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ANNEX 1



# Statement of Licensing Policy 2019 – 2024

Licensing Act 2003



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Further copies of this policy can be obtained from:

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### 1. Introduction

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

## 2. Purpose and Scope

### Purpose

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

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

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

### Scope

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

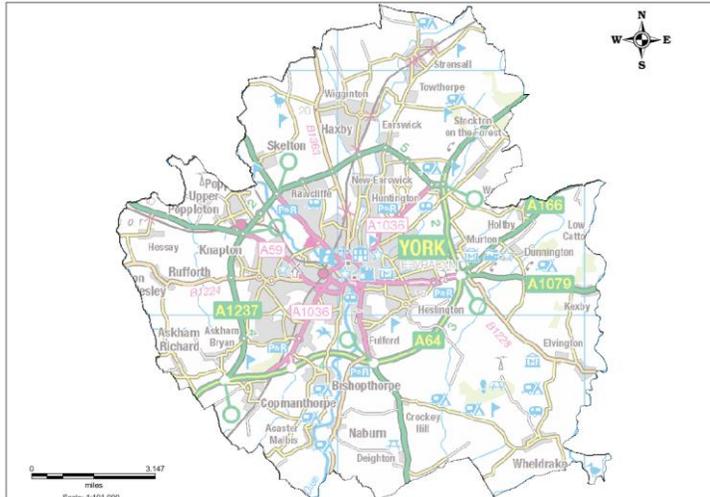
- The sale of alcohol
- The supply of alcohol by or on behalf of a club
- The provision of regulated entertainment
- The provision of late night refreshment

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

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

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

### 3. Profile of York



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- 3.1 City of York Council is a unitary authority covering an area of 105 square miles and comprises the urban area of York which is surrounded by many small rural and semi-rural settlements covered by parish councils. More than 208,000 live in the council area (2016 mid year est.) this includes a small black and minority ethnic population (9.12% 2011 Census).
- 3.2 York is nationally and internationally a prominent City for a range of reasons. Not only is it an historic centre for England and an important location for the Church of England, it is also one of the most visited destinations in the country. York has excellent rail links across the UK with over 9 million passengers every year. It is also a centre of academic excellence, with around 24,000 students making up approximately 11.5% of York's population in term time.
- 3.3 Tourism and leisure are important industries for York, attracting over 7 million visitors a year, who spend £560 million in the city. Over £125 million a year is spent on eating out and evening entertainment. Over 18,500 jobs have been created in the tourism sector.
- 3.4 This level of tourism can, however, present challenges to the city in balancing the requirements of residents against the economic benefits that tourism can bring.
- 3.5 Historically York was known for having one public house for each day of the year. This is no longer the case, but there are 790 premises of various types licensed to sell alcohol in the authority area.

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

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

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

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

#### Tourism

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

#### Crime and Disorder

- 4.4 Under the Crime and Disorder Act 1998 the Council must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent, crime and disorder in their area. The Council will have particular regard to the likely impact of licensing on related crime and disorder in the authority area, particularly when considering the location and impact of the operation and management of all new licence applications and variations of existing licences.
- 4.5 The Council will take into account matters contained in York's Community Safety Plan and Anti-Social Behaviour Strategy in relation to the four licensing objectives.

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### Public Space Protection Orders (PSPOs)

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

### Counter Terrorism

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

### Regulators' Code 2014

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

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## 5. Local Factors

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

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

## 6. General Approach to Licensing

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

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recognizing the contribution made to the vitality of the city.

### Application Procedure

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

### Representations

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

### Determination of Applications

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

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

### **Composition of a Licensing Sub-Committee**

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

## 7. Licensing Objectives

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

### Prevention of Crime and Disorder

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

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

### Public Safety

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

### Prevention of Public Nuisance

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

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

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

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

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

### Protection of Children from Harm

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

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

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

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

- limitations on the hours when children may be present;

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

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

## **8. Guidelines for Applicants**

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

### **Planning**

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

### **Licensing Hours**

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

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

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

### Drinking up time / cooling down period

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

### Dispersal

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

### Designated Premises Supervisor (DPS)

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

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

### Authorising the Sale of Alcohol

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

### Staff Training

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

## 9. Cumulative Impact

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

### Cumulative Impact Assessment

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

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

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

### Cumulative Impact Area

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

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### 10. Early Morning Restriction Orders (EMROs)

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

## 11. Personal Licences

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

## 12. Temporary Event Notices (TENs)

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

## 13. Enforcement, Reviews and Suspension

### Enforcement

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

### Reviews of Licences

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

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

### **Matter for Consideration**

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

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

### **Suspension for Non-Payment of Fees**

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

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

## 14. Other Relevant Legislation, Information and Guidance

### Legislation

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

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

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

### Information and Guidance Documents

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