5 October 2007

**Time:** 2.00 pm

**Venue:** The Guildhall

## **AGENDA**

### **1. Declarations of Interest**

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

### **2. Minutes** (Pages 3 - 4)

To approve and sign the minutes of the meeting held on 8<sup>th</sup> June 2007.

### **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. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is Thursday 4th October 2007 at 5pm.

**4. Tourism Progress Report and Update** (Pages 5 - 12)

The report informs the Committee of current issues affecting the tourism/visitor economy. It outlines key points in the Tourism Strategy and Action Plan, adopted in 2007, and the key findings of an Evening Economy report which was endorsed by the Council's Executive in July 2007. It emphasises the desire for a high quality and varied visitor offer in order to maximise the economic benefits arising from tourism.

**5. Revision of Statutory Guidance to Licensing Act 2003** (Pages 13 - 28)

This report advises members of changes to the guidance accompanying the Licensing Act 2003 to which they are required to have regard to in making related licensing decisions.

**6. Review of Licensing Policy (Licensing Act 2003)** (Pages 29 - 162)

This report advises members of the review of the council's licensing policy, of the consultation undertaken and of the changes made as a result of the revised guidance and legislative changes. The report seeks a recommendation to full council that the revised policy be approved.

**7. Members Involvement in Licensing Appeals and the Introduction of the Summary Review Process** (Pages 163 - 168)

This report examines the process involved in appeals made to the magistrates court against decisions of the Licensing Act and Gambling Act Sub committees. It looks at the options for member involvement in that process and seeks a determination of future policy. The report also advises members of the impact of the Violent Crime Reduction Act 2006 on the hearing process.

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

Democracy Officer:

Name: Tracy Wallis

Contact Details:

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- E-mail – [tracy.wallis@york.gov.uk](mailto:tracy.wallis@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

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### **Scrutiny Committees**

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

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MEETING	GAMBLING & LICENSING ACTS COMMITTEE
DATE	8 JUNE 2007
PRESENT	COUNCILLORS CREGAN (CHAIR), WISEMAN , WATT, B WATSON, TAYLOR, SUNDERLAND AND REID
APOLOGIES	COUNCILLORS D'AGORNE, FUNNELL, SUE GALLOWAY, MERRETT, MOORE, HORTON AND RUNCIMAN

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### 1. DECLARATIONS OF INTEREST

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda. None were declared.

### 2. MINUTES

Queries were raised regarding the following:

- Minute 17 Resolution (ii) – The Officer said he would report back to Members regarding this.
- Minute 16 (Paragraph 7) – Members asked whether the Licensing Manager had written to the Police regarding the concerns around general noise. The Officer said that he would report back to Members regarding this.
- Minute 16 Resolution (iii) – Members asked whether the Licensing Act 2003, One Year On Report had been circulated, as requested, to all Planning Committees. The Officer said he would clarify this and report back to Members.

RESOLVED: That the minutes if the meeting held on 2<sup>nd</sup> February 2007 be approved and signed as a correct record.

### 3. PUBLIC PARTICIPATION

It was reported that there were no registrations to speak under the Council's Public Participation Scheme.

### 4. ESTABLISHMENT OF TERMS OF REFERENCE AND PROCEDURE

Members considered a report that asked them to approve the Terms of Reference for the Gambling and Licensing Acts Committee and the procedure for the Gambling Act 2005 Sub-Committees.

RESOLVED:

- (i) That the Terms of Reference attached at Annex B of the report which laid out the Committee's statutory duties under the Gambling Act 2005 and the schedule of delegated functions to Officers and Sub-Committees be approved.
- (ii) That the procedure for the Sub-Committees attached at Annex C of the report be approved.

REASON: To ensure the effective implementation of the Gambling Act 2005.

## 5. GAMBLING ACT 2005 - FEES

Members considered a report recommending a scale of fees to be applied to the Gambling Act 2005 which becomes fully operational on 1<sup>st</sup> September 2007.

Members considered the following options:

**Option 1:** To approve Annex 2 of the report which shows proposed fees as directly derived from the working papers.

**Option 2:** To approve Annex 3 of the report which shows proposals based on anticipated total costs but proportioned by premise type in line with Government maximums.

**Option 3:** To approve fees set at the statutory maximums.

**Option 4:** To Implement another fee structure as they see appropriate.

RESOLVED: That the fee levels proposed at Option 2 and set out in Annex 3 of the report be applied for the implementation of the Gambling Act 2005.

REASON: This uses the best estimate of projected costs most likely to achieve full cost recovery and supports smaller local business without facing undue risk of legal challenge.

Cllr R Cregan, Chair  
[The meeting started at 3.15 pm and finished at 3.35 pm].





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**Gambling and Licensing Acts Committee**

5 October 2007

Report of the Assistant Director, Economic Development and Partnerships

**TOURISM PROGRESS REPORT AND UPDATE****Summary**

1. The report informs the Committee of current issues affecting the tourism/visitor economy. It outlines key points in the Tourism Strategy and Action Plan, adopted in 2007, and the key findings of an Evening Economy report which was endorsed by the Council's Executive in July 2007. It emphasises the desire for a high quality and varied visitor offer in order to maximise the economic benefits arising from tourism.

**Background**

2. This is the note of key tourism issues as required under the current Licensing Policy to be presented to the Gambling and Licensing Acts Committee. It is based on part of a report on key issues which is given at the Economic Development Partnership Board, and on other reports presented to the Council earlier in the year.

**Consultation**

3. The report is being provided for information and there are no recommendations with financial consequences. There is no consultation necessary for this report.

**Options**

4. This report is for information only and therefore does not present options for decisions by Committee members. Where decisions are necessary specific reports on those issues and options will be presented. However, Committee members are invited to comment on the information provided.

**Analysis**

5. As stated in the paragraph above, options have not been presented therefore there is no need for appraisals.

**Corporate Priorities**

6. Tourism issues are firmly embedded within the Council's corporate objectives, the Community Plan and the Economic Development Service Plan
  - The Corporate Strategy 2006-2009 has two relevant priorities:

- The Safer City - Reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York

Reason: Addressing the evening environment in the city, as part of the evening economy consideration, includes offering more non-alcohol based alternatives which will change the ambience of the city centre and make for a safer atmosphere

- Improving our organisational effectiveness - Improve the way the Council and its partners work together to deliver better services for the people who live in York.

Reason: Partnership working will be strengthened and deepened as part of the drive towards a Single Tourism Organisation. The evening economy proposals will identify activities where with better co-ordination it will be possible to encourage a more inclusive evening experience with a more exciting and diverse range of evening activities for residents as well as visitors to enjoy, thereby creating a more successful evening economy for the city, more job opportunities for local residents etc

- The “Thriving City” theme of the WOW Community Plan has the following strategic objectives

“To be ranked as an international quality leisure and business visitor destination”

“To provide a strong and distinctive cultural sector, enriching the lives of residents and visitors”

This clearly will raise the quality threshold of the city’s visitor offer with potentially positive benefits to the quality of licensed premises and events in the city. The intention is to link the quality of York’s visitor offer with the quality of York’s marketing and promotion in order to attract more staying and high-spending visitors, but also provide enrichment for residents as well.

- The Economic Development Service Plan sets identifies a number of corporate priorities:
  - to generate business growth and start-ups in science and technology industries, tourism and other key business sectors in order to maintain existing jobs and provide higher quality, sustainable and higher paid jobs.
  - to create a vibrant city through a proactive partnership approach to visitor management and by increasing investment.

### **Implications**

7. As this is a general report on the progress of key issues there are no financial, human resources, equalities, legal, crime and disorder, IT or property implications.

### **Matters Arising**

8. There are no matters arising.

## **Tourism Update and Progress**

- 9 The context for the Gambling and Licensing Acts Committee is that the tourism industry remains a successful part of the York economy, and is striving to improve the quality of the city's visitor offer, and the way the city is promoted. Licensed businesses, and events and festivals where specific licenses are awarded, clearly and positively influence visitor spending.

Of greatest relevance to the Committee are two reports which have been adopted by the Council, on the Evening Economy, and on York's Tourism Strategy.

### **The evening economy**

- 10 A report to the Council's Executive on 24 July, produced by the York Tourism Partnership and based on research with a variety of stakeholders, highlighted the social, economic and environmental benefits to the residents of York of the managed development of a healthy evening economy. It has the potential to greatly increase the value that the city receives from tourism. Improving the visitor experience of York after dark will improve the city's ability to attract valuable overnight visitors. While only 16% of visitors to York stay overnight, they account for 58% of the impact of tourism on the local economy (i.e. £180 million per annum out of total visitor spend of £333mn). This implies that a focus on improving the evening experience of York will be very effective in boosting the evening economy and increasing tourism revenues overall.
- 11 The research suggests that the most appropriate focus for the York evening economy is towards a more inclusive evening experience with a more exciting and diverse range of evening activities, a higher amenity value and a higher perception of safety in the city centre. The research also highlights the need for co-ordination of activity in the evening economy to allow for greater communication and cooperation between the stakeholders involved including retail, hospitality, entertainment, accommodation and the local authority.
- 12 To complete the scope of the York After Dark report, a survey of the opinions and attitudes of residents into the evening economy took place in June via the Council's TalkAbout panel. The results showed that 60% of residents visit the city centre in the evening at least once a month and the most popular activities included visiting a restaurant, bar, pub or the theatre. There are high levels of expenditure amongst residents with a mean spend per person of approximately £40. Outdoor theatre/music, a larger music venue and evening shopping were all identified as events which would encourage residents to use the city centre in the evening more often however concerns about both groups drinking alcohol and personal safety were identified as the main barriers preventing visits into the city centre in the evening.
- 13 The Council Executive agreed to support in principle the development of a vibrant and diverse evening economy in York, and asked for a further costed action plan to support the development of the evening economy in the city centre.

### **Tourism Strategy and Action Plan**

- 14 The recently adopted York Tourism Strategy and Action Plan emphasises the importance of the tourism industry to York, and seeks to create a successful and sustainable visitor economy for the benefit of visitors, residents, businesses and employees. A number of the specific objectives are relevant here, based around the city's interest in attracting the higher spend, longer stay visitor who makes the greatest contribution to the visitor economy:
- To put the customer at the heart of its activities, establishing what the actual and potential visitors want and ensuring that the city's product is appropriate to their needs
  - To have a vibrant and successful visitor economy, with businesses able to deliver the best possible product, marketing and service to the visitor
  - To increase the value of tourism earnings in York by 5% per annum to 2010
  - To deliver through targeted marketing and promotion the high spending/longer stay visitors that will increase tourism earnings to the city and the region - promotion that reflects the quality of place, product and people in York
  - To ensure that the future needs of visitors and residents are taken fully into account in developing the needs of present-day visitors
  - To seek quality, world class investment, innovation and product development - paying attention to both the city's daytime and evening offer
  - To enhance the quality of existing attractions, building on events and festivals and investing in York's distinctive cultural tourism offer, in conjunction with [York @ Large](#) and other partners
  - To promote York as an exemplar in sustainable tourism

This Strategy provides the overall context for tourism development in the city.

### **Other tourism news and developments over the past few months**

- 15 The most highly publicised news in the past few months has been the award of "European Tourism City of the Year" at an Awards ceremony in Athens in June. The Award was presented by European Cities Marketing (ECM), a membership network representing 130 cities from 30 countries across Europe. Members include Berlin, Dublin, Lisbon, Madrid, Paris, York and Vienna, and York was accepted as a member in 2005. The city was judged on the quality of its product, the visitor experience, its social, environmental and cultural performance as well as its marketing activities.
16. Plans are now well advanced for the creation of a Single Tourism Organisation in York by April 2008. Discussions have been taking place between the Council and York Tourism Bureau regarding the Memorandum and Articles of Association for the new company. Once agreed an EGM of York Tourism Bureau will be arranged to wind up the present company and to adopt the new Mem and Arts. Interviews

will be held to appoint a Chair and new Directors of the Company. This new body will seek to build on the achievements of the First Stop York tourism partnership in such areas as marketing and promotion, development of the quality of the product, improved market intelligence, better visitor information service provision etc – whilst at the same time safeguarding and ultimately growing the scale of private and public sector investment in tourism activity. Establishing a new and improved organisation has included discussion of issues concerning governance, staffing and structures, funding and outputs, operational relationships and the communications of activities to the tourism sector in York, and progress has been made on these issues.

17. In the meantime the current partnership continues to develop new and improved activities, with additional support from Yorkshire Forward, which has pledged £666,700 of support to the Partnership for a combination of organisational and structural change, and enhanced investment in marketing, market research and product development activity. This investment (of which £155K has been available in 2006-07) has supported such activity as:

- Some of the legal and other costs incurred so far in establishing the new tourism company.
- Forward planning for the 2007 Illuminating York project, which will be taking place from 26 October – 3 November. The event will showcase cutting edge outdoor artwork, exhibitions and tours, including performances in the Museum Gardens, York Art Gallery, Theatre Royal, York Minster and in shops, restaurants and cafes in Gillygate and is a great opportunity to further grow the city's evening economy.
- Market Research – completion of research from 2006-07 has included conference research, which identified that over 25,000 business related events took place in York – over 22,000 of them were conferences and meetings, and they generated an estimated £98.4mn of direct value to venues in York in 2006. Two thirds of this value from residential events, about a third from non-residential. There were an estimated 917,000 delegates attending events in York – generating an estimated 1.6mn delegate days. Peak months for conferences in 2006 were the autumn (especially October), and Spring (especially June).
- Enhanced marketing activity. This has included more conference marketing activity, including an enhanced presence at UK and European business shows, and a new PR campaign which is showcasing Cultural York – highlighting cultural events (music, lighting, film and art), visitor attractions and galleries which reflect York's vibrancy and high-quality appeal.

18. Core activity through the partnership continues., including marketing activity (attendance at trade shows, PR stories, the maintenance and further development of the website), as well as support for key events. The Festival of Food and Drink (21-30 September) will showcase local and regional food and drink, and highlights include the Ghurkha Curry Night (24 September) and demonstrations by Raymond Blanc. The Christmas promotion is Yuletide York (80,000 marketing materials have already been circulated to national and regional contacts) and highlights will include

the ever-popular St Nicholas Fayre (29 Nov to 2 Dec) and the German Christkindlesmarkt (6-22 December). Thanks are due to colleagues in the Licensing and Regulation Unit for their assistance with a number of events and festivals in York this year.

- 19 After extensive research and deliberation a proposal for the relocation of the city centre Visitor Information Centre has been agreed by the Council. A council-owned building on the corner of Blake Street and Museum Street has been identified as suitable for a building that can meet the ambitious service requirement of providing “state of the art information services that are able to offer customers the right information in the right format at the right times in their entire decision-making and visiting cycle”. The building is capable of conversion into a ground floor VIC facility, including accommodation booking, event ticketing service, call centre and managers’ office, a retail unit and display area to showcase regional produce with space on the first floor for offices for the newly established Single Tourism Organisation, or a public facility.

20 Tourism Trends 2006-07

The full results from the Visitor Survey and Economic Impact Model for York for 2006-07 have been published. These showed progress on all fronts:

- Visitor spending up by £21mn to £333mn
- Employment associated with tourism up by 400 to 9,970 jobs
- Visitor numbers up by 339,000 people (especially day visitor numbers) to 4.18mn.
- Average length of stay of staying visitors up to 3.31 days

The Visitor Survey showed continuing strong support for tourism – 79% of visitors had been to the city before, and the great majority have no dislikes of York, and enjoy York more than other destinations that they visit. History and heritage continue to be the key draw – but there was a significant increase (from 20% to 30%) in respondents who like York’s shopping facilities. This in turn was matched by spending on shopping (within the £333mn total) which rose from £93mn to a record £105mn. Another area where spending increased was on food and drink – this rose from £44mn to £53mn, and this may link to an increase (from 50% to 60%) in the proportion of evening visitors who had a meal or generally ate out. York very much appeals to the older visitor – 42% of York’s visitors are over 55 compared to just 15% who are under 35.

There are some features reflected in the visitor survey where York could do better: only 15% of visitors are from overseas (down from 19% in 2005-06 – they were a third of visitors in the mid 1990s), and only 26% of overseas visitors were from North America (this was over half of overseas visitors in the mid 1990s). York is more popular with European visitors though – 47% of overseas visitors were from Europe in 2006 compared with 34% in 2005. York is not getting the ratio of highest spending visitors that it did some years ago,. Today 53% of visitors are in the highest income groups compared with 74% in 2000.

The overall message is that tourism in York continues to perform strongly, and at a time of job losses elsewhere in the York economy this is extremely encouraging. It is great to see the continuing, very positive response of people who come to York.

The exciting thing is that the results also show that York tourism has the potential to grow even more. If the City can persuade a younger group of visitors, more overseas visitors and a more high-income group of visitors to come to the city then there is the potential to grow the value of tourism in York even more. The city's marketing strategy is designed to do just that .

21 Latest tourism trends.

Hotel occupancy trends in 2006 calendar year were down 2-3% for bed and room occupancy, but the 2007 figures (to July) have so far been better than for 2006, taking into account the different period of Easter each year). As ever individual monthly figures need to be treated with caution because of sample size variations.

22 High Speed 1

The 186mph route from St Pancras through the Channel Tunnel (High Speed1) is to begin operation on November 14<sup>th</sup>. St Pancras immediately adjoins Kings Cross station and the transfer between ECML trains and Eurostar services will be made much easier. Through trains from continental Europe to the North will not feature. The new services open up new marketing possibilities for York (both for leisure and business travel) with through ticketing to a host of destinations on the growing European high-speed rail network also coming on stream. The new London - Paris journey time will be 2 hrs 15 minutes.

### Risk Management

23 In compliance with the Council's risk management strategy. There are no risks associated with the recommendations of this report.

### Recommendation

24 The Committee's comments on this paper, which has been presented for the first time, will be welcomed to ensure future papers cover key tourism issues of interest.

Reason: To help shape the effectiveness of future action.

### Contact Details

**Author:**

Ian Tempest, Tourism Manager  
Phone No: 01904 554427

**Chief Officer Responsible for the report:**

Roger Ranson  
Assistant Director, Economic Development and Partnerships  
Phone No: 01904 551614

Report Approved  Date 19/9/07

Specialist Implications Officers - None

Wards Affected:

All

For further information please contact the author of the report

**Background Papers:**

Progress on key issues report to the Economic Development Board, 25 September 2007

Report to the Executive on 24 July 2007 on the Research Findings on the Evening Economy in York

Report to the Economic Development Partnership Board on 13 March 2007 on the York Tourism Strategy and Action Plan

Other tourism reports and statistics are available from the Council's Tourism Manager at 9 St Leonard's Place

**Annexes:** None





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Gambling and Licensing Acts Committee

5 October 2007

Report of the Director of Neighbourhood Services

## **REVISION OF STATUTORY GUIDANCE TO LICENSING ACT 2003**

### **Summary**

1. This report advises members of changes to the guidance accompanying the Licensing Act 2003 to which they are required to have regard to in making related licensing decisions.

### **Background**

2. Section 182 of the Licensing Act 2003 (the Act) provides that the Secretary of State must issue, and from time to time may revise, guidance to licensing authorities on the discharge of their functions under the Act. Licensing authorities must have regard to this guidance in carrying out their functions. Licensing authorities may deviate from the guidance but must give full reasons for their actions. Departure from the guidance may give rise to an appeal or judicial review and the reasons given for departure will be a key consideration for the courts.
3. The first publication of the guidance was in July 2004. This is the document with which members are familiar and have been using as a basis for their decisions to date.
4. On 28 June 2007 the Secretary of State issued revised guidance which became operative from that date superseding the earlier version.
5. The revised document can be found on the DCMS website at [http://www.culture.gov.uk/Reference\\_library/Publications/archive\\_2007/guidance\\_section182\\_licact03june07.htm](http://www.culture.gov.uk/Reference_library/Publications/archive_2007/guidance_section182_licact03june07.htm)
6. On 26 July Lord Clement-Jones, Culture Media and Sport spokesperson in the House of Lords prayed against the revised Guidance. The Act states that either House can disapprove the Guidance within 40 days. The effect of disapproval (following debate and vote) is that the Secretary of State must revise it. The whole process would start again. In the meantime the guidance laid on 28 June remains in force. It is understood that the issue concerning Lord Clement-Jones was regarding live music.

Significant Guidance Revisions

7. The revised guidance has been reformatted making reference to specific issues easier. A summary of the main formatting changes is attached at Annex1.
8. The guidance for the police on their powers has been removed completely and made available as separate advice. The sections on transitional matters and amusement with prize machines (AWP's) have been deleted as no longer required.
9. Annex 2 contains a summary of the substantive changes and additions. Officers comments on the main changes are highlighted below.

Chapter 1 Introduction.

Within this chapter are some subtle changes of emphasis which may give some additional scope to the licensing authority to reduce the impact of extended opening hours.

