

Statement Of Licensing Policy

2008

2011

Licensing Act 2003



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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 186,800 people live in the council area (2001 Census) which includes a small black and minority ethnic population (6.1%).

Tourism and leisure are important industries for York attracting over ~~4.18~~ 7 million visitors a year who spend ~~£332.9~~ £443 million annually in the city. Over ~~£53.6~~ £92 million a year is spent on eating out and evening entertainment. Over ~~9,970~~ 23,000 jobs have been created in the tourism sector.

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 over the years experienced between the police, local licensees, door supervisors, the former 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 has obtained premises licenses for a number of public spaces within the community. These include such spaces as city centre event areas, foot streets and several parks. 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 & 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 Home Office ~~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 Home Office ~~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 2011-2014 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 premise licences;
- Representatives of local holders of club premises certificates within the meaning of the Act;
- Representatives of local holders of personal licences;
- Representatives of businesses and residents in the area;

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;
- 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;

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- 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, the Licensing Authority 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 this City of York Council's Licensing Policy there were 9 responses. These responses, where relevant to the Act Guidance and 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 & Review

This policy shall have effect from 7 January 2011 to 6 January 2014 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 7 October 2010 and shall have effect until 6 January 2014.

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 & 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, 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.~~

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 that 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 Counter Terrorism

Crowded places have been targets of act of terrorism across the world. The National Counter Terrorism Security Office has produced guidance to operators of bars, pubs, clubs, cinemas, theatres, hotels, restaurants, stadia and other entertainment venues giving advice to operators to reduce the threat of attached. This can be found at www.nactso.gov.uk/AreaofRisks/CrowdedPlaces.aspx

Applicants and licence holders are encouraged to have regard to this guidance in the design and operation of their premises.

3.4 City of York Council Community Plan & 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.

3.5 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 City Strategy ~~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.

The Council will be working in partnership with local transport providers to facilitate improved transport to disperse people quickly away from licensed venues.

3.6 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. Each year the Licensing Committee will receive a report on the needs of the local tourist economy.~~

In developing this Statement of Licensing policy the Licensing Authority 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 and residents by building on York's distinctiveness, enhancing the quality of the visitor experience and promoting York as a world class visitor destination. Among the ambitions for tourism are to widen and deepen the partnership of businesses, stakeholders and residents, develop 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. Each year the Licensing Committee will receive an update on 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. 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, 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. 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, Environmental Protection Unit, 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 and planning. Representations may also be received from interested 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 together with the relevant Assistant Director 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.

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 Home Office DCMS pool conditions in the Guidance document).

Reason: With the aim of achieving a mutually agreeable level of protection for 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 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.

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 Home Office ~~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 Home Office ~~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 I. 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.

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 and would require staff training provisions to be provided in this regard. Licensees would be encouraged to participate in any voluntary schemes to promote the responsible consumption of alcohol.

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. ~~The recommended schemes are Portman Group proof of age, Citizen Cards, Validate UK, Connexions~~ acceptable proof of age identification are photocard driving licences, current passports or identification carrying the PASS logo, the Licensing Authority is aware of changing technology with regards to identification such as thumb print or pupil recognition. 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.

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. The provision of quiet areas and departure lounges is encouraged as a means of quieting the mood of customers prior to departure and deterring the waiting on streets for taxis and private hire cars. Prominent signage should be displayed to remind customers to leave quietly. 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. 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

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 Home Office DCMS.

North Yorkshire Fire and Rescue Service have 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 reducing the possibility of representations being made on these 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 meet 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

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;
- The management of the general use of outside areas such as beer gardens and smoking areas;
- Carrying out regular noise monitoring of noise levels coming from inside the premises and noise from customers outside the venue;
- Training of staff regarding noise management control procedures and measures;
- Providing a direct contact number for the duty manager to residents living in the vicinity of the premises on request;
- Provision of a procedure for investigating noise complaints.

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.

Litter

The Licensing Authority and the relevant responsible authorities would regard as good working practice, the inclusion 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 objective.~~

The Policing & Crime Act 2009 brings certain premises offering entertainment of a sexual nature under the controls of the Local Government (Miscellaneous Provisions) act 1982. However sexual entertainment on an infrequent basis can fall outside this legislation. The Licensing Authority will consider such infrequent entertainment under



the Licensing Act 2003 and 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 in the vicinity of schools, churches, hospitals, youth clubs or other premises where significant numbers of children are likely to attend.

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 includes the following streets; Micklegate, Toft Green, Tanner Row, Rougier Street, George Hudson Street, Bridge Street, Low Ousegate, Clifford 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.

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 7 October 2010 and shall have effect until 6 January 2014 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 this document.

This Special Policy includes the following streets:

Blossom Street (to Holgate Road), The Crescent, Micklegate, Toft Green, Tanner Row, Tanner Moat, Rougier Street, George Hudson Street, Wellington Row, North Street, Bridge Street, Low Ousegate, Clifford Street, King Street, Cumberland Street, Lower Friargate, Kings Staith, Peckitt Street, Spurriergate, Coney Street, St Helens Square, Lendal, Museum Street, Blake Street, Davygate, New Street, Feasegate and Market Street (see Appendix J, 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.

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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.

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, 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.

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.

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.

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 F) and on receipt of the appropriate fee.

Applicants should produce a Criminal Record Bureau certificate which must be 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.

The police may make an 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.

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 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, 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 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.

8.2 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, fire authority or environmental protection unit), 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 in consultation with the relevant Assistant Director.