Paragraphs 1.17 - 1.19 stress that although flexible opening can reduce problems associated with standard opening times, the promotion of the licensing objectives is paramount.

This contrasts with the old guidance which advocated longer opening hours with regard to the sale of alcohol to reduce friction caused by people leaving premises simultaneously.

Paragraphs 1.23 - 1.27 relate to integrated strategies and refers to powers of licence holders. They stress that the Act is part of the government's strategy to tackle crime, disorder, antisocial behaviour and alcohol harm. Effective targeted enforcement is encouraged. Reference is made to the use of Designated Public Places Orders to control the consumption of alcohol in a public place outside licensed premises. Paragraph 1.26 states that licence holders cannot be responsible for the control of individuals when away from their premises but states that they should take reasonable steps to prevent crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or smoking shelter to the extent where these matters are within their control. Paragraph 1.27 states that licensing authorities may consider imposing conditions as appropriate when considering applications for new licences or following a review in respect of these areas.

Although not tested in law it is the opinion of licensing officers that given this new guidance the licensing sub committee could use conditions to control activities in a smoking shelter, designated smoking area or beer garden where the issues are in the control of the licence holder.

Chapter 2 - The Licensing Objectives.

Paragraphs 2.19 - 2.29 relate to public safety.

The main change concerns the implementation of the Regulatory Reform (Fire Safety) Order 2005 which replaced previous fire safety legislation. This order places a duty on the responsible person (employer or person in control of premises) to carry out a fire safety risk assessment of their premises and put in place such controls as necessary to remove or reduce risks. This may include capacity limits. The Fire Authority then have a duty to audit the risk assessments. The effect of this legislation is that the Fire Authority cannot through the Licensing Act request occupancies to be placed on licences for fire safety reasons.

Capacities can however be applied for public safety or the prevention of disorder on premises where overcrowding may lead to customers becoming frustrated and hostile.

Paragraphs 2.32 - 2.40 relate to public nuisance.

Paragraph 2.35 states that the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged licensing authorities may use licensing conditions where other legislation does not provide adequate protection.

Chapter 3 - Licensable Activities, provides guidance as to what is and is not a licensable activity.

Paragraph 3.16 gives greater clarity as to what is and is not private, and therefore exempt, entertainment.

Paragraphs 3.20 - 3.23 concern incidental music and gives examples of what might and might not be relevant in determining if the activity is regulated entertainment.

Chapter 4 - Personal licences.- no significant changes

Chapter 5 - Premises licences - Who needs a licence

Paragraph 5.25 gives suggestions as how licensing authorities should proceed where there is insufficient evidence to determine primary use of garage premises.

Chapter 6 – Hours of Trading – no significant changes

Chapter 7- Temporary Event Notices

Paragraph 7.15 advises that licensing authorities may make minor corrections on applications received rather than returning them to the applicant. This applies also to other applications under the Act.

Chapter 8 – Applications for premises licences

Paragraphs 8.8 - 8.11 relate to councillors as interested parties and provide greater guidance. These paragraphs are included as Annex 3.

Paragraphs 8.33 - 8.38 provides useful guidance as to when a variation application is required. They give examples of amending hours, activities, conditions and making any plan alteration.

## Chapter 9 – Determining applications

Paragraph 9.3 states that representations may also be made in support of an application.

Paragraph 9.6 states that where licensing authorities have used a fixed specified distance to define vicinity this should only be used as a guide. Representations should be allowed from outside that area if they are likely to be affected by disorder or disturbance occurring on those premises.

Paragraph 9.8 relates to relevant, vexatious and frivolous representations and contains an important addition to the previous guidance. The addition reads as follows “.... There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premise to support their representations, and in fact this would not be possible for new premises...”

This addition, accompanied by the emphasis on prevention in paragraph 2.35, will enable interested parties and responsible authorities such as environmental protection to make representations on the likelihood of problems occurring rather than having to rely on a history of previous incidents.

## Chapter 10 - Conditions attached to premises licences and club premises certificates

Paragraphs 10.19 - 10.21 Stress that there is no general presumption in favour of lengthening licensing hours and the promotion of the licensing objectives should be paramount.

Paragraphs 10.48 - 10.53 The guidance strengthens the need to have an auditable track of authorisation of persons permitted to sell alcohol under the authority of a personal licence holder. It is suggested that written authorisation is provided to individuals giving details of the functions they may carryout. This does not absolve the personal licence holder of responsibility but would help with a due diligence defence.

Paragraphs 10.58 - 10.64 provides guidance on the interaction of the Licensing Act, the Private Security Industry Act 2001 and the Violent Crime Reduction Act 2006 in relation to door supervisors.

## Chapter 11 - Reviews – no significant changes

## Chapter 12 - Appeals – no significant changes

## Chapter 13 - Licensing Policies

Paragraph 13.25 provides an explanation of what could be considered to be cumulative impact.

Paragraphs 13.40 - 13.42 relate to licensing hours and again stress that the promotion of the licensing objectives is paramount.

Paragraphs 13.64 - 13.68 relate to the relationship of licensing with planning and building control. These are reproduced as Annex 4

Paragraph 13.73 refers to the application of Designated Public Places Orders and applies clarification of when and where it applies in relation to public areas licensed by the local authority.

#### Annex D-Pool of Conditions

Introduces the concept of "Challenge 21" in relation to proof of age for alcohol sales

### **Consultation**

10. No consultation is necessary with this report.

### **Options**

11. Not Applicable.

### **Analysis**

12. Not Applicable.

### **Corporate Priorities**

13. Effective application of the Licensing Act 2003 contributes to the reduction in the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York

### **Implications**

#### **Financial**

14. There are no financial implications.

#### **Human Resources (HR)**

15. There are no human resource implications.

#### **Equalities**

16. There are no equality implications.

#### **Legal**

17. Members of licensing sub committees must have regard to the new statutory guidance when determining applications

**Crime and Disorder**

- 18. Effective application of the Licensing Act will have a positive effect of reducing Crime and Disorder

**Information Technology (IT)**

- 19. There are no information technology implications.

**Property**

- 20. There are no property implications.

**Other**

- 21. There are no other implications.

**Risk Management**

- 22. This report is for information only.

**Recommendations**

- 23. Members are asked to note the content of the new Guidance and have regard to it when coming to any licensing decisions under the Licensing Act 2003

Reason: To comply with statutory requirements

**Contact Details**

<b>Author:</b> <b>Richard Haswell</b> <b>Head of Licensing and</b> <b>Bereavement Services</b> 01904 551515	<b>Chief Officer Responsible for the report:</b> Andy Hudson Assistant Director (Neighbourhoods and Community Safety) <b>Report Approved</b> <input checked="" type="checkbox"/> <b>Date</b> 20/9/07
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**Specialist Implications Officer(s)**

There are no specialist implications.

**Wards Affected:** All

**For further information please contact the author of the report**

**Background Papers:**

Licensing Act 2003.  
Guidance issued under Section 182 of the Licensing Act 2003.

**Annexes**

- Annex 1** Summary of main format changes
- Annex 2** Summary of substantive changes and additions
- Annex 3** Extract from Section 182 Guidance to The Licensing Act 2003  
Paragraphs 8.8 - 8.11
- Annex 4** Extract from Section 182 Guidance to The Licensing Act 2003  
Paragraphs 13.64 – 13.68





## Summary of Main Format Changes

Previous Chapter/paragraphs		New Chapter
SoS Foreword		
List of principle aims		Ch.1: Introduction
Chapter 1	Background	Deleted
Para 1.1		Inside cover
Paras 1.4 – 1.7	Aim/status of Guidance	Ch.1: Introduction
Chapter 2	Introduction and Purpose	Ch.1 Introduction
Paras 2.11, 2.16, 2.18, 2.23, 2.24	Industry initiatives	Annex E
Chapter 3	Statements of Licensing Policy	Ch.13: Statements of licensing policy
Para 3.15	Description of cumulative impact	Chapter 13 (paragraph 13.19)
Para 3.30	Zoning experience in Scotland	Deleted
Para 3.42	Portman Group Code of Practice	Annex E
Chapter 4	Personal Licences	Ch.4: Personal Licences
Chapter 5	Premises Licences	Ch.3: Licensable activities, Ch 5: Who needs a premises licence?

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		Ch.8: Applications for premises licences, Ch.9: Determining applications, Ch.11: Reviews
Paras 5.1-5.25	Licensable activities	Ch.3: Licensable activities
Paras 5.26-5.28	Licensing of different types of premises	Ch.5: Who needs a premises licence
Para 5.29	Relevant licensing authority	Ch.8: Applications for premises licences
Paras 5.30-5.39	Authorised persons, interested parties and responsible authorities	Ch.8: Applications for premises licences
Paras 5.40-5.52	Applications for premises licences, the operating schedule, steps to promote the licensing objectives, advertising applications	Ch.8: Applications for premises licences
Paras 5.53-5.64	Licensing of different types of premises	Ch.5: Who needs a premises licence?
Paras 5.65-5.77	Considering applications for new and major variations of premises licences	Ch.9: Determining applications
Paras 5.78- 5.81	Transfers of premises licences	Ch.8: Applications for premises licences
Para 5.82	Ref to applications for DPS	Ch.8: Applications for premises licences
Paras 5.83-5.91	Provisional statements	Ch.8: Applications for premises licences
Paras 5.92-5.96	Interim authorities	Ch.8: Applications for premises licences
Paras 5.99-5.117	Reviews	Ch.11: Reviews

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Para 5.118	Rights of freeholders to be notified of licensing matters	Ch.8: Applications for premises licences
Para 5.119-5.126	AWP machines	Deleted
Paras 5.127-5.129	Large scale temporary events	Ch.5: Who needs a premises licence?
<b>Chapter 6</b>	<b>Hours of Trading</b>	
Para 6.2, 6.3	Shops, stores and supermarkets	Ch.10: Conditions
Para 6.4	Workers rights	Ch.10: Conditions
Para 6.5, 6.6	Principle of flexibility	Ch1: Introduction
Paras 6.7-6.9	Zoning	Deleted
Para 6.10	Staggered closing times	Deleted
Para 6.11, 6.12	Relaxation of opening hours for local, national and international occasions	Ch.8: Applications for premises licences
Para 6.13	Drinking up time	Deleted
Para 6.14	Closing early	Deleted
<b>Chapter 7</b>	<b>Conditions</b>	Ch.10: Conditions
Paras 7.20-7.30	Crime and disorder	Ch.2: The Licensing Objectives
Paras 7.31-7.37	Public safety	Ch.2: The Licensing Objectives
Paras 7.38-7.46	Public nuisance	Ch.2: The Licensing Objectives
Paras 7.47-7.60	Protection of children from harm	Ch.2: The Licensing Objectives
Paras 7.61-7.66	Safer clubbing – drugs in pubs	Annex E

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<b>Chapter 8</b>	<b>Temporary Event Notices</b>	Ch.7: Temporary Event Notices
<b>Chapter 9</b>	<b>Club Premises Certificates</b>	Ch.6: Club premises certificates
<b>Chapter 10</b>	<b>Appeals</b>	Ch.12: Appeals
<b>Chapter 11</b>	<b>Police powers</b>	Removed from guidance and made available as separate advice on DCMS website
<b>Chapter 12</b>	<b>Sale and supply of alcohol to children</b>	Deleted. Summary table of offences in Ch.2: The Licensing Objectives
<b>Chapter 13</b>	<b>Transitional matters</b>	Deleted
<b>Chapter 14</b>	<b>Other offences</b>	Deleted
<b>Annex A</b>	<b>Schedule 1</b>	Annex A: Schedule 1
<b>Annex B</b>	<b>Schedule 2</b>	Annex B: Schedule 2
<b>Annex C</b>	<b>Relevant Offences</b>	Annex C: Relevant Offences
<b>Annexes D-H</b>	<b>Pools of conditions</b>	Annex D: Pools of Conditions
<b>Annex I</b>	<b>Statutory qualifying conditions for clubs</b>	Deleted
<b>Annex J</b>	<b>Safer Clubbing checklist</b>	Deleted
<b>Annex K</b>	<b>Key actions for LAs – safer clubbing</b>	Deleted
<b>Annex L</b>	<b>Specimen Closure Order and notes</b>	Removed from Guidance and made available as separate advice with original Chapter 11 (police closure powers) on DCMS website.

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## Summary of Substantive Changes and Additions

CHAPTER/PARAGRAPHS	TITLE	AMENDMENT/ ADDITION
Chapter 1	Introduction	
Para 1.10	Licensing Policies	Status of licensing policies following revisions to the guidance.
Para 1.17-1.19	Hours of opening	General principle of flexible opening times. Licensing objectives paramount in any consideration of an application.
Paras 1.23-1.27	Related legislation and strategies	Powers/responsibilities for tackling crime and disorder and public nuisance outside premises.
Para 1.33	Violent Crime Reduction Act 2006	Description of new/forthcoming powers/offences.
Chapter 2	The Licensing Objectives	
Para 2.2 and 2.3	Crime and disorder	Role of the Security Industry Authority.
Para 2.19-2.29	Public safety	Implications of the new fire safety regime.
Para 2.61	Protection of children from harm	Table of relevant offences under the 2003 Act.
Chapter 3	Licensable activities	
Para 3.18 and 3.19	Private events	Further clarification of entertainment at private events.
Para 3.22	Incidental music	Factors to be considered (or not) in determining whether music is incidental.
Para 3.30	Small venues providing dancing and amplified or unamplified music	Capacity limits under the new fire safety regime
Chapter 5	Who needs a premises licence?	
Para 5.25	Garages	Suggested approaches where there is insufficient

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		evidence on the primary use of a garage.
Chapter 7	Temporary event notices	
Para 7.15	Notification arrangements	Additional text on dealing with obvious minor factual errors on TENs.
Chapter 8	Applications for Premises Licences	
Para 8.8-8.11	Interested parties	The role of ward councillors/prejudicial interest under the recently revised Model Code of Conduct for Members.
Para 8.26	Application forms	Electronic applications, notices and representations.
Paras 8.33-8.38	Variations	Clarification of when an application to vary is required.
Chapter 9	Determining applications	
Para 9.3	Where representations are made	Clarification that representations can be made in support of an application.
Para 9.6	Where representations are made	The use of fixed distances to determine vicinity.
Para 9.14-9.18	Disclosure of personal details of interested parties	Dealing with isolated incidents of intimidation.
Para 9.19	Hearings	Avoiding unnecessary hearings where only positive representations are made.
Para 9.21	Hearings	Extending time limit for holding a hearing where a mediated agreement is likely.
Chapter 10	Conditions attached to premises licences and club premises certificates	
10.16	Duplication with other statutory provisions	Impact of new fire safety regime.
10.19-10.21	Hours of trading	Flexible opening times. Licensing objectives

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		paramount in any consideration of an application.
10.50-10.53	Authorisation by personal licence holders to sell alcohol	Recommends written authorisation
10.58-10.64	Door supervision	Updated text on door supervision (mandatory condition).
<b>Chapter 11</b>		
	Reviews	
Para 11.1	The Review Process	Purpose of reviews.
<b>Chapter 13</b>		
	Statements of licensing policy	
Para 13.2-13.5	General	Reviewing licensing policy statements.
Para 13.6 and 13.9-13.11	Consultation on policies	Consultation on policy statements.
Para 13.25	What is cumulative impact?	Application of Cumulative Impact Policies.
Para 13.29	Effect of special policies	Variations adding to existing cumulative impact.
Para 13.40-13.42	Licensing hours	Flexible opening times. Licensing objectives paramount in any consideration of an application.
Para 13.64-13.68	Planning	Relationship between the planning and licensing regimes.
Para 13.73	Live music, dancing and theatre	Application of Designated Public Place Orders.
<b>Annex D</b>		
	Pools of conditions	
Core principles	Pools of conditions	General introduction to pools of conditions.
Part 5. Conditions relating to the protection of children from harm	Proof of age cards	Updated to refer to "Challenge 21" policies.
<b>Index</b>		
		Index of key words and terms

- 8.8 Local councillors play an important role in their local communities. They can make representations in writing and at a hearing on behalf of an interested party such as a resident or local business if specifically requested to do so. They can also make representations as an interested party in their own right if they live, or are involved in a business, in the vicinity of the premises in question.
- 8.9 However, local councillors are subject to the Local Authorities (Model Code of Conduct) Order 2007 which restricts their involvement in matters, and participation in meetings to discuss matters, in which they have a 'prejudicial' interest (i.e. an interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest). However, the latest version of the Code, which came into force on 3 May 2007, has relaxed the rules on prejudicial interest. In terms of licensing, this has the effect of allowing councillors with a prejudicial interest in an application to attend relevant meetings to make representations, answer questions or give evidence, provided that the public are also allowed to attend for the same purpose, whether under the licensing legislation or otherwise and as long as they withdraw from the meeting immediately afterwards. It must be emphasised that councillors have a duty to act in the interests of all of their constituents. Their role as a community advocate must therefore be balanced with their ability to represent specific interests.
- 8.10 The Code applies to any council member whether or not they are a member of the licensing committee. A member of a licensing committee, representing others or acting in their own right, would need to consider carefully at a committee meeting whether they had a prejudicial interest in any matter affecting the licence of the premises in question which would require them to withdraw from the meeting when that matter is considered. In addition, a member with a prejudicial interest in a matter should not seek to influence improperly a decision on the licence in any other way.
- 8.11 In addition, councillors who are not themselves interested parties or representing interested parties may wish to be kept informed of licensing related matters within the area, such as applications and reviews. The Act does not prevent licensing authorities from providing this information to councillors, for instance by way of regular updates, as long as it is done in a neutral way that could not be seen as 'soliciting' representations. It should be remembered that the 'licensing authority' in most cases is the full council, including all ward councillors, and each is therefore entitled to information required to inform that role.

#### RESPONSIBLE AUTHORITIES

- 8.12 The third group – "responsible authorities" – are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. All representations made by responsible authorities are relevant representations if they concern the effect of the application on the licensing objectives. For all premises, these include:



### PLANNING AND BUILDING CONTROL

- 13.64 The statement of licensing policy should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.
- 13.65 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 13.66 The granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 13.67 There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 13.68 Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap. A planning authority may also make representations as a responsible authority as long as they relate to the licensing objectives.

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**Gambling and Licensing Acts Committee****5 October 2007**

Report of the Director of Neighbourhood Services

**REVIEW OF LICENSING POLICY (LICENSING ACT 2003)****Summary**

1. This report advises members of the review of the council's licensing policy, of the consultation undertaken and of the changes made as a result of the revised guidance and legislative changes. The report seeks a recommendation to full council that the revised policy be approved.

**Background**

2. Section 5 of the Licensing Act 2003 (the Act) requires each licensing authority, in respect of each 3 year period, to determine and publish a statement of its licensing policy. The current City of York policy runs from 7 January 2005 to 6 January 2008.
3. The Act requires that before determining its policy the licensing authority must consult the following-
  - a) the chief officer of police
  - b) the fire authority
  - c) persons representative of premise licence and club premises certificate holders
  - d) persons representative of personal licence holders
  - e) persons representative of businesses and residents
4. A new statement of policy must be approved by full council and published before 6 January 2008.
5. As part of this policy revision, changes resulting from the new guidance have been incorporated into the policy. Matters relating to transition have been removed and other changes resulting from the introduction of the Gambling Act have been amended.
6. The consultation process asked respondents if they wished to see any changes to the current policy. It did not propose specific changes.

7. All changes resulting from the consultation have been incorporated into the draft revised policy attached as Annex 1 to this report. To assist members the changes have been highlighted as follows; all deletions appear crossed out, and all additions underlined. This process has altered the page numbering but this will be rectified following members consideration of the revisions. Alterations to the font, in line with the comments of the equalities officer, will also be made in the final document.
8. The first policy was printed in colour and professionally published. It is proposed that this second revision be made available in hard copy with a coloured cover and black and white pages in the same way as the Gambling Act policy.

### **Consultation**

9. The persons/organisations listed at Annex 2 were consulted directly and an on line consultation was conducted on the councils website. The results of the consultation are summarised in the table presented at Annex 3. The comments of the CIU (Club and Institute Union) will be reported verbally to the meeting.

### **Options**

10. Members are asked to consider
  - a) approving the revisions as indicated in the draft policy
  - b) amending the draft policy

### **Analysis**

11. All Members of the Committee where invited to participate in the consultation exercise. However in the light of the responses received further revisions can be made at this time before referral to Council

### **Corporate Priorities**

12. Successful application of the Licensing Act 2003 will contribute to reducing the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

### **Implications**

#### **Financial**

13. There are no financial implications.

#### **Human Resources (HR)**

14. There are no human resource implications.

**Equalities**

15. There are no equality implications.

**Legal**

16. The council is required to publish a new licensing policy before 7 January 2008 to comply with the requirements of the Licensing Act 2003. Without a policy it cannot discharge its licensing responsibilities under the Act.

**Crime and Disorder**

17. Section 17 of the Crime and Disorder Act 1998 requires the council to consider the crime and disorder implications of their decisions and to co-operate in the reduction of crime and disorder in the city.

**Information Technology (IT)**

18. There are no information technology implications.

**Property**

19. There are no property implications.

**Other**

20. There are no other implications.

**Risk Management**

21. A new licensing policy must be in place before the 7 January 2008. Without such a policy any decisions made thereafter could be subject to legal challenge.

**Recommendations**

22. Members are asked to approve the draft statement of licensing policy and recommend to full council that the policy be adopted.

Reason: to reflect the results of consultation and meet legislative requirements

**Contact Details**

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Richard Haswell

**Chief Officer Responsible for the report:**  
Andy Hudson  
Assistant Director (Neighbourhoods and  
Community Safety)

**Head of Licensing and  
Bereavement Services  
Neighbourhood Services**

Report Approved  Date 20/9/07

01904 551515

**Specialist Implications Officers:** None  
**Wards Affected:**

All

For further information please contact the author of the report

**Background Papers:**

Licensing Act 2003  
Revised Section 182 Guidance

**Annexes**

**Annex 1 Draft revision**  
**Annex 2 List of consultees**  
**Annex 3 Summary of results of consultation**



## **STATEMENT OF LICENSING POLICY**

## **LICENSING ACT 2003**

CITY OF YORK COUNCIL  
LICENSING POLICY

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## 1. INTRODUCTION AND LICENSING VISION FOR CITY OF YORK COUNCIL

### 1.1 PROFILE OF YORK

**York is a nationally and internationally prominent city for a range of reasons. Not only is it a historical centre for England, it is also one of the most visited tourist destinations in the UK. York has excellent rail links across the country, is a centre of academic excellence, and is an important location for the Church of England. Each year around 20,000 higher education students make up approximately 11% of York's population in term time.**

The City of York Council covers 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. Approximately ~~1816,480~~ 1816,480 people live in the council area (2001 Census) which includes a small black and minority ethnic population (~~62.21~~ 62.21%).

Tourism and leisure are important industries for York attracting over ~~4.18~~ 4.18 million visitors a year who spend ~~£293-332.9~~ £293-332.9 million annually in the city. Over ~~£40-53.6~~ £40-53.6 million a year is spent on eating out and evening entertainment. Over ~~9,500-970~~ 9,500-970 jobs have been created in this sector (200~~26/07~~ 26/07 figures).

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.

Historically York was known for having one public house for each day of the year. This is no longer the case, but there are 750 premises of various types licensed to sell alcohol in the city.

The city has a wide range of premises selling or supplying alcohol and providing regulated entertainment. 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.

### 1.2 LICENSING VISION

#### VISION STATEMENT

We seek to ensure the City of York Council continues 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.

**The Council welcomes the modernisation of licensing legislation and 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 businesses 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;**
- **developing further a rich culture of live music, dancing and theatre in our area;**
- **encouraging a variety and mix of 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.**

### **1.3 GENERAL APPROACH TO LICENSING**

**City of York Council is the Licensing Authority for the application of the Licensing Act 2003 (the Act) within its administrative area.**

**The Licensing Authority recognises the positive developments that have occurred in the licensed sector in the city over previous years. Many of the licensing initiatives that were generated in York are cited as good practice in the Guidance to the Act.**

**The Licensing Authority acknowledges the exceptional level of co-operation that York has experienced between the police, local licensees, door supervisors, the licensing committee of the Magistrates Court and the local authority in the development of the licensed sector.**

**The Licensing Authority intends to build on this co-operation in delivering the benefits to be derived from the new legislation.**

**The Licensing Authority recognises the importance of licensed businesses to the culture, economy and vitality of the city.**

**The Licensing Authority is using the opportunity presented by the changes introduced by the Act and through its licensing policy to 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.**

**Under the new legislation the Licensing Authority has a range of duties and functions but its prime role is to promote each of the licensing objectives by making licensing decisions and the enforcement of licensing legislation. The licensing objectives are:**

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

Licensing is concerned with regulating licensable activities in licensed premises including public houses, nightclubs, theatres, cinemas, retail outlets (ie supermarkets) off-licences, qualifying clubs and other venues. Licensing covers temporary events that are providing entertainment and/or selling alcohol. Late night refreshment premises selling hot food, open between 11pm and 5am, are also included within the terms of the Act. The range of activities covered by the Act are diverse and not solely restricted to businesses but also covers charitable and non-profit making activities.

The Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the individual business holding the licence or certificate. However, the Act is a key aspect of such control and the exercise of licensing functions is part of a wider approach to the management of anti-social behaviour and the night time economy with particular regard to the city centre. The Licensing Authority has a duty to do all that it reasonably can to prevent crime and disorder under Section 17 of the Crime and Disorder Act 1998. To this end this policy should be read in conjunction with the Crime and Disorder Reduction Strategy for the City of York Council area.

The Licensing Authority will apply the requirements of the Act in such a way, so far as is possible, to avoid duplication with other regulatory regimes.

Within this general framework the Licensing Authority would like to specifically address its policy in the following way:

#### 1.3.1 DIVERSITY

The Licensing Authority 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.

#### 1.3.2 USE OF PUBLIC SPACES

The Licensing Authority wishes to continue to promote a broad range of entertainment within the city including live music, dancing, theatre and other

entertainment. To promote this policy the Council ~~will obtain~~has obtained premises licenses for a number of public spaces within the community. ~~This will~~These include such spaces as city centre event areas, foot streets and several parks ~~and village greens~~. This will encourage these activities in that, at these venues, performers and entertainers will not need to acquire a licence to perform but would only need the permission of the licence holder (eg City Centre Management as the premises licence holder). The City Council's byelaws in relation to nuisance caused by buskers will still apply as will the Council policy on the prohibition of circuses involving animals. The Council will continue to assess areas which may be suitable for licensing.

### 1.3.3 LOCAL BUSINESS

Through its policy the Licensing Authority will encourage the development of local businesses recognising the benefits to the local economy, for supporting local enterprise to the benefit of residents.

### 1.3.4 PREMISES SERVING FOOD & DRINK IN THE OPEN AIR

The Licensing Authority 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. This being subject to, where appropriate, prior approval of the planning authority and the highway authority.

### 1.3.5 YORK'S LICENSED HERITAGE

The Licensing Authority 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.

### 1.3.6 LIVE ENTERTAINMENT AND PERFORMING ARTS

The Licensing Authority encourages the development of venues for the provision of live entertainment and performing arts, recognizing the contribution made to the vitality of the city. To this end the Licensing Authority will avoid applying measures which will deter live music, dancing and theatre by imposing direct costs of a disproportionate nature.

### 1.3.7 DECISION PROCESS

The ability of the Licensing Authority to take decisions is limited either by provisions in the Act, Regulations made under the Act, or to a lesser extent by Guidance from the Secretary of State for the Department of Culture, Media and Sport (DCMS). The Licensing Authority may, if it considers it appropriate, deviate from the Guidance but would need justifiable reasons for doing so. This policy has taken full account of the current Guidance from the DCMS and regulations made under the Act in respect of licence applications and the hearings process.

The Licensing Authority has reviewed its constitution and scheme of delegation to officers to ensure effective implementation of the Act. Licensing Committee and Sub-Committees have been set up to deal with licensing issues and the determination of applications in certain cases, namely those where representations have been made or where premises licences require review. Full details of matters to be dealt with by the Licensing committee and sub committee are set out in Appendix A.

None contentious applications, ie those where no representations, have been made will be delegated to officers. All matters dealt with by officers will be reported regularly to the Licensing Committee.

## 1.4 CONSULTATION ON PRODUCING CITY OF YORK COUNCIL LICENSING POLICY

In developing City of York Council's 2005~~8~~-2008~~11~~ licensing policy the Licensing Authority has carried out consultation in accordance with the principles set out in the Cabinet Office Code of Practice on Consultation. The Licensing Authority has consulted a wide range of organisations and stakeholders, including statutory consultees as follows:

- Chief Officer of Police for North Yorkshire;
- Chief Fire Officer for North Yorkshire;
- Representatives of local holders ~~of existing licences within the meaning of Part 1 of Schedule 8 to the Act~~ of premise licences;

- Representatives of local holders of club premises certificates within the meaning of the Act;
- Representatives of local holders of ~~potential~~ personal premises licences;
- Representatives of businesses and residents in the area;
- ~~? Representatives of York Child Protection Committee.~~



The Licensing Authority has also consulted a range of non-statutory consultees including:

- The Safer York Crime and Disorder Reduction Partnership;
- British Transport Police;
- Local Accident and Emergency Department;
- ~~North~~ Yorkshire Ambulance Service;
- Bodies representing consumers eg CAMRA, Chamber of Trade;
- Officers within the City of York Council responsible for regeneration, tourism, cultural strategy, planning, transport, health and safety, trading standards, pollution control, protection of children and racial equality;
- Alcohol Task Group;
- Groups and organisations who have a stake in the leisure and hospitality industries;
- Representatives of parish councils;
- Ward committees;
- Residents associations;
- Representatives of village and community halls;
- Local bodies representing the tourist industry;
- Representatives of the hackney carriage, private hire trade and other transport providers;
- Organisations representing disabled persons;
- Elderly persons forum;
- Citizens Advice Bureau;
- CVS.

In compiling the initial policy, ~~T~~the Licensing Authority ~~has also~~ liaised with neighbouring councils including North Yorkshire District Councils and the East Riding of Yorkshire Council, to achieve consistency of approach in the North Yorkshire area.

As a result of the consultation process which formed a key part in the production of ~~the~~ the City of York Council's ~~first's~~ Licensing Policy there were ~~33~~ 7-9 responses. These responses, where relevant to the Act Guidance and ~~Draft~~ Regulations at the time of consultation, have been incorporated into this document.

## 2. PURPOSE AND SCOPE

### 2.1 PURPOSE

**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.**

**The Act specifies licensing objectives that the Council's licensing function must address and these are;**

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

**Section 5 of the Act requires the Licensing Authority to produce and publish a licensing policy in respect of each 3 year period to address the licensing objectives. The policy will be subject to interim reviews, as necessary, to ensure the statutory licensing objectives are being met and a statement of the revisions will be published. This current licensing policy, agreed by City of York Council, has been produced having regard to the Guidance issued by the Secretary of State under Section 182 of the Act, and the views of people and organisations consulted in its determination.**

**The purpose of this policy document is to set out the policies the City of York Council, as the Licensing Authority, will apply to meet the licensing objectives when making decisions on any licence application under the Act. This policy does not replicate the statutory requirements of the Act. The purpose behind the policy is to provide applicants for licences and all other stakeholders with details of those adoptive and discretionary matters that the Licensing Authority considers necessary to meet the aims of promoting the licensing objectives in the City of York Council area. The policy is to inform licence applicants of the parameters under which the authority will make licence decisions and how a licensed premise is likely to be able to operate within the City of York Council area. The policy is also to inform residents and businesses of the parameters under which the authority will make licence decisions and how their needs will be addressed. The policy will guide the Licensing Authority in its decision making processes.**

### 2.2 SCOPE OF POLICY

**The Licensing Authority is responsible under the Act for the licensing of the following licensable activities:**

- the “supply” of alcohol, that is the sale by retail of alcohol, in public houses, hotels, restaurants, off licences, retail shops, guest houses (premises licence);
- the supply of alcohol by qualifying clubs (club premises certificate);
- the provision of regulated entertainment (premises licence), including:
  - ❖ Film exhibitions;

- ❖ Performances of a play;
  - ❖ Indoor sporting events;
  - ❖ A boxing or wrestling entertainment (indoors and outdoors);
  - ❖ A live music performance;
  - ❖ Playing of recorded music;
  - ❖ Dance performances;
  - ❖ Provision of facilities for making music;
  - ❖ Provision of dancing facilities.
- the provision of late night refreshment, that is the supply of hot food or drink to the public on or from premises between 11.00pm and 5.00am (premises licence);
  - the permitting of certain licensable activities on a temporary basis (temporary event notice);
  - the licensing of individuals for the retail sale of alcohol (personal licence);
  - authorising of premises supervisors in premises supplying alcohol (who must hold a personal licence) (designated premises supervisor).

There are a number of exemptions to the above and details of these are set out in full in Appendix B.

In general a reference in this policy to a premises licence, unless otherwise specified, will include a club premises certificate and/or a Temporary Event Notice.

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).

### 2.3 DURATION OF POLICY AND REVIEW

This policy shall have effect from 7 January 200~~5~~<sup>8</sup> to 6 January 20~~08~~<sup>11</sup> unless otherwise reviewed by the Council and shall be in force for no more than a period of three years.

The special policy referred to in paragraphs 6.2 and 6.3 was approved by Council on 12 April 2005 and shall have effect until from 13 April 2005 to 6 January 20~~08~~<sup>11</sup>.

A formal review of these policies will take place towards the end of the 3 year period involving further consultation with the parties detailed in 1.4 above. The policies will be revised in line with the outcomes of the consultation, any changes in legislation and in guidance from Government.

The Licensing Authority will keep the policy statement under constant review and make such revisions it feels appropriate. Where revisions are made, the

**Licensing Authority will publish a statement of revisions or a revised licensing policy statement.**

#### 2.4 HOW TO READ THIS POLICY STATEMENT

The text of the statements in bold type indicates the Statements of Policy with the reason, where appropriate, for each policy shown immediately after in *bold italics*.

**It is not intended that this statement reiterates legal requirements, however, the statement may include such matters where appropriate.**

**This policy is supported by a number of Appendices that provide important information aimed at helping those reading or referring to it. The information provided in the Appendices is outside the scope of the policy and may be subject to technical change in the light of the Government Guidance, from time to time. Any such changes will not invoke the procedures for revisions to the licensing policy in Section 5 of the Act.**

### 3. LINKS TO OTHER POLICIES, STRATEGIES, LEGISLATION AND GUIDANCE

#### POLICY

The Licensing Authority will normally expect that all applicants for premises licences, club premises certificates, variations and provisional statements will, where relevant, participate in the matters set out in the following as they relate to achieving the licensing objectives.

**Integration with other City of York Council adopted policies and national strategies are a key part of this policy, as elements of these contribute to achieving the licensing objectives. The Council has taken a number of initiatives to prevent anti-social behaviour, noise and degradation of the street environment often associated with late night entertainment. Using a combination of licensing and planning powers and effective management of the street environment will lead to tackling these problems. Applicants for premises licences, or substantial variations to existing licences, should therefore consider these local policies when compiling an operating schedule.**

**This section sets out existing policies/strategies, locally and nationally, which link to the achievement of the licensing objectives.**

**Additionally, many other statutory requirements apply to licensed premises such as health and safety, fire safety, planning, building control, public health, food hygiene, and trading standards. City of York Council is committed to avoiding duplication with other regulatory regimes as far as possible. Conditions will only be attached to premises licences if they are considered necessary to promote the licensing objectives and are not required under other legislation. Other relevant legislation is listed in Appendix C which will be applied by the responsible enforcement authorities.**

**Applicants should also refer to the guidance documents set out in the pool conditions for public safety in Appendix D, in relation to the overall management of the premises, event or activity. These documents are a guide to complying with specific legislation in relation to the premises or event and are primarily implemented by other agencies.**

#### POLICY

The Licensing Authority will aim to ensure that this policy and any future revisions will refer to any strategies and policies necessary for an applicant to have regard to in meeting the licensing objectives.

#### LOCAL POLICY AND STRATEGY ISSUES

##### 3.1 PLANNING (DEVELOPMENT CONTROL)

**The use of premises for sale or provision of alcohol, provision of entertainment or late night refreshment is subject to planning control. Such use will normally require planning permission or must otherwise be lawful, ie have a lawful development certificate under planning legislation. Planning**

permission is usually required for the establishment of new premises or change of use of premises.

While there is no obligation for an applicant to have planning permission before applying for a premises or provisional licence or for a substantial variation ~~statement or variation~~, it is strongly recommended that lawful planning use be obtained initially. The planning authority is a responsible authority under the Act to whom applicants are required to give notice of applications.

## **POLICY**

If an applicant wishes the Licensing Authority to determine an application for an activity for which lawful planning use cannot be demonstrated it will be for the applicant to demonstrate special circumstances justifying a departure from the policy. ~~it will be for the applicant to demonstrate special circumstances justifying a departure from the policy.~~ Applicants need to be aware there are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

*Reason: To ensure all licensed premises have lawful planning permission and that no conflicts arise between the Council acting as Planning and Licensing Authorities*

**It should be noted that any decision made by the Licensing Authority does not relieve an applicant of the need to apply for building control authorisation.**

### *3.2 CRIME & DISORDER*

**Under the Crime and Disorder Act 1998 local authorities 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 Licensing Authority will have particular regard to the likely impact of licensing on related crime and disorder in the City of York Council area, particularly when considering the location and impact of the operation and management of all new licence applications and variations to existing licences.**

**The Licensing Authority will take into account matters contained in York's Crime and Disorder Reduction Strategy and Anti-Social Behaviour Strategy in relation to the four main licensing objectives.**

### **3.3 CITY OF YORK COUNCIL COMMUNITY PLAN AND COUNCIL PLAN**

***The Local Government Act 2002 requires all local authorities to produce a community plan within the framework of the UK Sustainable Development Strategy "A Better Quality of Life" and relevant regional strategies.***

***York City Vision and Community Strategy 2004-2024 identifies key areas that will inform and shape the policies within this policy statement.***

**The community strategy provides a crucial focal point for the identification of local issues. Through this strategy it is sought to improve the quality of life for everyone in York.**

**The Licensing Authority will integrate and co-ordinate it's licensing policy with the Seven Partnership Theme Areas in the community strategy.**

**The City of York Council Plan details the strategic direction of the Council. The plan gives a rounded overview of our position and ambitions for improvement. The plan sets out specific policies on York Pride and Safe City.**

### **3.4 TRANSPORT**

**In developing this Statement of Licensing Policy the City Council has had regard to the existing policies and strategies of the Local Transport Plan. To further integrate and co-ordinate the licensing policy with regard to transport, the Licensing Committee and the Executive Member for Planning and Transport will receive an annual joint report from North Yorkshire Police and the Licensing Service**

regarding the effects of the Act and licensing policy in swiftly and safely dispersing concentrations of people from licensed venues, to avoid disorder and disturbance.

~~During the initial three year period of the Licensing Policy the Council will be working in partnership with local transport providers to facilitate improved transport to disperse people quickly away from licensed venues.~~

### 3.5 TOURISM

In developing this Statement of Licensing Policy the Licensing Authority has taken into regard York's Tourism Strategy and Action Plan 2007 which seeks to create a successful and sustainable visitor economy for the benefit of visitors, residents, businesses and employees. ~~and e~~ Each year the Licensing Committee will receive a report on the needs of the local tourist economy.

## NATIONAL STRATEGIES

### 3.6 ALCOHOL HARM REDUCTION STRATEGY

In 2004 the Government published its Alcohol Harm Reduction Strategy which outlined how the Act can be used to address some of the social health and crime and disorder issues raised by the misuse of alcohol when considering applications for Premises or Personal Licences. This strategy will be taken into account specifically with regard to the sale of alcohol to under 18's and the necessary steps to tackle anti-social behaviour.

### 3.7 SAFER CLUBBING

The Home Office, in conjunction with the Department of Health and the Department of Culture Media and Sport, has also produced the Safer Clubbing Guide which provides comprehensive new advice for nightclub owners, dance event promoters and existing local authority licensing departments on how to ensure the health and safety of anyone attending dance events in England. The Guide can be viewed in full on [www.drugs.gov.uk](http://www.drugs.gov.uk). It is expected that applicants will give due consideration to the recommendations of this guide when drawing up their operating schedule and designing facilities.



4. APPLICATIONS FOR PREMISES LICENCES, CLUB PREMISES CERTIFICATES AND VARIATIONS

POLICY

All applications for premises licences, club premises certificates, variations, variations during transition and provisional statements must be submitted in accordance with the Act and associated Regulations. Details of the application process are set out in Appendix E.

*Reason: To ensure the timely and efficient determination of the application and to avoid unnecessary formal hearings.*

**As part of the normal application process there is a requirement for the submission of an operating schedule. ~~During the transition period this requirement will only apply to existing licences if it is the intention to vary former licences issued by the Licensing Justices or the Local Authority, (ie proposals to extend operating hours or activities taking place in premises) and only to the extent of the variation.~~ A fully detailed operating schedule will be required for club premises certificates, new premises licences, and provisional statements covering all four licensing objectives.**

POLICY

The operating schedule should include information which is necessary to enable responsible authorities or interested parties to assess whether the steps to be taken to promote the licensing objectives are satisfactory and have been fully addressed.

**The Licensing Authority will normally expect the operating schedule to have regard to the nature of the area where the premises are 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.**

**Applicants are strongly recommended to undertake a thorough and appropriate risk assessment of their business in order to arrive at a detailed operating schedule which identifies and meets all necessary steps to promote the licensing objectives in relation to the application made. Matters detailed in this document in relation to other policies and strategies should, where appropriate, be taken into account when preparing the operating schedule and form part of the overall risk assessment.**

**The concept of developing an operating schedule for all premises is recognised as good practice whether applying for a variation or otherwise and all licensees are recommended to do so.**

POLICY

The Licensing Authority encourages new applicants to discuss their proposals informally with licensing officers and other responsible authorities before an application is submitted.

*Reason: To ensure the timely and efficient determination of the application and to avoid unnecessary formal hearings.*

4.1 CONSULTATION ON NEW PREMISES APPLICATIONS, CLUB PREMISES CERTIFICATES, VARIATIONS AND PROVISIONAL STATEMENTS.

POLICY

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 representations must be sent.

All those potentially directly affected by an application should be made aware of any licence application and of the opportunity to make representations. It is considered good practice, in order to further customer relations, that customers are advised of proposed changes to the operation of licensed premises, particularly those historic and traditional public houses that add to the character of York. This can be facilitated by the display of plans in the licensed premises.

*Reason: To ensure that all who are affected by an application, and have rights under the Act to make representations, are aware of the application being made.*

**Representations may be received from the responsible authorities. These include North Yorkshire Police, North Yorkshire Fire and Rescue, any organisation which represents those who are responsible for, or interested in, matters relating to the protection of children from harm, and local authority professionals in health and safety, planning and pollution control. Representations may also be received from interested ~~parties~~ parties that include local residents and businesses or their representatives.**

"Relevant representations" are representations as defined by Section 18 of the Act, which are:

- (a) about the likely effect of the application on the promotion of the licensing objectives;
- (b) made by an interested party or a responsible authority and have not been withdrawn and, in the case of representations made by an interested party, are not, in the Council's opinion irrelevant, frivolous or vexatious.

There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations, and in fact this would not be possible for new premises.

POLICY

Unless relevant representations are made by responsible authorities and interested parties licences will be granted on the terms set out in the application.

*Reason: The licensing authority has no discretion on the granting of licences unless representations are made.*

4.2 GENERAL PRINCIPLES FOR DETERMINATION OF APPLICATIONS

**The Licensing Authority will consider each application on its own merits whilst having regard to this policy statement.**

POLICY

In determining a licence application where relevant representations are made, the overriding principle adopted by the Licensing Authority will be that each application will be determined on its individual merits.

*Reason: Overriding principle of the Licensing Act 2003 and Guidance*

**Any delegated decisions made by the Licensing Authority will be carried out in accordance with the Scheme of Delegation as shown in Appendix A.**

**Many of the decisions and functions of the Licensing Authority are largely administrative in nature such as the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made. These will be delegated to council officers. All such matters dealt with by officers will, for information, be reported to the Licensing Committee meetings.**

**When representations are received the Licensing Authority will consider whether they are relevant, frivolous, vexatious or repetitious. The Head of Licensing ~~and Regulation~~ together with the relevant Assistant Director ~~of Environment and Neighbourhoods~~ will determine if any representation will be rejected on the grounds of being frivolous, vexatious or repetitious.**

**Applications where there are relevant representations will be dealt with by a Licensing Sub-Committee, unless the Licensing Authority, the applicant and everyone who has made representations agree that a hearing is not necessary.**

**Unless there are compelling reasons to the contrary, the Council will require the Licensing Committee or its Sub-Committee to meet in public, although Members can retire into private session to consider their decision.**

POLICY

Officers from the Licensing Authority will act to mediate between applicants and persons making relevant representations to resolve issues, thereby preventing unnecessary hearings.

POLICY

Where relevant representations remain unresolved, the Licensing Authority will determine the application by way of a hearing.

When determining an application in respect of which representations have been received relating to the prevention of crime and disorder and/or prevention of public nuisance, particular consideration will be given to the following by way of promoting the licensing objectives:

- Location and impact of licensed activity;
- The type of use and the numbers likely to attend the premises;
- The proposed hours of operation;
- The level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers;
- The adequacy and impact of car and cycle parking on local residents or businesses;
- The scope for mitigating any impact;
- How often the activity occurs;

and in considering any application that is already licensed, the Licensing Authority will take into account any evidence:

- Of past good operation of the premises;
- Of past demonstrable adverse impact from the activity especially on local residents or businesses;
- That, where adverse impact has been caused, the appropriate agreed measures have been put into effect by the applicant to mitigate the adverse impact.

*Reason: The purpose of this part of the policy is to achieve the licensing objectives of preventing public nuisance and crime and disorder. In furtherance of this aim the policy lists particular matters that the Licensing Authority will take into account in considering whether a licensed activity is likely to cause an adverse impact, particularly to local residents.*

#### POLICY

In considering imposing conditions as a result of relevant representations following a hearing there should be openness, transparency and reasonableness. Licence conditions will be tailored to the individual application and only those deemed necessary to meet the licensing objectives, following representations, will be applied.

Where appropriate and where existing legislation does not cover issues, conditions from the pool of conditions in Appendix D will be used (these are based on DCMS pool conditions in the Guidance document).

*Reason: With the aim of achieving a mutually agreeable level of protection of the public and fulfilment of the licensing objectives.*

In making its decisions, the Licensing Authority accepts the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However, it will also take into account that the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in activities to the detriment of nearby residents or businesses. Premise licence and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking shelter, where and to the extent that these matters are within their control. Furthermore the Licensing Authority will also take into account its responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder.

Therefore, the aim of the policy is, therefore, to achieve a balanced approach to these difficult issues.

#### 4.3 COMPOSITION OF A LICENSING SUB-COMMITTEE

A Licensing Sub-Committee shall comprise of any three elected members who serve on the 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 and be disqualified from being involved in determining that application and making any representations to the panel. Where the application is from within the members ward the member may make representations to the committee or sub-committee on behalf of the residents or the applicant provided the member does not have a personal and prejudicial interest but may not take part in the decision or remain in the room after their representations have been made.

#### ~~4.4 TRANSITIONAL ARRANGEMENTS~~

~~Applications for transfer and variations of existing licences can be made during a six month period from 7 February 2005 and details of the arrangements during this period are set out in Appendix F.~~

## 5. GUIDELINES FOR APPLICANTS

These policy guidelines are intended to help applicants by setting out criteria and considerations that they should have in mind when drawing up an operating schedule. Not all the criteria or considerations necessarily apply or apply equally to all applications. These considerations have been developed with reference to the licensing objectives following consultation with the responsible authorities and interested parties as they relate to the section 182 Guidance produced by the DCMS. They therefore alert applicants to the matters which responsible authorities will be likely to consider when deciding whether to make representations on an application or whether to call for a review. They 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. They are based on experience and good practice established over the years in the city. The overriding principle remains that each application will be considered on its own merits.

### 5.1 PREVENTION OF CRIME AND DISORDER

Prevention of crime and disorder is both an objective of the Act and an important responsibility of the City of York Council under the Crime and Disorder Act 1998. It is important, therefore, that applicants are able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective.

Applicants should also have due regard to the pool conditions for crime and disorder produced by the DCMS reproduced at Appendix D.

The Licensing Authority will also have particular regard to the location and character of premises and the impact of the operation and management of all proposed licence applications, renewals and variations of conditions.

In interpreting any of the following matters with any reference to the city centre, regard should be had to the map attached at Appendix J. The Licensing Authority has provided this indicator to assist applicants, but reserves the right to vary from this delineation having regard to the particular merits of the application.

#### CCTV

The Licensing Authority and the relevant responsible authorities, where appropriate, would normally expect the installation of closed circuit television surveillance (CCTV) within all nightclubs, city centre public houses and city centre late night refreshment venues. Where queuing occurs at these premises, CCTV should be provided to cover the queue. Off-licences, restaurants and other premises anywhere in the city area may consider the benefits of such systems in providing deterrents against crime and to safeguard their own interests.

Applicants are encouraged to participate in any future initiatives to further promote the crime and disorder objectives by the use of CCTV.

*Reason: The use of CCTV acts as a deterrent to crime and disorder and assists the police and other agencies in effective enforcement in identifying potential offenders.*

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### Excessive Alcohol Consumption

The Licensing Authority and the relevant responsible authorities would normally expect operating schedules to indicate the measures proposed to reduce the possibility of excessive consumption of alcohol by individuals in the premises. Licensees would be encouraged to participate in any voluntary schemes to reduce such excessive consumption promoted by the police or Licensing Authority.

*Reason: Excessive or binge drinking is a direct contributor to crime, disorder and anti-social behaviour.*

### Underage Sales

The Licensing Authority and the relevant responsible authorities would normally expect operating schedules to demonstrate that effective controls are in place to prevent underage activities. Recommended schemes are Portman Group proof of age, Citizen Cards, Validate UK, Connexions, photo driving licences and passports. The Licensing Authority would encourage all businesses to have internal management systems in place to prevent the sale of alcohol to children and to provide adequate training to staff.

*Reason: The law provides age restrictions for certain activities, ie sale of alcohol, admission to films and participation in gaming activities.*

### Pubwatch Schemes

The Licensing Authority and the relevant responsible authorities would normally expect all nightclubs, city centre public houses and city centre late night refreshment venues to participate in a local early warning or pubwatch scheme agreed with the police, eg pager or linked radio systems. Other premises in the city are encouraged to join the scheme if, on examination of risk or history of incidents, it is considered beneficial.

*Reason: Early warning schemes advising licensees of incidents and potential problems that may affect their operations are seen as an effective crime prevention measure.*

### Door Supervisors

The Licensing Authority and the relevant responsible authorities would, where appropriate, normally expect the operating schedule to indicate if door supervisors are to be provided on the premises and at what level. Whenever security supervisors are employed at licensed premises to carry out the security function they must be licensed by the Security Industries Authority (SIA).

*Reason: The value of a high standard of door security cannot be overestimated in the control of crime and disorder.*

### Control of Drugs

The Licensing Authority and the relevant responsible authorities will normally expect all nightclubs, city centre premises providing alcohol and music/dance entertainment, city centre public houses, dedicated dance venues, and other premises where appropriate to address the use and sale of illegal substances (drugs) in their

premises in operating schedules and produce a written drugs policy to the Licensing Authority.

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*Reason: The use and sale of illegal substances (drugs) does occur in licensed premises. In order to promote the objective of preventing crime and disorder the holders of all premises licences are encouraged to produce a drugs policy tailored to their operations.*

#### Strengthened Glassware

The Licensing Authority and the relevant responsible authorities would normally expect all premises serving alcohol to provide strengthened or tempered glassware. The operators of high volume premises, and temporary or outdoor events, will also be encouraged to serve drinks in plastic drinking containers.

*Reason: There is a history of glass drinking vessels being used in acts of violence associated with the consumption of alcohol. Provision of strengthened glassware at high volume premises and large outdoor events also contributes towards public safety.*

#### Dispersal

The Licensing Authority and the relevant responsible authorities would normally expect, as good practice, that the operating schedules relating to all premises licences (excluding guesthouses supplying alcohol to residents only) and club premises certificates set out how they intend to manage the dispersal of customers from the premises. The aim should be to disperse people gradually either prior to, or immediately following, the final hour of operation of the licence. The hours the premises are open to the public, appropriate to the nature of the activities in the premises, should be determined. Signage visible from outside the premises indicating the operating hours and proposed drinking up times should be displayed in order that customers are aware when the premises are likely to close. Other means should also be considered to aid effective dispersal.

*Reason: Difficulties in encouraging customers to leave premises licensed to sell alcohol at the end of trading has been associated with violent disorder. ~~The abolition of standard operating hours could exacerbate this problem and will cause enforcement difficulties.~~ Therefore holders of premises licences must have management plans in place to advise customers of the opening hours etc to effectively disperse customers. This contributes to the crime and disorder objective and potentially contributes to the reduction of public nuisance.*

#### Prevention of Queuing

The Licensing Authority and the relevant responsible authorities will normally expect operating schedules for all nightclubs, city centre premises providing alcohol and music/dance entertainment, city centre public houses, dedicated dance venues and other like premises to demonstrate steps to be taken to avoid the build up of queues and the likelihood of disorder or violence.

*Reason: The Licensing Authority will not encourage the development of premises where queuing is likely to occur outside. The potential for crime, disorder and public nuisance will thus be reduced in the immediate area of the licensed premises.*

#### Special Events

The Licensing Authority and the relevant responsible authorities will normally expect operating schedules to indicate that the licence holder will comply with any instructions issued by the police and Licensing Authority regarding closure on race days and/or other sporting

events. The operating schedule shall also ensure that, when an exclusion order is made, the person subject to the order is denied access to licensed premises.

*Reason: Local initiatives have been enforced through the issue of Justices Licences. These have proved extremely effective in preventing crime and disorder associated with the sale of alcohol. The continuation of these initiatives will ensure the continuation of good practice in meeting the objectives of crime and disorder on specific occasions.*

## 5.2 PUBLIC SAFETY

**The licensing system should protect the safety of those visiting and working in licensed premises whilst also protecting residential and business amenity. All licensed premises within the City of York Council area should therefore be safe, well managed and maintained. It is important that applicants are able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective. To achieve this the following will be taken into account when determining applications.**

### POLICY GUIDELINES

In preparing an operating schedule to address the public safety objective, the Licensing Authority will normally expect applicants to give due consideration to the issues covered by the pool of standard conditions in Appendix D which are based on those issued by the DCMS.

**North Yorkshire Fire and Rescue Service have though made recommendations to the Licensing Authority that businesses need to reflect, within operating schedules, their Fire Safety Risk Assessments, particularly where new activities may be taking place. This demonstrates that licensees are giving due consideration to the public safety objective ~~and reduces~~ reducing the possibility of representations being made on the ~~fire safety aspect of the public safety objective~~ se grounds.**

### Management of Premises

The Licensing Authority will normally expect the operating schedule to detail how the premises will be properly managed and maintained to ensure public safety at all times. In order to achieve this it is recommended, as good working practice, to carry out within the risk assessment recommended in section 4 an assessment as regards public safety.

*Reason: Public safety is an important licensing objective. It is the intention of the Licensing Authority that anyone visiting a licensed venue in the city can do so in safety, in well managed and maintained premises.*

### Occupancy

The Licensing Authority and the relevant responsible authorities would normally expect applicants in certain classes of licensed premises to state in their operating schedules a maximum safe capacity for their premises and the management arrangements to ensure it is not exceeded. This can be achieved through a risk assessment of the premises and should take into account numbers of staff on the premises.

Those classes of premises will include:

- Theatres, cinemas, nightclubs, high volume city centre premises offering the sale of alcohol or the provision of regulated entertainment;
- Premises which include a function room to be available for hire by others;
- Large scale outdoor events;
  
- **Small venues which by virtue of their limited capacity are seeking the relaxation of conditions under Section 177 of the Act will also be required to state the maximum capacity and the method employed to ensure compliance with that limitation.**

*Reason: A safe capacity is necessary for the promotion of public safety and, in particular, to ensure the building can be safely evacuated in the case of an emergency. A safe capacity also contributes towards the Crime and Disorder objective by ensuring reasonable space is available for customers.*

*Conditions relating to public safety may, in appropriate cases, be attached to licences following representations or following review of a licence, where the operating schedule does not address these issues. Conditions will not duplicate the requirements of other legislation that applies.*

### POLICY

The Licensing Authority and the relevant responsible authority would normally expect those premises best described as large capacity vertical drinking premises to ensure that there are adequate seating facilities for customers who would prefer to be seated at a table.

Premises considered as such are likely to be located in the city centre and have a capacity exceeding 200 persons.

The Licensing Authority will indicate to applicants if they consider their premises meets this definition. Cases will be considered on merit.

The Licensing Authority considers that seating should be provided for a minimum of 30% of the agreed capacity or other such figure as determined on the individual merit of the application.

*Reason: Research shows that the environment in this type of drinking establishment can have significant bearing on the likelihood of crime and disorder.*

## 5. 3 PREVENTION OF PUBLIC NUISANCE

**Responsible applicants will wish to ensure their operations do not disturb their neighbours or give rise to representations being made against a licence application. To achieve this the following will be taken into account when determining applications. It is important that applicants are able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective.**

#### **POLICY GUIDELINES**

##### Hours of Operation

The Licensing Authority would expect licence holders to consider hours of operation when compiling their operating schedules.

*Reason: 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.*

### Customer Management

The Licensing Authority and the relevant responsible authorities would normally expect operating schedules to address steps to be taken to avoid disturbance being caused by persons entering and leaving licensed premises. The following measures should be considered:

- Erecting prominent notices at the exits to premises asking customers to leave quietly and not slam car doors;
- At appropriate times making announcements to the same effect. Instructing door staff to ask customers leaving the premises to leave the area quietly;
- Banning from the premises people who regularly leave in a noisy fashion;
- Directing customers away from noise sensitive areas where appropriate;
- The means to ensure customers are taken away without delay. The Licensing Authority would encourage the forming of partnerships with local transport providers, and the provision of telephone points and public transport information;
- Steps taken to reduce the impact of any parking on local residents or businesses where appropriate.

*Reason: Many complaints arise from nuisance caused by patrons and staff entering and leaving premises.*

### Operation of Premises and Clubs

The Licensing Authority and the relevant responsible authorities would normally expect licence holders to consider the following matters when compiling their operating schedules in relation to the public nuisance objective:

- Installation of soundproofing, air conditioning, acoustic lobbies or sound limitation devices, or simply the closing of windows and doors;
- The hours of operation that may involve the provision of entertainment likely to give rise to complaint and the reduction of volume at certain times;
- The areas of the building where entertainment is provided particularly outside areas;
- The timing of the disposal of waste, particularly the emptying of bottle bins.

*Reason: A great irritation to residents can be the sound of music escaping from licensed premises and activities that occur after closing time that prolong noisy activities at the premises.*

### Queuing

The Licensing Authority and the relevant responsible authorities would normally expect operating schedules to demonstrate steps to be taken to avoid disturbance and nuisance being caused by customers queuing outside licensed premises. Supervision of queues formed later in the evening will assist to keep noise to a minimum. Door supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities and be adequately managed. CCTV should also cover patrons queuing outside the premises.



*Reason: Queuing outside premises leads to inevitable noise, disturbance and nuisance.*

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### Litter

The Licensing Authority and the relevant responsible authorities would regard, as good working practice, to include within the operating schedule measures which address and prevent public nuisance being caused by the generation of litter from the premises or operation.

*Reason: Excessive litter is generated from licensed premises in various forms, particularly takeaway food wrappers and event/venue promotion leaflets (flyers) [and cigarette butts](#).*

## 5. 4 PROTECTION OF CHILDREN FROM HARM

**The Act provides specific protection for children from the sale or provision of alcohol and the provision of regulated entertainment. The protection of children from harm is, therefore, an important licence objective. The Licensing Authority 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. It has taken account of the view of Department of Culture, Media and Sport that the use of licensed premises by children should be encouraged. However, the Licensing Authority may consider imposing conditions designed to protect children, where necessary, following representations on applications and the following will be taken into account when determining an application.**

**The matters detailed below are ones which will be considered by the responsible authority during the consultation process on new applications, variations and licence reviews in respect of the protection of children from harm. These matters are designed to allow flexibility for the licensee to ensure that, where appropriate, licensed premises are suitable for children but will also ensure that children are adequately protected from physical, moral or psychological harm.**

### **Areas of Direct Concern**

**The Licensing Authority and the relevant responsible authorities will not impose any conditions that specifically require access, or prohibit access, of children to premises. 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 for serving alcohol to minors;
- Where the police have objections on the grounds of existing drug problems;
- Where there is a strong element of gambling on the premises;

- Where entertainment of an adult or sexual nature is provided.

These areas of concern will be taken into account when an application for a premises licence is being determined, varied or reviewed following representation.

#### Control of Children on Premises

The Licensing Authority and the relevant responsible authorities would normally expect operating schedules to indicate the following matters regarding the entry and control of children and may, as appropriate, impose a complete prohibition on entry of children or condition the licence if satisfied that problems would not be adequately controlled by the operating schedule.

- Limitations on the hours when children may be present;
- Arrangements to ensure age limits for admission or the sale of alcohol are controlled;
- Age limitations below 18;
- Limitations or exclusions when certain activities are taking place;
- Requirements for accompanying adults or stewarding.

[Furthermore, for example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.](#)

#### Supervision

Where there is provision of entertainment specifically for children (eg a children's disco) the Licensing Authority and the relevant responsible authorities will normally expect the presence of sufficient adults to control the access and egress of the children and ensure their safety.

#### Age Restriction Films

Where the exhibition of films is permitted, the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited should be complied with. Only in exceptional cases will variations of this general rule be granted by the Licensing Authority and then only with appropriate safeguards.

With respect to films with 'U' classification, which are suitable for audiences aged 4 years and over, children under 4 may be admitted at the discretion of the accompanying parent/adult.

*Reason: These policies are designed to allow flexibility for the licensee to ensure that where appropriate licensed premises are suitable for children. They also aim to ensure children are adequately protected from physical, moral or psychological harm.*

## 5.5 ENTERTAINMENTS OF A SEXUAL NATURE

*Where the activities proposed under the licence include those of a sexual nature (eg topless waitresses, striptease, table dancing, lap dancing) the Licensing Authority will take into account the increased risk to the licensing objectives.*

## **POLICY**

**Where representations are received to an application, the Licensing Authority will impose conditions designed to ensure that children are not admitted to and cannot witness these activities, and to control crime and disorder problems. Particularly if premises are located** ~~The Licensing Authority and the relevant responsible authority will not normally grant licences where operating schedules involve entertainment of a sexual nature~~ in the vicinity of schools, churches, hospitals, youth clubs or other premises where significant numbers of children are likely to attend.

~~Where such licences are granted the Licensing Authority will impose conditions designed to ensure that children are not admitted to and cannot witness these activities, and to control crime and disorder problems.~~

*Reason: These matters are designed to further the licensing objective of protecting children by preventing them being exposed to unsuitable material or acts, and for the protection of performers from risk of assault.*

## 6. SATURATION & CUMULATIVE IMPACT

### 6.1 SATURATION AND CUMULATIVE IMPACT

**Cumulative impact is defined in the Guidance to the Act as ‘the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area’.**

**Where, after considering evidence and consulting relevant persons, the Licensing Authority is satisfied that it is appropriate and necessary to include an approach to cumulative impact in a particular area, it will adopt a special policy to be included in the statement of licensing policy**

**The effect of adopting a special policy is to create a rebuttable presumption that applications for new premise licences or material variations will normally be refused, if relevant representations to that effect are received. That is, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already experienced.**

#### POLICY

The Licensing Authority may consider a specific policy on cumulative impact if it proves necessary to meet the licensing objectives in any area. The Licensing Authority in considering whether to adopt such a special policy will take the following steps:

- a) Identification of concern about crime and disorder. This must be evidence-based and supported by the North Yorkshire Police and Safer York Partnership;
- b) Consideration of whether it can be demonstrated that crime and disorder is occurring, and is caused by customers of licensed premises in an area, or that the risk factors are such that the area is reaching a point when cumulative impact is considered unacceptable;
- c) Consultation carried out with those persons indicated in paragraph 1.4 of this policy;
- d) Subject to that consultation, the inclusion of a special policy about future premises licences or club premises certificate applications in the statement of licensing policy;
- e) Publication of the special policy.

*Reason: The saturation of licensed premises can attract high numbers of customers who adversely impact on the surrounding area beyond the control of an individual licence holder or the police.*

### 6.2 SPECIAL CUMULATIVE IMPACT POLICY YORK CITY CENTRE

**As a result of the consultation process on the formulation of this policy, the North Yorkshire Police has made representation with respect to the formulation of a special policy with regard to the city centre. The area identified covers includes the following streets; Micklegate, Toft Green, Tanner Row, Rougier Street, George Hudson Street, Bridge Street, Low Ousegate, Clifford Street, Tower Street, Tanner Moat, Wellington Row, North Street,**

Cumberland Street, King Street, Lower Friargate, Kings Staith, ~~and~~ Peckitt Street, Blossom Street (to Holgate Road) and The Crescent.

This area has been identified as being under stress because the cumulative effect of the concentration of late night and drink led entertainment premises has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses. City of York Council has consulted further on the application of a special policy with respect to this area.

### 6.3 CITY CENTRE SPECIAL POLICY STATEMENT

**This Special Policy was approved by the City of York on 12 April 2005 and shall have effect ~~from 13th April 2005 to~~ until 6 January 200811 unless otherwise reviewed by the Council.**

**This Special Policy is a supplement to the Council's Statement of Licensing Policy and must be read in conjunction with that document.**

**This Special Policy includes the following streets:**

**Micklegate, Toft Green, Tanner Row, Rougier Street, George Hudson Street, Bridge Street, Low Ousegate, Clifford Street, Tower Street, Tanner Moat, Wellington Row, North Street, Cumberland Street, King Street, Lower Friargate, Kings Staith, Peckitt Street, Blossom Street (to Holgate Road) and The Crescent (see Appendix KJ, Map of Special Policy Area).**

**This area has been identified as requiring additional licensing controls to promote the licensing objectives due to the cumulative effect of the concentration of late night drink led, refreshment and entertainment premises on crime, disorder and/or public nuisance affecting residents, visitors and other businesses.**

**A statistical, evidence based report was submitted by North Yorkshire Police to substantiate this statement and was considered by the City of York Council in approving this policy.**

**Consultation on the Special Policy was carried out in accordance with Section 5(3) of the Licensing Act 2003.**

Effects of the Special Policy

- 1. This policy relates to applications for the grant and/or variation of premises licences or club premises certificates or the issue of provisional statements.**
- 2. Each application will be considered on its own merits.**
- 3. Where no representations are received any application will be granted in terms consistent with the operating schedule.**
- 4. Applications for the grant of a new premises licence or club premises certificate or provisional statement :**

**Where relevant representations are received there will be a presumption against the grant of such a licence or certificate unless the applicant can rebut the presumption that the granting of such a licence or certificate would undermine the licensing objectives.**

5. **Application for the variation of a premises licence or club premises certificate due to a change of style of operation :**

**Any application for the variation of style of operation which is subject to relevant representations will be considered on its own merits having regard to the promotion of the licensing objectives.**



6. **Application for the variation of a premises licence or club premises certificate resulting in an extension of the premises and increased capacity:**

**There will be a presumption to refuse such applications, where relevant representations are received and where the increase in capacity would undermine the licensing objectives unless the applicant can rebut the presumption that the granting of such a variation would undermine the licensing objectives.**

7. **Application to vary the hours of operation attached to a premises licence or club premises certificate:**

**All applications that seek to extend the licensed hours will be considered on an individual basis. No different policy will apply in this area as opposed to the rest of the city.**

## 7. LICENSING HOURS

The Government has expressed a view that “more flexible opening will help address the issue of large numbers of patrons leaving at the same fixed time and as such will reduce disorder and disturbance whilst helping promote business and cultural development”. The Government also wishes to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and local employment and attractive to domestic and international tourists.

The Licensing Authority acknowledges these principles but 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.

~~The Licensing Authority accepts these principles but 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.~~

Any activity involving public entertainment and eating or drinking on the premises has the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. Customers may also be noisy when leaving, leave litter, or use on-street car parking spaces needed by residents. The impact of noise generated by these activities, especially customers departing, are-is particularly intrusive at night when ambient noise levels are much lower.

The Licensing Authority recognizes that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when potentially large numbers of people tend to leave licensed premises at the same time. Longer licensing hours with regard to the sale of alcohol may, therefore, be considered as an important factor in reducing friction at late night food outlets, taxi ranks and in the street.

However, the same effect may be seen where the closing time of a number of licensed premises coincide and, as stated, one- of the aims of the licensing regime is to prevent the mass exodus of patrons at fixed times with its knock-on effect on services and policing.

Therefore, the Licensing Authority recognises that there is no general presumption in favour of lengthening licensing hours and believes that the licensing objectives should be paramount to considerations at all times. Where there are representations to an application and it is believed that changing the licensing hour would undermine the licensing objectives, the Licensing Authority may reject the application or grant it with appropriate conditions and/or different hours from those requested. Consideration will be given to the individual merits of an application.

## POLICY

Providing consumers with greater choice and flexibility is an important consideration, but should always be carefully balanced against the duty to promote the licensing objectives and the rights of local residents to peace and quiet. It is the aim of the Licensing Authority to strike a fair balance between the needs of a licensed business and the risk of disturbance and nuisance to local residents. The Licensing Authority may, upon receipt of relevant representation, restrict the hours of operation where it is considered necessary to avoid unreasonable disturbance to local residents or businesses.

*Reason: To achieve the licensing objectives of preventing public nuisance and crime and disorder that have been eroded by fixed licensed hours.*

~~The Licensing Authority recognizes that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when potentially large numbers of people tend to leave licensed premises at the same time. Longer licensing hours with regard to the sale of alcohol may, therefore, be considered as an important factor in reducing friction at late night food outlets, taxi ranks and in the street.~~

~~However, the same effect may be seen where the closing time of a number of licensed premises coincide and, as stated, one of the aims of the new licensing regime is to prevent the mass exodus of patrons at fixed times with its knock-on effect on services and policing.~~

### Licensing Hours - Off Sales

Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, subject to representation, in the case of individual shops that are known to be a focus of disorder and disturbance, a limitation on licensing hours may be appropriate.

~~Premises providing late night refreshment generally serve the customers of other premises. The closing times of such premises should reflect the terminal hours of other premises operating in the area. The impact of people gathering at these premises after other premises have closed is a significant factor to be considered in the prevention of public nuisance and crime and disorder.~~

Licensing Hours - Late Night Refreshment Houses

Premises providing late night refreshment generally serve the customers of other premises. The closing times of such premises should reflect the terminal hours of other premises operating in the area. The impact of people gathering at these premises after other premises have closed is a significant factor to be considered in the prevention of public nuisance and crime and disorder.

Subject to representation, the Licensing Authority will have regard to the closing times of other premises in the area when considering the terminal hour of premises providing late night refreshment. The operation of such premises should not attract persons into an otherwise quiet area to obtain food if it has the potential to cause disturbance to residents.

~~*It is important that local transport facilities are available to move customers away, without delay, to keep disorder and disturbance to a minimum. The Licensing Authority have received representations from the police expressing a view that disorder is most likely where crowds gather to queue or wait after leaving licensed premises.*~~

Dispersal

*It is important that local transport facilities are available to move customers away, without delay, to keep disorder and disturbance to a minimum. The Licensing Authority have received representations from the police expressing a view that disorder is most likely where crowds gather to queue or wait after leaving licensed premises.*

The effectiveness of dispersal of customers away from premises will be a consideration to the Licensing Authority when it is required to determine licensing hours.

*Reason: The time at which licensed activities take place has a significant impact on the potential for public nuisance and disturbance to occur and is also a factor in the prevention of crime and disorder. A licensed activity may be acceptable at certain times and not others. Generally the later the activity takes place the greater the potential for problems to occur. The Licensing Authority has a duty to promote the licensing objectives.*

## **8. PERSONAL LICENCES**

The sale of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it a great responsibility. A personal licence is required by individuals who may be engaged in making and authorising such sales and supplies of alcohol.

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.

The Licensing Authority recognises it has very little discretion regarding the granting of these licences. In general, provided an applicant has an approved qualification and does not have certain serious criminal convictions, the application has to be granted.

An application for a personal licence will only be accepted in the form specified in Government Guidance or Regulation (Appendix **GF**) and on receipt of the appropriate fee.

Applicants should produce a Criminal Record Bureau certificate which must be [dated within 3 months of the application less than one calendar month old on submission](#).

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. Again, these statements must be sent to the local Chief Officer of Police along with the application form.

The police may make an objection on the grounds of an unspent relevant or foreign offence.

If an applicant has a relevant conviction, the police can oppose the application. If an objection is lodged, a hearing has to be held unless otherwise agreed by all parties.

## **POLICY**

At any hearing that may be necessary, following a representation from the police, the Licensing Authority will consider whether the grant of the licence will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed, and any mitigating circumstances. The Licensing Authority will grant the application unless it is satisfied that doing so will be against this objective.

*Reason: Prevention of crime is both an objective of the Act and an important responsibility of City of York Council under the Crime and Disorder Act 1998. A person holding a personal licence should be a person who is not only properly qualified but a person who will assist in the prevention of crime. Granting a licence to a known criminal will in many cases undermine rather than promote the crime prevention objective.*

~~8.1 PERSONAL LICENCES – TRANSITION PERIOD FEBRUARY TO NOVEMBER 2005~~

~~During transition the holders of existing Justices Licences will not be subject to the above processes. personal licences will be issued for existing holders of licences under the Licensing Act 1964 following consultation with the police. Any representations from the police will be considered at a hearing of the Licensing Sub-Committee.~~

## 8.2 DESIGNATED PREMISES SUPERVISOR, AUTHORISATION

**A designated premises supervisor must be a personal licence holder. They are a specified individual who can be readily identified for the premises where a premises licence is in force. The premises licence holder will have given this person day-to-day responsibility for running the premises.**

### POLICY

In order to comply with the legal requirements of the Act, and for effective implementation of matters contained in the operating schedule, ~~and to meet the objectives of the Act,~~ there should always be a designated premises supervisor specified for the premises selling or supplying alcohol. The Licensing Authority expects the designated premises supervisor to be in such a position as to exercise day-to-day control over the premises. The designated premises supervisor ~~will~~ must be specified on the premises licence. The sale and supply of alcohol, because of its impact on the wider community and on crime and antisocial behaviour, carries with it greater responsibilities than the provision of regulated entertainment or late night refreshment. For effective control, enforcement officers must be able to immediately identify the person responsible for the sale of alcohol at any premises.

*Reason: Section 19 of the Act requires that no supply of alcohol may be made under a premises licence at a time when there is no designated premises supervisor in respect of the premises licence.*

## 8.3 AUTHORISING THE SALE OF ALCOHOL

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

It is a legal requirement that every supply of alcohol made under a premises licence must be made or authorised by a person who holds a personal licence (not necessarily the designated premises supervisor). "Authorisation" does not imply direct supervision by a personal licence holder of each sale of alcohol. The Licensing Authority strongly suggest 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 authorised;
- the person(s) authorised to sell alcohol should be clearly identified;
- the authorisation should specify the acts which may be carried out by the person being authorised.

*Reason: This should assist personal licence holders in demonstrating due diligence should issues arise with any of the enforcement authorities; and may protect employees if they themselves are challenged in respect of their authority to sell alcohol.*





## 9. REVIEW OF LICENCES

The Licensing Authority may review premises licences when representations are received from a responsible authority (such as the police or fire authority), or interested party (such as local residents), to indicate that problems associated with crime and disorder, public safety, public nuisance or protection of children from harm are occurring.

Any review will be considered by a Sub-Committee of the Licensing Authority.

Before undertaking a review the Licensing Authority must first consider whether the complaint made is not relevant, vexatious, frivolous or repetitious. This consideration will be undertaken by the Head of Licensing ~~and Regulation~~ in consultation with the relevant Assistant Director ~~of Environment and Neighbourhoods~~.

Licence holders should be aware that the Violent Crime Reduction Act 2006 and the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007 provides the police and local communities with new 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 officer is of the opinion that the premises in question are associated with serious crime, serious disorder or both.

## 10. TEMPORARY EVENT NOTICES (TENs)

The Act does not require the issue of a licence for a temporary event. It is a notification process. The police are the only party permitted to make representations. A person over 18 may use a premise for one or more licensable activities for a period not exceeding 96 hours under authority of a TEN. Notice must be given to the Licensing Authority and Chief Officer of Police in the form prescribed no later than 10 clear working days before the event is due to start. This will include temporary indoor or outdoor theatre productions or cinema screenings. The Licensing Authority will not normally accept a TEN which is submitted more than 6 months prior to the event. This is to allow for any material changes which may occur prior to the event which could affect the venue thus providing the police with grounds to object to the TEN on serious crime and disorder issues.

Temporary event notices can only be used where the maximum number attending is less than 500. In all other cases a full premises licence must be applied for.

### POLICY

While section 107(7) of the Licensing Act 2003 states that an intention notice must be given to the Licensing Authority and the Police no later than 10 days before a temporary event period begins. It is the expectation of this authority that the 10 day period be regarded as a minimum and would encourage applicants to give at least 28 days notice of an event in order that the earliest possible notice of an event is made. This will allow time for any issues raised to be addressed before the event.

The extended period allows the Licensing Authority to provide advice on concerns of local residents, of other legislative requirements and other necessary permissions, including local byelaws. It also allows time for full advice to be given in respect of the law relating to the sale of alcohol and the powers of police to close down events with no notice on grounds of disorder or public nuisance caused by noise. Finally, the extended period enables the Licensing Authority to establish that the limitations set out in Part 5 of the Act as regards TEN's are being fully observed.

In addition to standard application procedure the Licensing Authority would encourage applicants to notify the event to residents in the immediate vicinity of the proposed activity. The telephone number of an appointed person, who is able to be contacted during the event and take control should problems be experienced, should be provided.

*Reason: Early notification and keeping residents informed is likely to reduce the cause for complaint of disturbance during and after an event.*

The limit on the number of TENs an individual can apply for is specified in the Act as 5 within the same year, unless the applicant holds a personal licence, when the limit is 50 within the same year. However, only 12 notices may be granted in respect of the same premises and in respect of those premises there is an overriding maximum aggregate duration of 15 days. A TEN can be used, in respect of the sale of alcohol, for a period beyond the normal hours during which alcohol may be sold at the premises under its premises licence for an ad hoc occasion.

The police may object to an event proposed under a TEN by serving an objection notice to the Licensing Authority and the applicant on the grounds of crime and disorder, ~~and/or insist on certain conditions being applied.~~ The police must issue any objection notice within 48 hours of being notified, therefore it is advisable that a minimum of 28 days notice of an event is given to allow the police to duly consider the event. Failing to give advanced notice may lead to the event being shut down by the police on the grounds of crime and disorder or nuisance, if time is not allowed to advise the applicant of issues to address

**The Licensing Authority may issue a counter-notice to the applicant if it considers it necessary for the promotion of the crime prevention objective.**

**If no counter-notices are served the event will be able to go ahead.**

**An intention notice for a temporary event must be made in the form specified by Government Guidance or Regulation. Notices can be requested from this service or can be downloaded from either the CYC website or DCMS website.**

**The notice must be accompanied by the requisite fee (Appendix [HG](#)).**

## 11. ENFORCEMENT

Where necessary, enforcement action will be taken in accordance with the principles of the Enforcement Concordat and the Licensing Authority's Licensing Enforcement Policy. Effective enforcement is needed to meet the licensing objectives and to support local residents and businesses.

In particular, regard will be given to the fundamental principles recommended by the [Better Regulation Task Force Hampton Report](#) for good enforcement:

- Targeting - ie focusing on activities that give rise to the most serious risks or where hazards are least well controlled. Risk rating of premises is to be based on the LACORS document for assessing inspection frequency for premises falling within the provisions of the Act;
- Consistency - ie similar approaches in similar circumstances to achieve similar ends;
- Transparency - ie helping duty holders to understand what is expected and distinguishing between statutory requirements and guidance;
- Proportionality - ie action taken should be proportional to the risk presented.

*The Licensing Authority recognises that the effectiveness of its licensing policy will be determined by enforcement action undertaken. The Licensing Authority will undertake routine monitoring of licence conditions on a risk based programme. The Licensing Authority will work with the police, fire authority and other agencies to produce joint working practices.*

12. FEES

**Statutory fees for licence applications and Temporary Event Notices are contained in Appendix [HG](#).**

### 13. POLICY MATTERS TO BE CONSIDERED BY THE LICENSING COMMITTEE

#### 13.1 TOURISM AND EMPLOYMENT

**Arrangements will be made for the licensing committee to receive reports on the needs of the local tourist economy for the city. This is to ensure that these are reflected in the considerations of the licensing panels and committee.**

**The Council will similarly make arrangements to keep the licensing committee apprised of the employment situation in the area and the need for new investment and employment where appropriate.**

**Links, where possible, will be made to the Economic Development Program and Tourism Strategy.**

#### 13.2 PLANNING

**Arrangements will be made to ensure that proper integration with the planning function is achieved. This will include, where appropriate, providing reports on licensed premises in the area.**

#### 13.3 TRANSPORT

**Arrangements will be made for the Executive Member for Planning and Transport to receive reports on the need to disperse people away from licensed venues swiftly and safely.**

#### 13.4 CULTURAL STRATEGIES

**The Licensing Authority will keep under review the impact of licensing on regulated entertainment, and particularly on live music and dancing. Where there is any indication that licensing requirements are deterring such events, the policy may be revisited with a view to investigating how the situation might be reversed. Links, where possible, will be made to any cultural strategies produced by City of York Council, North Yorkshire County Council and the district councils in North Yorkshire.**

#### 13.5 COMMUNITY SAFETY: CRIME AND DISORDER

**Arrangements will be made to ensure that proper integration with the Safer York Partnership is achieved including, where appropriate, links to the Crime and Disorder Strategy for York. Where appropriate, this will include providing reports to the Safer York Partnership.**



## APPENDIX A

## DELEGATION

## Schedule of Delegated Functions

Matter to be Dealt with	Full Committee	Sub-committee	Officers
Application for Personal Licence		If a police objection	If no objection made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Personal Licence Holder		If a police objection	All other cases
Request to be removed as a Designated Personal Licence Holder			All cases
Application for transfer of Premises Licence		If a police objection	All other cases
Application for Interim Authorities		If a police objection	All other cases
Application to review Premises Licence/Club Premises Certificate <u>and in the case of Summary Reviews the application of interim steps</u>		All cases	
Decision on whether a complaint is irrelevant, frivolous or vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the		All cases	

<b>application</b>			
<b>Determination of a police objection to a Temporary Event Notice</b>		<b>All cases</b>	

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APPENDIX B

EXEMPTIONS

SCHEDULE 1, SECTION 1, PART 2 – Exemptions relating to regulated entertainment

Film exhibitions for the purposes of advertisement, information, education etc.

**The provision of entertainment consisting of the exhibition of a film is not to be regarded as the provision of regulated entertainment for the purposes of this Act if its sole main purpose is to-**

- a) demonstrate any product,
- b) advertise any goods or services, or
- c) provide information, education or instruction.

**Film exhibitions: museums and art galleries**

**The provision of entertainment consisting of the exhibition of a film is not to be regarded as the provision of regulated entertainment for the purposes of this Act if it consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery.**

**Music incidental to certain other activities**

**The provision of entertainment consisting of the performance of live music or the playing of recorded music is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it is incidental to some other activity which is not itself –**

- a) a description of entertainment falling within paragraph 2, or
- b) the provision of entertainment facilities.

**Use of television or radio receivers**

**The provision of any entertainment or entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990 (c.42)**

**Religious services, places of worship etc**

**The provision of any entertainment or entertainment facilities-**

- a) for the purposes of, or for purposes incidental to, a religious meeting or service, or
- b) at a place of public religious worship,

**is not to be regarded as the provision of regulated entertainment for the purposes of this Act.**

Garden fetes, etc

- 1) **The provision of any entertainment or entertainment facilities at a garden fete, or at a function or event of a similar character, is not to be regarded as the provision of regulated entertainment for the purposes of this Act.**
- 2) **But subparagraph (1) does not apply if the fete, function or event is promoted with a view to applying the whole or part of its proceeds for purposes of private gain.**

- 3) In subparagraph (2) “private gain”, in relation to the proceeds of a fete, function or event, is to be construed in accordance with section 22 of the Lotteries and Amusements Act 1976 (c.32).

Morris dancing etc

The provision of any entertainment or entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it consists of the provision of –

- a) a performance of morris dancing or any dancing of a similar nature or a performance of unamplified, live music as an integral part of such a performance, or
- b) facilities for enabling persons to take part in entertainment of a description falling within paragraph (a).

### **Vehicles in motion**

The provision of any entertainment or entertainment facilities –

- a) on premises consisting of or forming part of a vehicle, and
- b) at a time when the vehicle is not permanently or temporarily parked, is not to be treated as the provision of regulated entertainment for the purposes of this Act.

SCHEDULE 2, SECTION 1, PART 5 – Provision of late night refreshment – the following exempt supplies for the purposes of the Act.

- 1) The following supplies of hot food or hot drink are exempt supplies for the purposes of paragraph 1(1) –
  - a) the supply of hot drink which consists of or contains alcohol,
  - b) the supply of hot drink by means of a vending machine,
  - c) the supply of hot food or hot drink free of charge,
  - d) the supply of hot food or hot drink by a registered charity or a person authorised by a registered charity,
  - e) the supply of hot food or hot drink on a vehicle at a time when the vehicle is not permanently or temporarily parked.
- 2) Hot drink is supplied by means of a vending machine for the purposes of subparagraph (1)(b) only if-
  - a) the payment for the hot drink is inserted into the machine by a member of the public, and,
  - b) the hot drink is supplied directly by the machine to a member of the public.
- 3) Hot food or hot drink is not to be regarded as supplied free of charge for the purposes of subparagraph (1)(c) if, in order to obtain the hot food or hot drink, a charge must be paid -
  - a) for admission to any premises, or

**b) for some other item.**

NB For full details of exemptions reference must be made to the Licensing Act 2003 and to Guidance issued under section 182 of the Act.

APPENDIX C

OTHER RELEVANT LEGISLATION & GUIDANCE TO APPLICANTS

1. Planning Legislation and Building Regulations

**The planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. Licensing applications will not be a re-run of the planning application. The granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building regulation control where appropriate.**

2. Health and Safety at Work Act 1974 and associated legislation

**The City of York Council is the authority for this legislation for almost all premises in the area.**

3. Human Rights Act 1998

**The City of York Council has a duty under the European Convention on Human Rights to protect both the rights of a resident to privacy and family life (Article 8) and the rights of a licensee to operate [their](#) business without undue interference (Article 1 of the First Protocol). These policies are intended to reflect the balance to be struck between these interests where they conflict.**

4. Disability Discrimination Act [19952005](#)

**The Disability Discrimination Act introduced measures to tackle discrimination encountered by disabled people. It is recommended that licensees make themselves familiar with the requirements of this Act for the access and provision of services to disabled people.**

5 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 upon it, it shall be the duty of each authority 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, crime and disorder in its 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 requirement under this Act.**

[6. Criminal Justice and Police Act 2001](#)

**[This Act introduces provisions for combatting alcohol related disorder giving the local authority and/or the police the powers to prohibit alcohol](#)**

consumption in designated public places, to close certain licensed premises due to disorder or disturbance and to close unlicensed premises.

7. Violent Crime Reduction Act 2006

This Act introduces new measures to tackle alcohol-related violence. These measures include;

- An amendment to the Licensing Act to introduce a new offence of persistently selling alcohol to children. The offence will be committed if, on three or more different occasions in a period of three consecutive months, alcohol is unlawfully sold to a minor on the same premises.
- New powers for local authorities and the police to designate Alcohol Disorder Zones (ADZs) to tackle alcohol related crime and disorder. The designation of an ADZ will empower local authorities to charge licensees for additional enforcement activity affecting all licensed premises within the zone.
- An amendment to the Licensing Act which will enable Licensing Authorities on the application of a senior police officer in cases of serious crime and disorder, to attach interim conditions to licences pending a full review.

68. Environmental Protection Act 1990

**This covers a wide range of types of pollution including noise pollution.**

9. 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 and 7.00am.

10. Anti-Social Behaviour Act 2003

Sections 40 and 41 of the Act provides that if the noise from a licensed premise 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 2003 Act to close licensed premises for temporary periods.

11. 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.

127. ~~Fire Safety Legislation~~ The Regulatory Reform (Fire Safety) Order 2005

North Yorkshire Fire and Rescue Service enforces fire safety legislation. The Regulatory Reform (Fire Safety) Order 2005 ('the Fire Safety Order') replaces previous fire safety legislation. ~~This currently includes the Fire Precautions (Workplace) Regulations and the Fire Precautions Act.~~

138. Race Relations Act 1976 (as amended 20020)



**Local authorities have a legal obligation to have regard to the elimination of unlawful discrimination; promote equality of opportunity and good relations between persons of different racial groups.**

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[9.14.](#) Data Protection Act 1998

**Applicants should have regard to the provisions of the Data Protection Act 1998 in relation to their premises and in particular to the Information Commissioners Code of Practice on CCTV.**



GUIDANCE DOCUMENTS

For Applicants and Licence Holders

- **The Event Safety Guide - a guide to health, safety and welfare at music and similar events (HSE 1999) ("The Purple Book") ISBN 07176 24536;HSG 195-7.**
- **Managing Crowd Safety (HSE 2000) ISBN 07176 1834X;**
- **5 Steps to Risk Assessment - case studies (HSE 1998) ISBN 07176 15804;**
- **The Guide to Safety at Sports Grounds (The Stationery Office 1997) ("The Green Guide") ISBN 011 3000952;**
- **Safety Guidance for Street Acts, Carnivals, Processions and Large Scale Performances published by the Independent Street Arts Network, copies may be obtained through [www.streetartnetwork.org.uk](http://www.streetartnetwork.org.uk)**
- **[Disability Rights Commission www.drc-gb.org](http://www.drc-gb.org)**

## APPENDIX D

### POOL CONDITIONS

#### GENERAL

##### Licensing Objectives

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

##### Standard Conditions

Conditions will only be applied if necessary to promote the above licensing objectives in the particular case under consideration. Additional conditions will not be applied where existing legislation and regulation already effectively promote these objectives.

Each application will be determined on its own merits and under no circumstances are the following measures to be regarded as standard conditions to be automatically applied in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance. The application of conditions will depend upon a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises, the anticipated clientele of the business involved and the local knowledge of the premises.

##### Operating Schedules

Any applicant, in preparing the required operating schedule, is at liberty to volunteer any measure, such as those described in this appendix, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate conditions they become enforceable under the law and a breach of such a condition could give rise to prosecution.

##### Legal Requirements

It is unnecessary to apply conditions that mirror legal requirements under other legislation. However, it may be appropriate in particular circumstances to apply conditions that supplement or complement legal requirements, for example by imposing a requirement that facilitates legal compliance.

Consequently, compliance with licensing conditions does not of itself signify compliance with other legal requirements and vice versa.

CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER:

It should be noted in particular that it is unlawful under the 2003 Act:

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk;
- knowingly to allow disorderly conduct on licensed premises;
- for the holder of a premises licence or a designated premises supervisor knowingly to keep, or to allow to be kept, on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported;

- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements are therefore unnecessary.

#### General

**When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder.**

**Whether or not any risk assessment shows these options to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.**

**Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.**

**Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.**

**Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.**

#### Text/radio pagers

**Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.**

**Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises**

**supervisors and clubs to warn each other of the presence in an area of such people.**

**The Secretary of State recommends that text or radio pagers should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.**

**It is recommended that a condition requiring the text/radio pager links to the police should include the following elements:**

- a requirement that the text/pager equipment is kept in working order at all times;
- a requirement that the pager link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- a requirement that any police instructions/directions are complied with whenever given; and
- requirement that all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

**Door supervisors**

**Conditions relating to the provision of door supervisors and security teams may be valuable in:**

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues prone to such queuing.

**Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety.**

**Bottle bans**

**Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.**



It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons during incidents of disorder and in untoughened form, can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful.

However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

#### Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

#### Capacity limits

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

#### Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of “proof of age” before such sales are made. This should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system ~~(see paragraph 12.8 of the Guidance)~~, which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

~~It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.~~

Many premises have adopted the “Challenge 21” or those similar initiatives. Under the “Challenge 21” initiative those premises selling or

supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21 and attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even though looking older – would need to produce appropriate proof of age before making a purchase.

**Proof of age may also be relevant and necessary to protect children from harm.**

Crime prevention notices

**It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.**

Drinks promotions

**Standardised conditions should not be attached to premises licences or club premises certificates which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address irresponsible drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgements may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice.**

**In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the licensing authority to consider whether the imposition of a new condition prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.**

### Signage

**It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.**

**Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.**

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

**Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.**

**Where necessary and appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:**

- **a prescribed capacity;**
- **an appropriate ratio of tables and chairs to customers based on the capacity; and**
- **the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.**

### CONDITIONS RELATING TO PUBLIC SAFETY (INCLUDING FIRE SAFETY)

It should be noted that conditions relating to public safety should be those which are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Fire Precautions (Workplace) Regulations 1997 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

### General

**When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety.**

**Additional matters relating to cinemas and theatres are considered in Annex F of the Guidance to the Act. It should also be recognised that special issues may arise in connection with outdoor and large scale events.**

**Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.**

**Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.**

In addition, to considering the points made in this Appendix, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999)(“The Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: [www.streetartsnetwork.org.uk/pages/publications.htm](http://www.streetartsnetwork.org.uk/pages/publications.htm)
- The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 1

The following British Standards should also be considered:

- BS 5588 Part 6 (regarding places of assembly)
- BS 5588 Part 9 (regarding ventilation and air conditioning systems)
- BS 5588 Part 9 (regarding means of escape for disabled people)
- BS 5839 (fire detection, fire alarm systems and buildings)
- BS 5266 (emergency lighting systems)

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises.

Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

Disabled people

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- disabled people on the premises are made aware of those arrangements.

Escape routes

**It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.**

**In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:**

- all exits doors are easily openable without the use of a key, card, code or similar means;
- doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors);
- fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- the edges of the treads of steps and stairways are maintained so as to be conspicuous.

#### Safety checks

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- safety checks are carried out before the admission of the public; and
- details of such checks are kept in a Log-book.

#### Curtains, hangings, decorations and upholstery

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- hangings, curtains and temporary decorations are maintained in a flame-retardant condition;
- any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990;
- curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- temporary decorations are not used without prior notification to the licensing authority/fire authority.

#### Accommodation limits

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.



Fire action notices

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- **notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.**

#### Outbreaks of fire

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- **the fire brigade must be called at once to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.**

#### Loss of water

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- **the local Fire Control Centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.**

#### Access for emergency vehicles

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- **access for emergency vehicles is kept clear and free from obstruction.**

#### First aid

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- **adequate and appropriate supply of first aid equipment and materials is available on the premises;**
- **if necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.**

#### Lighting

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- **in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;**
- **fire safety signs are adequately illuminated;**
- **emergency lighting is not altered;**
- **emergency lighting batteries are fully charged before the admission of the public, members or guests; and**
- **in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.**

#### Temporary electrical installations

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- **Temporary electrical wiring and distribution systems are not provided without [notification to the licensing authority at least ten days before commencement of the work] [prior inspection by a suitable qualified electrician];**
- **Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and**
- **Where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.**

**With regard to the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in theatres for television show performances. In such circumstances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.**

#### Indoor sports entertainments

**In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:**

- **if necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature;**
- **where a ring is involved, it is constructed and supported by a competent person and inspected by a competent authority and any material used to form the skirt around the ring is flame-retardant;**
- **at any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and**
- **at water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England).**

#### Alterations to the premises

**Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises how he or she intends to take alternative steps to promote the public safety objective. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.**

Special effects

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Specials effects, which should be considered, include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

**THEATRES, CINEMAS, CONCERT HALLS, AND SIMILAR PLACES (PROMOTION OF PUBLIC SAFETY)**

In addition to the previous points made, there are particular matters in the context of public safety and fire safety, which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points which follow are for consideration and do not represent a mandatory list.

Premises used for closely seated audiences

*Attendants*

- a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 – 100	One

101 – 250	Two
251 – 500	Three
501 – 750	Four
751 – 1000	Five
<b>And one additional attendant for each additional 250 persons (or part thereof)</b>	

- b) **Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.**
- c) **Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).**
- d) **The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.**
- e) **No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.**
- f) **A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.**

*Standing and sitting in gangways etc.*

- a) **Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.**
- b) **Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.**
- c) **In no circumstances shall anyone be permitted to -**
  - i. **sit in any gangway;**
  - ii. **stand or sit in front of any exit; or**
  - iii. **stand or sit on any staircase including any landings.**

*Drinks*

**Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.**

*Balcony Fronts*

**Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.**

*Special effects*

**Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.**

**Specials effects include:**

- **dry ice machines and cryogenic fog;**
- **smoke machines and fog generators;**
- **pyrotechnics, including fireworks;**
- **real flame;**
- **firearms;**
- **motor vehicles;**
- **strobe lighting;**
- **lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);**
- **explosives and highly flammable substances.**

**In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] fire authority.**

*Scenery*

**Any scenery should be maintained flame-retardant.**

*Safety curtain*

**Where a safety curtain is provided, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.**

**Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame-retardant fabric.**

*Ceilings*

**All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.**

*Seating*

**Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.**

Premises used for film exhibitions

*Attendants – premises without a staff alerting system*

**Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table overleaf:**

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1 – 250	Two
<b>And one additional attendant for each additional 250 members of the audience present (or part thereof)</b>	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

*Attendants – premises with a staff alerting system*

**a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:**

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event
1 – 500	Two	One
501 – 1000	Three	Two
1001 – 1500	Four	Four

<b>1501 or more</b>	<b>Five plus one for every 500 (or part thereof) persons over 2000 on the premises</b>	<b>Five plus one for every 500 (or part thereof) persons over 2000 on the premises</b>
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- b) Staff shall not be considered as being available to assist in the event of an emergency if they are:
  - i. the holder of the premises licence or the manager on duty at the premises; or
  - ii. a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
  - iii. a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
- c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- d) The staff alerting system shall be maintained in working order.

*Minimum lighting*

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

*Flammable films*

No flammable films should be allowed on the premises without the prior notification of the licensing authority/fire authority.

CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote the prevention of public nuisance.

**Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.**

**Necessary conditions for licences and certificates will also depend on local knowledge of the premises.**

#### Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

#### Noise and vibration

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
- prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

#### Noxious smells

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

#### Light pollution

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to

**be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.**

#### CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM

**It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.**

Access for children to licensed premises – in general

**Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:**

- **for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
  - explain their reasons; and
  - outline in detail the steps that they intend to take to protect children from harm on such premises.**
- **for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the**

evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.
- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

#### Age Restrictions – specific

**Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:**

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity in respect of which no age restrictions may be needed, for example;
  - family entertainment; or
  - non-alcohol events for young age groups, such as under 18s dances,
- similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
  - during "Happy Hours" or on drinks promotion nights;
  - during activities outlined in the first bullet point in the first paragraph above.

#### Age restrictions – cinemas

**The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the**

licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
  - U – Universal. Suitable for audiences aged four years and over. Children under 4 may be admitted at the discretion of the accompanying parent/adult.
  - PG – Parental Guidance. Some scenes may be unsuitable for young children.
  - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
  - 15 – Passed only for viewing by persons aged 15 years and over.
  - 18 – Passed only for viewing by persons aged 18 years and over.
- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms -

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

**This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person's parent or legal guardian has first been obtained."**

#### Theatres

**The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).**

**Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency.**

#### Performances especially for children

**Where performances are presented especially for unaccompanied children in theatres and cinemas conditions are anticipated to be needed which require:**

- **an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.**

**Licensing authorities are expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.**

#### Children in performances

**There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.**

- **Venue – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.**
- **Fire safety – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.**



- Special effects – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- Care of children – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

Proof of Age cards

Proof of age cards are discussed in this Appendix in connection with the prevention of crime and disorder. However, where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. ~~Any such requirement should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For~~

~~example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.~~

**Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.**

#### **ADDITIONAL CONDITIONS RELATING TO PREMISES SERVING FOOD AND DRINK IN THE OPEN AIR**

**The Licensing Authority will require evidence that the applicants have an agreement with the local authority to use the area as defined on a plan provided. In these cases operating schedules should include a condition to ensure the sale and supply of alcohol for consumption off the premises would be restricted to the area licensed by the local authority for use of the public highway as shown on the plan and such area shall be defined by a physical barrier acceptable to the licensing authority. When there are residents living in the close vicinity, the operating schedule should make provision for clearance of the outdoor areas by a specified time where necessary to prevent a noise nuisance.**

APPENDIX E  
APPLICATION PROCESS – PREMISES LICENCE

APPLICATION FOR NEW AND MAJOR VARIATIONS OF PREMISES LICENCES

**Any person (if an individual aged 18 or over) who is carrying on or who proposes to carry on a business which involves the use of premises (which includes any place including one in the open air) for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period. “A person” in this context includes, for example, a business or a partnership.**

**An application for a new premises licence or an application to vary a premises licence must be made, in the prescribed form, to the Licensing Authority and must be accompanied by:**

- the required fee (see Appendix **HG**);
- an operating schedule;
- a plan of the premises, in the prescribed form, to which the application relates; and
- if the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor.

**Regulations containing details of the prescribed forms of application and plans may be viewed and downloaded from the DCMS website ([www.culture.gov.uk](http://www.culture.gov.uk)).**

**Applications for premises licences must be copied by the applicant to each of the following appropriate responsible authorities:**

- North Yorkshire Police Headquarters, The Licensing Section, Fulford Road, York, YO10 4BY;
- North Yorkshire Fire and Rescue Service, The Area Fire Safety Office, York Fire Station, Clifford Street, York, YO1 1RD;
- The local enforcement agency for the Health and Safety at Work Act 1974 (which may be the City of York Council Health and Safety Section, 9 St Leonard’s Place, York, YO1 7ET in certain circumstances, and the Health and Safety Executive, Marshall’s Mill, Marshall Street, Leeds, LS11 9YJ, in others);
- City of York Council Environmental Protection Unit, 9 St Leonard’s Place, York, YO1 7ET;
- City of York Council Development Control, 9 St Leonard’s Place, York, YO1 7ET;
- City of York Council Corporate Support (Licences), 10 – 12 George Hudson Street, York, YO1 6LP, (Children’s Services); and
- City of York Council Trading Standards, 9 St Leonard’s Place, York, YO1 7ET.

**In relation to vessels, but no other premises, responsible authorities also include –**

- **navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities;**
- **Environment Agency, Rivers House, 21 Park Square South, Leeds, LS1 2QG;**
- **British Waterways Board, Fearn's Wharf, Neptune Street, Leeds, LS9 8PB; and**
- **Maritime and Coastguard Agency (Secretary of State for Transport), Hull Marine Office, Crosskill House, Mill Lane, Beverley, HU17 9JB.**

#### OPERATING SCHEDULE

The operating schedule will form part of the completed application form for a premises licence. An operating schedule should include information which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.

An operating schedule must also set out the following details (subject to confirmation of the Regulations):

- the relevant licensable activities to be conducted on the premises;
- the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that that the times would be different during different parts of the year);
- any other times when the premises are open to the public;
- where the licence is required only for a limited period, that period;
- where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
- where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both;
- the steps which the applicant proposes to take to promote the licensing objectives.

~~Examples of specimen operating schedules may be viewed on the DCMS website.~~ Other details to be included in the operating schedule will be set out in the regulations made from time to time by the Secretary of State which may be viewed on the DCMS website.

#### APPLICATIONS FOR THE GRANT OR MAJOR VARIATION OF CLUB PREMISES CERTIFICATES

The arrangements for applying for or seeking to vary club premises certificates are similar to those in respect of a premises licence. Qualifying clubs premises operating schedules, as with operating schedules for premises licences, must include the steps the club intends to take to promote the licensing objectives. A qualifying club does not need to have a designated premises supervisor.

An application for a club premises certificate must be made, in the prescribed form, to the Licensing Authority and must be accompanied by (subject to confirmation of the Regulations):

- the required fee (see Appendix [HG](#));
- an operating schedule;
- a plan of the premises, in the prescribed form, to which the application relates; and
- a copy of the rules of the club.

#### ADVERTISING OF APPLICATIONS

**Regulations governing the advertising of applications for the grant or variation or review of premises is contained in secondary legislation made by the Secretary of State and can be viewed on the DCMS website. They include the requirement that a brief summary of the application setting out matters such as the proposed licensable activities and the proposed hours of opening should be clearly displayed (in the form of a notice as prescribed in the Regulations) on or outside the premises for the prescribed period.**

~~APPENDIX F~~

~~TRANSITIONAL MATTERS~~

~~CONVERSION TO NEW PREMISES LICENCES~~

~~A person who is either the holder of an existing licence or who has the consent of the holder of an existing licence may, within 6 months of the first appointed day, apply to the licensing authority for the conversion of an existing licence, or existing licences, to a new premises licence.~~

~~The application for conversion of the licence or licences must be accompanied by (subject to confirmation of the Regulations):~~

- ~~? the required fee (see Appendix H);~~
- ~~? the existing licences or certified copies;~~
- ~~? a plan of the premises;~~
- ~~? any relevant certificates (eg extensions of permitted hours or children's certificate);~~
- ~~? where the application is not by the holder of the existing licence a form of consent given by that person;~~
- ~~? where the licence concerns the sale of alcohol the applicant must provide details of the individual to be specified in the new licence as the designated premises supervisor and a form given of that person's consent.~~

~~A copy of the application and accompanying documents must also be given by the applicant within 48 hours to the chief officer of police.~~

~~VARIATIONS OF NEW PREMISES LICENCES~~

~~A person, which includes a business, that makes an application for the conversion of an existing licence may at the same time apply for a variation of the newly converted premises under sections 34 and 37 of the Licensing Act 2003 as if that converted licence is in force. Section 37 concerns applications to vary a licence to specify an individual as designated premises supervisor and section 34 concerns applications to otherwise vary premises licences.~~

~~Where this part of the application concerns a major variation (for example, in connection with hours of trading) the application will need to include an operating schedule. To be copied to responsible authorities and advertised for the benefit of interested parties (as at Appendix E).~~

~~QUALIFYING CLUBS~~

~~There are similar transitional provisions to those for conversions to new premises licences both in respect of the conversion of existing registration certificates and for the variation of the existing permissions in relation to application by clubs registered for the purposes of Part 2 of the Licensing Act 1964 and other licences, for example, cinema licences in respect of club premises. A registered club for the purposes of the 1964 Act, if it holds other licences, will be able to convert those other licences to a new premises licence or to apply to vary the new club premises certificate to include within its scope~~

~~of authorisation, authority for the provision of regulated entertainment on club premises.~~

#### ~~PERSONAL LICENCES~~

~~Personal licences concern only the sale of or supply of alcohol on premises under the authorisation of a premises licence. The Licensing Act 2003 makes transitional provisions in respect of personal licences for those holding current justices' licences. During an initial period of not less than 6 months specified by order of the Secretary of State, the holder on an existing justices' licence (granted under the Licensing Act 1964) is entitled to apply for the grant of a personal licence without having to possess the licensing qualification ordinarily required under Part 6 of the 2003 Act. An application must be made, in the prescribed form, to the Licensing Authority and must be accompanied by (subject to confirmation of the Regulations):~~

- ~~? the relevant fee (see Appendix H);~~
- ~~? current justices' licence (or a certified copy of it);~~
- ~~? personal photograph (in the prescribed form; and~~
- ~~? a statement (if relevant) relating to convictions for relevant offences or foreign offences since the justices' licence was granted, last renewed or, if transferred and not subsequently renewed, transferred.~~

~~The applicant must give a copy of the application to the chief officer of police within 48 hours of making the application.~~



APPENDIX **EG**

APPLICATION PROCESS – PERSONAL LICENCE

**A personal licence authorises an individual to sell or supply alcohol, or to authorise the sale or supply of alcohol, in accordance with a premises licence.**

**Any individual may apply for a personal licence whether or not he is currently employed or has business interests associated with the use of the licence.**

APPLICATION FOR GRANT OR RENEWAL OF PERSONAL LICENCE

**An applicant must be ordinarily resident in the area of the licensing authority to which application is made, and**

- **be aged 18 or over;**
- **possess an accredited licensing qualification or is a person of prescribed description**
- **must not have had forfeited a personal licence within 5 years of the application; and**
- **must not have been convicted of any relevant or foreign offence.**

**An application must be made in the prescribed form and must be accompanied by (subject to confirmation by the Regulations):**

- **the required fee (see Appendix H);**
- **two photographs of the applicant;**
- **a copy of the applicant's licensing qualification; and**
- **a basic disclosure criminal conviction certificate which must be less than one calendar month old.**

**Personal licences are valid for 10 years unless surrendered, suspended, revoked or declared forfeit by the courts. Once granted, the licensing authority which issued the licence remains the 'relevant licensing authority' for it and its holder, even though an individual may move out of the area or take employment elsewhere. The personal licence itself will give details of the issuing licensing authority.**

APPENDIX H-G - FEES

Fees are set by the Secretary of State.

Personal Licence (conversion & grant) - £37.00

Various non-domestic rateable values have been allocated to bands as follows:

<u>Band</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Non-Domestic rateable value</u>	<u>£0 -£4300</u>	<u>£4301 - £33000</u>	<u>£33001 - £87000</u>	<u>£87001 - £125000</u>	<u>£125001 – and over</u>

You will need to know the rateable value of your premise, this can be found on your business rates invoice or by entering your postcode at [www.voa.gov.uk](http://www.voa.gov.uk)

When you determine what band your premise falls into the fees are as follows:

Application fees for premises licences and club premises certificates for the conversion of existing licences:

<u>Band</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Fee</u>	<u>£100</u>	<u>£190</u>	<u>£315</u>	<u>£450</u>	<u>£635</u>

For premises that fall into Bands D and E, that are exclusively or primarily used for carrying on the supply of alcohol for consumption on the premises, the amount of the fee will be, in the case of premises in Band D, two times the amount shown above. In the case of premises in Band E, three times the amount shown above.

If you wish to vary your licence at the same time as converting, and you supply alcohol for consumption on the premises, the following fee should also accompany your application:

<u>Band</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Fee</u>	<u>£20</u>	<u>£60</u>	<u>£80</u>	<u>£100</u>	<u>£120</u>

Annual charges payable by those holding premises licences and club premises certificates:

<u>Band</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Fee</u>	<u>£70</u>	<u>£180</u>	<u>£295</u>	<u>£320</u>	<u>£350</u>

In respect of applications made by church/chapel/village/parish/community halls or other similar buildings which are used for the provision of regulated entertainment only, no fee shall be payable.

In respect of educational institutions that are schools or colleges, and where the provision of regulated entertainment on the premises is carried on by the educational institution for and on behalf of the purposes of the education institution, no fee shall be payable.

Other fees and charges that must be paid by the applicants and those giving notice under the Licensing Act:

<u>Occasions on which fees are payable</u>	<u>Fee</u>
<u>Supply of copies of information contained in register.</u>	<u>Set by LA</u>
<u>Application for copy of licence or summary on theft, loss etc of premises licence or summary.</u>	<u>£10.50</u>
<u>Notification of change of name or address (holder of premises licence).</u>	<u>£10.50</u>
<u>Application to vary to specify individual as premises supervisor.</u>	<u>£23.00</u>
<u>Application to transfer premises licence.</u>	<u>£23.00</u>
<u>Interim authority notice.</u>	<u>£23.00</u>
<u>Application for making of a provisional statement.</u>	<u>£315 .00</u>
<u>Application for copy of certificates or summary on theft, loss etc of certificate or summary.</u>	<u>£10.50</u>
<u>Notification of change of name or alteration of club rules.</u>	<u>£10.50</u>
<u>Notification of change of relevant registered address of club</u>	<u>£10.50</u>
<u>Temporary event notice.</u>	<u>£21.00</u>
<u>Application for copy of notice on theft, loss etc of temporary event notice.</u>	<u>£10.50</u>
<u>Application for a grant or renewal of personal licence</u>	<u>£37.00</u>
<u>Application for copy of licence on theft, loss etc of personal licence.</u>	<u>£10.50</u>
<u>Notification of change of name or address (personal licence).</u>	<u>£10.50</u>
<u>Notice of interest in any premises.</u>	<u>£21.00</u>



APPENDIX [H](#)

## GLOSSARIES

In this policy the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the policy. Some definitions have been included which do not form part of the policy but are being used generally in reference to issues associated with the Act and the application process. In some cases they are abbreviations of what is stated in the Licensing Act 2003 or an interpretation of these terms. For a full definition of the terms used, reference must be made to the Licensing Act 2003.

Appeals	<b>Appeals against decisions of the Licensing Authority are to the magistrates' court for the area in which the premises are situated. The appeal must be lodged within 21 days. The magistrates' court may dismiss the appeal; substitute its own decision; remit the case to the Licensing Authority with directions; and/or make an order for costs.</b>
Authorised Persons, Interested Parties and Responsible Authorities	<b>The Act creates three categories of people/bodies that can make representations to a Licensing Authority about an application for a licence. "Authorised Persons" are specified people who have statutory duties in relation to the inspection of premises, eg fire and health and safety. "Interested Parties" are persons living in the vicinity of the premises; a body representing such persons; a person involved in a business in the vicinity; or a body representing businesses in the vicinity. "Responsible Authorities" include the police, fire service, enforcing authority for health and safety, planning authority, environmental health, bodies responsible for child protection and other specified authorities. Only these groups can make representation about an application for a premises licence.</b>
Closure Order	<b>New powers for the police and courts to close premises. The 2003 Act significantly extends the existing powers of the police to seek court orders in a geographical area that is experiencing or likely to experience disorder or to close down instantly individual licensed premises that are disorderly, likely to become disorderly or are causing noise nuisance.</b>
Club Premises Certificate	<b>A certificate which "licences" a qualifying club for the sale/supply of alcohol. It can be granted to members clubs which comply with specific</b>

conditions eg membership rules, run by club committees, profits go to members not an owner etc. Club premises certificates replace “registration” under the Licensing Act 1964. The law for members clubs has changed relatively little under the 2003 Act. There is no time limit on the duration of the certificate but it may be withdrawn, surrendered or suspended.

Conditions

A premises licence may be granted subject to different conditions, and these may be in respect of different parts of the premises and different licensable activities. There is no power to impose conditions on a personal licence. Licensing Authorities must ensure that any conditions should be proportional and tailored to the size, style characteristics and activities taking place at the premises concerned.

Designated Premises Supervisor

The person detailed in the premises licence who is responsible for supervision of the sale/supply of alcohol on the premises eg the day-to-day manager. Any premises where alcohol is supplied as a licensable activity must have a designated premises supervisor.

Interim Authority Notices

Where a premises licence lapses due to the death, incapacity or insolvency etc of the holder, specified persons can, within 7 days, serve an interim authority notice on the licensing authority. This revives the licence, subject to police objection, for a period of up to 2 months so the premises can continue trading. This is the equivalent to “interim authorities” and “protection orders” under the Licensing Act 1964.

Late Night Refreshment

The supply of hot food or hot drink between 11pm and 5am, whether for consumption on or off the premises, will not only cover late night takeaways and fast food outlets but also restaurants open after 11pm.

Licensable Activities

Activities that must be licensed under the Act: The sale by retail of alcohol; supply of alcohol by a club; provision of regulated entertainment; provision of late night refreshment.

Licensing Authority

Local authorities (district or county councils).

Licensing Committee

A committee of at least 10 but not more than 15

members of the local authority. There may also be one or more sub-committees consisting of three members.

Licensing Objectives

The objectives of licensing set out in the Act: The prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. The Licensing Authority must carry out its functions under the Act with a view to promoting these licensing objectives.

Mandatory Conditions

Conditions that must be imposed on a premises licence in specified circumstances as detailed in the Act. For example, if alcohol is sold/supplied, there must be a designated premises supervisor; where films are exhibited, film classification must be observed; and where the premises licence includes a condition requiring door supervisors, the supervisors must be licensed by the Security Industry Authority.

Objection Notice

A procedure whereby the police can object to the grant of a personal licence on the grounds that, having regard to any convictions the applicant may have for relevant offences, the grant would undermine the crime prevention objective.

Operating Schedule

A document in a prescribed form that details how the applicant for a premises licence intends to operate his/her business. It provides information such as the relevant licensable activities, the proposed licensed hours, any other opening hours, the name of the proposed premises supervisor and steps which the applicant proposes to take in order to promote the licensing objectives.

Personal Licence

A licence granted to an individual that authorises the person to sell/supply alcohol or authorise the sale/supply of alcohol in accordance with a premises licence. (NB: a personal licence holder is not required for the sale/supply of alcohol in a club which holds a club premises certificate). The licence lasts for 10 years and can be renewed. It ceases to have effect when revoked, forfeited, surrendered or suspended. A personal licence holder is not required where the premises concerned does not sell/supply alcohol as one of its licensable activities. Only the police can object to the grant of a personal licence.



Provisional Statement	<p>A procedure by which the Licensing Authority can give a statement approving, for licensing purposes, proposals for a premises being built or in the course of being constructed. Equivalent to a “provisional grant” under the Licensing Act 1964. Where a provisional statement is made, subject to limited exceptions, the full licence must normally be granted once the premises is complete.</p>
Regulated Entertainment	<p>Specified entertainment that takes place in the presence of an audience for their entertainment, eg the performance of a play, exhibition of a film, indoors sporting event, performance of live music, playing of recorded music, performance of dance, or other entertainment similar to music and dancing.</p>
Relevant Offences	<p>Offences relevant to the consideration of an application for the grant of a personal licence, and about which the police may serve an “objection notice”. The offences are listed in Schedule 4 of the 2003 Act and generally relate to drink, dishonesty, drugs, duty, copyright, food safety, sexual offences and violence.</p>
Relevant Representations	<p>The 2003 Act does not use the term “objections”. Instead authorised persons, interested parties and responsible authorities may make relevant representations about an application for a licence. Representations must relate to the licensing objectives and, where made by an interested party, must not be frivolous or vexatious. When considering an application from an interested party or responsible authority, the local authority need only consider relevant representations. The receipt of any relevant representations enables the Licensing Authority to exercise its discretion to take “steps” consistent with the licensing objectives when considering the application.</p>
Review of Licence	<p>Where a premises licence is in force, an interested party or responsible authority may apply to the Licensing Authority for it to be reviewed. The Authority must hold a hearing to review the licence and as a result must take any necessary steps to promote the licensing objectives, such as the modification of conditions; exclusion of licensable activities; removal of the premises supervisor; suspension of the licence for up to three months; or the revocation of the licence. For example, neighbours of a public house causing a public</p>

nuisance could apply to the Licensing Authority for the premises licence to be reviewed.

Statement of Licensing Policy

Each Licensing Authority must determine and publish a Statement of Licensing Policy. There is a requirement to consult on the policy and keep it under review and publish a revised statement every three years.

Temporary Event Notices

Where it is proposed to use premises (the definition of which includes any place) for one or more licensable activities involving 499 people or less, during a period not exceeding 96 hours, a “temporary event notice” may be given to the Licensing Authority. Once the required notice is served in the specified way, the event can proceed – subject to police objections on the crime prevention objective. Applicants for temporary event notices do not have to hold a personal licence, but non-licence holders are limited to 5 notices in one year (a personal licence holder may make up to 50 notices). There is also a maximum of 12 temporary events per year in respect of one premises.

Transfer

A procedure where an application can be made to transfer the premise licence into a new name eg if a premises licence holder sells their premises an application may be made to transfer the premises licence to the new owner.

Variation Procedures

Procedures set out in the Act that allow applications to be made to vary a premises licence (eg to modify/extend the premises to which the licence applies), to vary the licensable activities permitted to take place on the premises, or to vary/change the designated premises supervisor.

**2007 - Licensing Policy Consultees**

LVA – Tony Sissons, 3 Cranes – [threecranes@fairadsl.co.uk](mailto:threecranes@fairadsl.co.uk)  
 Coppergate Centre – [tracy.hulme@landsecurities.com](mailto:tracy.hulme@landsecurities.com)  
 Robert Burnett, Centres Manager, Clifton Moor Shopping Centre, Stirling Road,  
 York, YO30 4XN  
 Monks Cross – Katherine Sharp (Manager) – [k.sharp@monkscross-shoppingpark.co.uk](mailto:k.sharp@monkscross-shoppingpark.co.uk)  
 Stonegate Traders – Adam Sinclair – [ams@mulberryhall.co.uk](mailto:ams@mulberryhall.co.uk)  
 Chamber of Commerce – [len.cruddas@ynycc.com](mailto:len.cruddas@ynycc.com)  
 York Retailers Forum – Frank Wood – [eng@braithwaitesjewellers.com](mailto:eng@braithwaitesjewellers.com)  
 CAB, Blossom Street – [admin@yorkcab.org.uk](mailto:admin@yorkcab.org.uk)  
 CVS, Priory Street – [yorkcvs@yorkcvs.org.uk](mailto:yorkcvs@yorkcvs.org.uk)  
 York Hospitality – Michael Hjort – [admin@yorkhospitality.co.uk](mailto:admin@yorkhospitality.co.uk)  
 Older People's Assembly – Mr Parlabeau – [don.parlabeau4@ntlworld.com](mailto:don.parlabeau4@ntlworld.com)  
 Older Citizens' Advocacy York, 52 Townend Street, York, YO31 7QG  
 D Shaw (Secretary), Older People's Forum, Room 2, Central Methodist Church, St  
 Saviourgate,  
 York, YO1 8NQ  
 Age Concern – Sally Hutchinson, Chief Officer – [sally@ageconcernyork.org.uk](mailto:sally@ageconcernyork.org.uk)  
 YDH, Accident & Emergency – Chief Executive, York Hospital, Wigginton Road, Y31  
 8HE  
 York Chief Police Officer, Ian Spittal – [iain.spittal@northyorkshire.pnn.police.uk](mailto:iain.spittal@northyorkshire.pnn.police.uk)  
 CAMRA – Steve Cammidge – [default@yorkcamra.free-online.co.uk](mailto:default@yorkcamra.free-online.co.uk)  
 Alcohol Task Group (YAAS) – Katharyn Lievesley – [office@yaas.info](mailto:office@yaas.info)  
 BII, Wessex House, 80 Park Street, Camberley, Surrey, GU15 3PT  
 Alan Rowley, Secretary, York Taxi Association – [alrow42@yahoo.co.uk](mailto:alrow42@yahoo.co.uk)  
 Mark Wilson, Secretary, Private Hire Association –  
[mark@wilson3848.freeserve.co.uk](mailto:mark@wilson3848.freeserve.co.uk)  
 Harowell-Shaftoe Solicitors – [advice@harrowell-shaftoe.co.uk](mailto:advice@harrowell-shaftoe.co.uk)  
 York Tourism Bureau – [gc@york-tourism.co.uk](mailto:gc@york-tourism.co.uk)  
 British Beer & Pub Association – [beerandpub@aol.com](mailto:beerandpub@aol.com)  
 Club and Institute Union ( CIU) – c/o Keith Allen  
 Mora Scaife & David Slater to pass to tenants & residents associations

Chief Superintendent, North Yorkshire Police (York)  
 City of York Group Manager, North Yorkshire Fire & Rescue Service  
 Safer York Partnership

City of York Council Trading Standards Unit  
 City of York Council Environmental Protection Unit  
 City of York Council Health & Safety Unit  
 City of York Council Assistant Director of Planning & Sustainable Development  
 City of York Council Assistant Director Life Long Learning & Leisure  
 City of York Council Head of Arts & Culture  
 City of York Council Head of Parks & Open Spaces  
 City of York Council Assistant Director Economic Development & Partnerships  
 City of York Council Tourism Manager Economic Development

City of York Council Assistant Director of Children & Families  
City of York Council CYSCB Manager  
City of York Council Director of City Strategy  
City of York Council Equality Officer


Ward Councillors  
Parish Councils

Schedule of Responses to Licensing Policy 2007

Ref No	Respondent	Comments	Appraisal	Response
001	Chief Inspector Andy Hirst North Yorkshire Police Fulford Road York YO10 4BY	We've reviewed all our stats etc and we are happy with the CIZ as it is. Therefore we won't be proposing any changes to it.	Noted	To request up to date statistics
002	Graham Buckle North Yorkshire Fire & Rescue Service Clifford Street York YO1 9RD	We have reviewed the licensing policy and NYFRS are happy with it, our joint approach is working really well.	Noted	No further action
003	Matthew Dobson mattdob@tiscali.co.uk	<p>I don't know if I'm reading this bit of section 4.1 correctly in the licensing policy that is up for review:</p> <p><b>Unless relevant representations are made by responsible authorities and interested parties licences will be granted on the terms set out in the application.</b></p> <p>Shouldn't that be conditional upon licensees giving adequate information to the public about their plans? The first bit of section 4.1 says they <i>should</i> give information, but it seems that if the public haven't been adequately informed it wouldn't have any bearing on how you'd view a lack of complaints.</p> <p>On another point, could something be added to limit the sound level that people in clubs are subjected to? There's something about soundproofing to protect residents from escaped</p>	<p>We specify what we consider good practice in the policy. We can only insist upon the minimum requirements set down in legislation</p> <p>This is regulated by the control of Noise at Work Regulations 2005. Licensing cannot replicate</p>	<p>To advise respondent</p> <p>To advise respondent</p>

		noise, but some constraint on the volume levels in pubs and clubs might protect people who go to them. Maybe that's covered by the law already, I don't know, but I hope licensees aren't just given free rein to decide upon their volume levels.	other legislative requirements	
004	Dr Martin Rawlings British Beer & Pub Association Market Towers 1 Nine Elms Lane London SW8 5NQ	<p>We would take this opportunity to highlight the following, which we would not support being included in the final policy document as they are beyond the provisions of the Licensing Act:</p> <ul style="list-style-type: none"> <li>• applications to be completed in a specific manner, other than that prescribed in regulations. There is a danger that the licensing authorities 'expectations' could be construed as requiring applicants to offer a significant number of restrictions in their operating schedules. Licensing authorities should never mislead applicants into believing that they must meet certain requirements.</li> <li>• any blanket or standard conditions on licences eg. CCTV, hours, use of polycarbonate/plastic glasses, capacity limits, membership and attendance at Pubwatch meetings, minimum-pricing requirements etc.</li> <li>• the Designated Premises Supervisor to be on the premises at all times, or to have a specific level of experience, training or qualification in addition to the personal licence qualification etc.</li> <li>• written authorisation for the sale of alcohol</li> </ul> <ul style="list-style-type: none"> <li>• more than one personal licence holder on the premises</li> <li>• measures that duplicate existing legislation, eg. health and safety (eg. smoking, fire etc.) or disability provisions</li> </ul>	<p>This appears to be a standard comment and not specific to CYC policy.</p> <p>This is no the case in York.</p> <p>Not applied.</p> <p>No in York's policy.</p> <p>The new guidance does advocate strongly that written authorisation is provided to help with due diligence defences. Not required in York.</p> <p>Avoided in York policy.</p>	<p>To reply to the respondent accordingly</p>

		<p><b>Enforcement</b></p> <p>We would welcome recognition of the Hampton principles of inspection and enforcement in this section, which include the following:</p> <ul style="list-style-type: none"> <li>• No inspection should take place without a reason</li> <li>• Regulators should recognised that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection</li> </ul> <p>We trust that you will find these comments helpful and look forward to any response you may have. We would also appreciate being listed as a consultee in any further licensing related consultations.</p>	We apply these principals.	No further action
005	Acaster Malbis Parish Council	The Parish Council did not have any changes to suggest to the current Licensing Policy.	Noted	No further action
006	Alan Robinson Clerk to Rawcliffe PC Green Bank Harton York YO60 7NP	<p>CONSULTATION</p> <p>a) That Parish Councils be allowed to make representations on behalf of the parish without the requirement of supplying the name and address of residents. Solicitors for the applicant should not be allowed to challenge this right, as has occurred in the past.</p> <p>b) That Licensing Committee should be allowed to consider issues relevant to an application, which are known to it, but which have not been raised by other sources.</p> <p>LICENSING HOURS</p> <p>a)Licensing Committee should place nuisance to local residents at a higher level than ‘to strike a fair balance between the needs of the licensed business and the risk of disturbance or nuisance to residents’.</p> <p>b)Parish Council endorses the proposals under ‘Licensing Hours- Late Night Refreshment Houses’.</p>	<p>This is not within the terms of the legislation or guidance and would be unlawful.</p> <p>As above.</p> <p>There has been a change in emphasis in the new guidance to this effect.</p> <p>Noted.</p>	To reply to the parish council

		<p><b>TAKEAWAY DELIVERIES</b> Where alcohol is being dispensed with delivered takeaway meals the Personal Licence Holder should be on site at all times.</p>	This is unlawful.	
007	Heather Johnson	<p>1. Font - could you use Ariel (or a similar sans serif font)? Many people (visually impaired people, people with learning difficulties) find Times New Roman difficult to read because of the serifs and Ariel is the corporate font we're supposed to use I believe.</p> <p>2. 1.1 - profile of York. Our BME population is not actually that small. The 2003 population estimate done by the ONS puts it at 6.1% (see attached). Can you change the figure and the wording?</p>  <p>2003 est bme profile of york.x...</p> <p>3. could a paragraph about provision of interpreters and/or translations be included somewhere? I know a lot of BME (Black and Minority ethnic) people own or run restaurants, taxis etc. They might need licencing information/advice translated or interpreted (perhaps via the Language Line telephone interpretation service) to ensure they understand their responsibilities.</p> <p>4. Appendix C- - number 3 refers to 'his' business - can this be changed to 'their' business so as not to assume women don't run businesses? (also change any other references to 'his/him' in the document). - Number 4. DDA - this was updated in 2005. Could you also refer people to the Disability Rights Commission (<a href="http://www.drc-gb.org">www.drc-gb.org</a>) for more information on making their premises/service more accessible to disabled people? The DRC produce guidance for service providers. - number 8 - Race relations act - this was updated in 2000 (rather than 2002).</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p>	<p>To action</p> <p>To action</p> <p>Included in policy revision</p> <p>Included in policy revision</p>



008	John Lacy Chair of Nightsafe	<p>As chairman of the Nightsafe - The night time economy group tasked with the reduction of alcohol related crime in the city centre of York. is anxious that the Licensing Authority continues with the Special Cumulative Impact zone with regards to the city centre and the area covered in the current impact zone - were the impact of public disorder, crime and noise nuisance blights local residents in the city centre. The issue of noise has been extended longer by the extension to licensing hours and the no smoking ban which pushes smokers onto the streets. Members of the group question whether takeaways which are now licenced and often a centre of disorder and noise nuisance as youths congregate can now be included in the saturation zone - given they are now licensed premises. The group noted the Cumulative impact zone was recently challenged by an applicant seeking larger premises in the city but this was successfully defended in the Magistrates Court.</p> <p>Section on links to other policies should now include the new Violent crime Act and the Best Bar None Schemes which was launched in the city last year.</p> <p>We understand that the Environmental Protection Unit can now make representation or call for a review about noise in their own right without complaints being made under new guidelines if that is the case that should be included.</p>	<p>Noted.</p> <p>Takeaways can be included as a licensed premises in the CIZ.</p> <p>Noted.</p> <p>Agreed.</p>	<p>No action required</p> <p>No action required</p> <p>To include in Chapter 3</p> <p>To amend paragraph 4.1</p>
009	Liberal Democrat comments on the Licensing Policy Review Cllr Andrew Waller	<p>The Licensing Act was one of the most rushed and badly drafted pieces of legislation to be inflicted upon local government in recent years. It has cost the council taxpayers of York dearly in running costs (over £260,000 in implementation and tens of £thousands in ongoing additional costs which have not been included in either fees nor government grant) and has not always met residents' expectations of an objective decision making process. The implications of anti-social behaviour were only considered late in the passage of the Act through Parliament. The fact that this was an afterthought has shown through in the defences that</p>	<p>Noted.</p>	<p>No action required</p>

		<p>local authorities have to utilise in the aid of their public.</p> <p>Nevertheless, by anticipating the negative impacts of the Act officers, police, and the majority of members have worked hard to ensure that the city was not as adversely affected, as might otherwise have been the case. These additional efforts have contributed to the drop in violent crime, which we hope will be sustained. We are pleased that in York, unlike in many other cities, the local Licensing Policy has achieved a genuinely staggered closing time reducing the likelihood of disorder.</p> <p>However, as a result of later opening hours residents are suffering from increased levels of noise disturbance. City of York Council has seen a sharp rise in the number of complaints from residents. This will be exacerbated if there is a wave of applications for ever later licensed hours, which would simply move the 11pm-midnight 'turning out time' to 3am-4am. The council's licensing policy should seek to counter this pressure, or at least make representation to government to acknowledge the weaknesses of its own legislation, which presumes in favour of granting a license extension.</p> <p>Local authorities have no powers once people have left licensed premises. Neither does the licence holder have any responsibility once a customer has left. Once people are in the street, and noise, antisocial behaviour or criminal activity are the responsibility of the police. This is leading to a higher level of complaints from members of the public.</p>	<p>Noted.</p> <p>Noted. The new guidance does give support to members in the decision making process.</p>	<p>No action required</p> <p>Policy revised as a result of the new guidance.</p>
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		<p>Therefore we would suggest that the policy looks at providing additional funding for the police to tackle the problems of increased late night noise disturbance on the streets of York, as a direct result of extended drinking times.</p> <p>This might be through raising a levy on those licensed premises who have been the beneficiaries of the governments' decision to extend opening hours. This would prevent any increased costs of policing the new licensing regime from falling onto either local or general taxpayers.</p> <p>The Council is taking tough action where it has the powers to do so. The establishment has taken place of a noise patrol, who can respond immediately to residents concerns in the evening. The team have used their powers to seize equipment and are working with license holders to minimise noise from their premises. In addition, our licensing committees have imposed tough conditions on licences to limit the impact of later hours on our residents.</p> <p>Many of the comments made in the submission from the Liberal Democrat group may suggest changes to policy that are not permitted by the Act. We accept that this may be the case, but as elected representatives of the city, we would appreciate the chance to put on record our experience of the implementation of the legislation. That the public</p>	<p>This is not a matter for the licensing policy.</p> <p>The Violent Crime Reduction Act 2006 introduces the concept of alcohol disorder zones where there are problems with alcohol related nuisance &amp; disorder. Licensed premises maybe required to pay for costs of initiatives to tackle problems over &amp; above normal levels of public service.</p> <p>Noted.</p> <p>Comments on legality made above.</p>	<p>No action required</p> <p>No policy changes required</p> <p>No policy changes required</p> <p>No policy changes required</p>
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		<p>could be better protected is a fact that requires us to speak out.</p> <p>The York Liberal Democrat group believes that there have been major flaws in the Act, which have permitted judgements to grant licences, which have initially been turned down by the City of York Council. Most notable of these related to the Veranda Coffee House and Grill, whereby a District Judge was able to overturn the decision of the council for a licence application purely on the grounds that the applicant had made changes to the initial (and rejected application). Natural justice would have demanded that a new application was made to the Licensing Committee based on the material changes that had been made to the application.</p> <p>An operational issue that has emerged is that members of a planning committee which has granted planning permission for a premise cannot then be included in a licensing committee. This radically reduces the pool of councillors that can hear a licensing application. Any steps that can be taken to overcome this issue should be taken.</p>	<p>This is a matter for the legislators.</p> <p>There is no legal bar to members of the planning committee hearing a licensing application. The issue is one of the appearance of bias. This could be seen as a member who expressed certain views at planning ie pro &amp; against then determining a licence application for the same site. The standards Board of England advise that regulatory matters such as planning &amp; licensing are particularly sensitive. In our view you should adopt a particularly cautious approach to planning &amp; licensing matters.</p>	<p>No policy changes required</p> <p>Members views are invited</p>
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		<p>Communication with the public has at times been thwarted by the legislation. York was ground breaking in the extent to which it engaged public involvement in the consultation on the initial Licensing Policy, and in the way that it wrote to residents close to applications about the impending decisions. That advice was received that this was not in the spirit of the law, and should be ceased, was regrettable. Attempts should be made to restore this activity to redress the balance for the public.</p>	<p>There is a statutory process for advertising applications. It does not give the council any discretion in this issue. To go further would expose the council to risk of legal challenge.</p>	<p>No policy changes required</p>
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Gambling and Licensing Acts Committee

5 October 2007

Report of the Director of Neighbourhood Services

## **MEMBERS INVOLVEMENT IN LICENSING APPEALS AND THE INTRODUCTION OF SUMMARY REVIEW PROCESS**

1. This report examines the process involved in appeals made to the magistrates court against decisions of the Licensing Act and Gambling Act Sub committees. It looks at the options for member involvement in that process and seeks a determination of future policy. The report also advises members of the impact of the Violent Crime Reduction Act 2006 on the hearing process.

### **Background**

#### **Member involvement in Appeals**

2. Both the Licensing Act 2003 and the Gambling Act 2005 contain provisions for appeals to be made against decisions of the licensing authority. In general appeals can be made by an applicant, a representor and in the case of the Gambling Act, the Gambling Commission.
3. Appeals relating to premises licences are made to the magistrates court and must be lodged within 21 days of the decision of the licensing authority being notified to the appellant.
4. On appeal the magistrates court may
  - a) dismiss the appeal
  - b) substitute for the decision appealed against any decision that the licensing authority could have made
  - c) remit the case to the licensing authority to decide in accordance with the direction of the court
  - d) make an order about costs
5. In coming to any decision the court should have regard to the statutory guidance and to the licensing authority's local policy statement. There is no requirement however that it is bound by those documents and is entitled to vary from either if it is considered justified to so do.

6. Local experience is that appeals not involving a detailed examination of the law are considered by magistrates but where a more complex interpretation of legislation is required then the appeal is heard by a district judge.
7. In all cases there will be at least one case management meeting when all parties discuss the issues to be raised in the appeal so the appropriate amount of court time can be allocated. The appeal itself would take a minimum of half-day in court. As it is usual practice for the licensing authority to instruct counsel then a pre-hearing meeting with the barrister is usually required.
8. The more complex, and usually higher profile, appeals are far less simple. In the recent past they have involved a series of pre-hearing case management meetings, up to 3 days hearing in the court and several briefings with counsel. The process necessarily involves the council's legal adviser, licensing officers and other witnesses as maybe required.
9. As the appeal is effectively a new hearing, new evidence and information maybe presented, the application maybe varied from that originally heard by the licensing authority and indeed may evolve during the course of the hearing. This process mirrors the ethos of the legislation of agreement by mediation. Any decision made is completely outside the control of the licensing authority
10. In this environment, the issue is how much do members wish to be involved and how can that be facilitated.
11. As a result of a recent informal meeting with members of this committee the councils legal advisors will brief counsel to the effect that, if during the course of negotiations an application is changed to such a material extent that it becomes different to what was determined by the licensing authority, that he is to seek to have the application referred back to the council. The licensing officers will advise all members of the committee by E-mail the results of any appeal.

### **Summary Reviews**

12. On 1<sup>st</sup> October 2007 section 21 of the Violent Crime Reduction Act 2006 became operational. This section allows for a senior police officer of police to apply to the licensing authority for a review of premises which retail alcohol and are associated with serious crime or disorder.
13. Serious crime and disorder are those crimes which would normally attract a custodial sentence for a first time offender of more than 3 years; or that the conduct involves the use of violence, results in substantial financial gain or is conducted by a large number of people in pursuit of a common purpose.
14. On receipt of an application under this section the licensing authority must, within 48 hours, consider whether it is necessary to take interim steps pending the determination of the review. A review must be held within 28 days.
15. Interim steps may include modification of conditions, exclusion of sale of alcohol, removal of designated premises supervisor or suspension of the



licence. The licensing authority must also decide whether the interim steps should have immediate effect or be deferred to a stated date. This determination may take place without the holder of the premises licence being present.

16. The holder of the premises licence may make representations with regard to the interim steps proposed. If such a representation is received then the licensing authority must hold a hearing within 48hours.
17. Members should note the very tight timescales involved. These matters must be dealt with by the Gambling and Licensing Acts committee or a sub committee thereof. These decisions cannot be delegated to officers. 48 hours does not include time that is not on a working day.

### **Consultation**

18. An informal meeting of the Gambling and Licensing Acts committee was held on the 5 July 2007 when the issues surrounding two recent Licensing Act appeals were discussed.

### **Options**

#### **Member involvement in Appeals**

19. Option 1 That all members of the sub committee who determined the application attend all meetings and the full appeal hearing.
20. Option 2 That the Chair of the sub committee who determined the application attend all meetings and the full appeal hearing.
21. Option 3 That all members of the sub committee who determined the application be advised of the dates of all meetings and the full appeal hearing and decide if and when they are available and wish to attend.
22. Option 4 That the Chair of the sub committee who determined the application be advised of the dates of all meetings and the full appeal hearing and decide if s/he are available and wish to attend.
23. Option 5 That officers keep the Chair of the sub committee advised of the outcome of all meetings and seek guidance where the situation and timescales permit.

### **Analysis**

24. Option 1 This would be extremely time consuming for 3 members to attend all meetings and hearings. It could also be viewed as being an inefficient use of resources. In the case of a hearing there would likely not be the opportunity for members to be briefed and come to any consensus view should that be required. It would however allow for maximum member involvement.

25. Option 2. This would be very demanding on one member and may involve several full days attendance. It maybe during that period no issues arise on which members views would be required. It would keep the Chair involved in the entire process. The Chair however might not represent the views of all members of the sub committee.
26. Option 3 This would enable all members of the sub committee to select availability. The issues raised in options 1&2 would still be valid with the added issues that continuity would be difficult to maintain. Members would not be committed to attending on each and every day giving flexibility
27. Option 4 This would enable the Chair to select availability. Additional briefing would be required to make sure the Chair was appraised of issues arising when not in attendance. The Chair might not represent the views of all sub committee members.
28. Option 5 This would represent the minimum member involvement. The Chair would not attend any meetings but would be kept informed of all developments. The Chair would not be committed to any attendance at meetings or the hearing. Should officers require member advice during a hearing then attempts could me made to obtain this over the telephone if contact details were made available.

### **Corporate Priorities**

29. There is no direct link to any of the council's priorities

### **Implications**

#### **Financial**

30. There are no financial implications.

#### **Human Resources (HR)**

31. There are no human resource implications.

#### **Equalities**

32. There are no equality implications.

#### **Legal**

33. The approach adopted is considered to be appropriate and consistent with legislation

#### **Crime and Disorder**

34. There are no crime and disorder implications.

**Information Technology (IT)**

35. There are no information technology implications.

**Property**

36. There are no property implications.

**Other**

37. There are no other implications.

**Risk Management**

38. There are no known risks associated with this decision.

**Recommendations**

39. a) In respect of member involvement in the appeal process members are asked to approve Option 4:

That the Chair of the sub committee who determined the application be advised of the dates of all meetings and the full appeal hearing and decide if s/he is available.

Reason: This option represents the most flexible and resource efficient method of involving members in the appeal process.

40. b) In respect of the summary reviews members note the process and recognise that sub committees may need to be convened at very short notice

Reason : to comply with legislation.

**Contact Details**

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**Neighbourhood Services**  
Tel No.01904 551515

**Chief Officer Responsible for the report:**  
Andy Hudson  
Assistant Director (Neighbourhoods and  
Community Safety)  
**Report Approved**

**Date** 20/9/07

**Specialist Implications Officers:** None  
**Wards Affected:**

**All**

**For further information please contact the author of the report**

**Background Papers:**  
Licensing Act 2003  
Violent Crime Reduction Act 2006

**Annexes:** None

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