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. The police must issue any objection notice within ~~48 hours~~ 2 working days 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 G).

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 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, environmental protection unit and other agencies to produce joint working practices.

12. Fees

Statutory fees for licence applications and Temporary Event Notices are contained in Appendix G.

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.~~

Links, where possible, will be made to the Economic Development Program (sic) and to York: A Vision for Tourism (the city's 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 and in the case of Summary Reviews the application of interim steps		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 application		All cases	
Determination of a police objection to a Temporary Event Notice		All cases	
Agreement of amendment to the original application submitted in an appeal court		Where the Chair of the decision making subcommittee is present or another member of the subcommittee in his/her absence.	Where no member of decision making sub committee is present, the licensing officer and legal adviser in consultation

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 2005

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.

8. Policing and Crime Act 2009

This Act introduces new measure to tackle alcohol misuse.

9. Environmental Protection Act 1990

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

10. 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.

11. 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.

12. 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.

13. 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.

14. Race Relations Act 1976 (as amended 2000)

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.

15. 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
- Disability Rights Commission www.drc-gb.org

APPENDIX D - POOL CONDITIONS

Core Principles

1. When applicants are preparing their operating schedules or club operating schedules, responsible authorities are considering applications and licensing authorities are considering applications following the receipt of relevant representations, they should consider whether the measures set out below are necessary to promote the licensing objectives.
2. Any risk assessment to identify necessary measures should consider the individual circumstances of the premises (including local knowledge) and take into account a range of factors including:
 - the nature and style of the venue;
 - the activities being conducted there;
 - the location; and
 - the anticipated clientele.

Under no circumstances should licensing authorities regard these conditions as standard conditions to be automatically imposed in all cases.

3. Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those below as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate as conditions, they become enforceable under the law and any breach could give rise to prosecution.
4. Licensing authorities should carefully consider conditions to ensure that they are not only necessary but realistic, practical and achievable, so that they are capable of being met. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,00 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce should be avoided.
5. It should be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members and that conditions enforcing offences under the Act are unnecessary,

Conditions Relating to the Prevention of Crime and Disorder:Part1

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.

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 for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These may also be appropriate and necessary in other areas.

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

- the text/pager equipment is kept in working order at all times;
- 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;
- any police instructions/directions are complied with whenever given; and
- 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 individuals excluded by court bans or by the licence holder;
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues.

Where the presence of door supervisors conducting security activities is 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 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 given body searches).

Door supervisors also have a role to play in ensuring public safety and the prevention of public nuisance.

Bottle bans

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

Bottle bans may also be a relevant necessary measure to promote public safety.


Plastic containers and toughened glass

Glasses containing drinks may be used as weapons and in untoughened form, can cause very serious injuries. Where necessary, consideration could therefore be given to conditions requiring the use of safer alternatives which inflict less severe injuries. 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 may be a necessary condition during the televising of live sporting events, such as international football matches, when there may be high states of excitement and emotion fuelled by alcohol.

The use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

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. This is lawful where premises are licensed for the sale of alcohol off the premises. 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) for example, by requiring the use of bottle bins on the premises. 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 taking open containers from the premises may also be relevant necessary measures to prevent public nuisance.

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.

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.

Restrictions on drinking areas may also be relevant necessary measures to prevent public nuisance.

Capacity limits

Capacity limits are most commonly made a condition of a licence on public safety grounds, but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is considered necessary, door supervisors may 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 for certain licensed premises to require the production of "proof of age" before sales are made. The Secretary of State strongly supports the PASS accreditation system 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. While conditions may refer directly to PASS accredited proof of age cards, they should also allow for the production of other proof, such as photo driving licences, student cards and passports.~~

~~Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, 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 who is 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

~~Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels.~~

~~However, conditions specifically designed to address irresponsible drinks promotions or discounting at individual premises may be permissible provided they are necessary for the promotion of the licensing objective. Licensing authorities should be aware that there may often be a very fine line between responsible and irresponsible promotions. It is therefore vital that they consider these matters objectively in the context of the licensing objectives and before pursuing any form of restrictions at all, 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 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 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 licences for these premises which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of security staff holding the appropriate SIA licence or exemption to control entry for the purpose of compliance with the capacity limit.

Conditions Relating to Public Safety (Including Fire Safety):Part 2

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 & Safety at Work Regulations 1999, and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control them. Conditions enforcing these requirements are therefore unnecessary.

From 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Licensing authorities should note that under article 43 of the Regulatory Reform (Fire Safety) Order 2005 any conditions imposed by the licensing authority that relate to any requirements or prohibitions that are or could be imposed by the Order have no effect. This means that licensing authorities should not seek to impose fire safety conditions where the Order applies.

General

Additional matters relating to cinemas and theatres are considered in Part 3. It should also be recognised that special issues may arise in connection with outdoor and large events.

In addition, to considering the points made in this Part, 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
- 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)

In most premises existing legislation will provide adequately for the safety of the public or club members and guests. However, where this is not the case, consideration might be given to the following conditions.

Safety checks

- Safety checks are carried out before the admission of the public.
- Details of such checks are kept in a log-book.

Escape routes

- Exits are kept unobstructed, with non-slippery and even surfaces, free of trip hazards and clearly identified.
- Where chairs and tables are provided in restaurants and other premises, internal gangways are kept unobstructed.
- 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.
- The edges of the treads of steps and stairways are maintained so as to be conspicuous.

Disabled people

- 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.

Lighting

- 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.
- Emergency lighting is not altered.
- Emergency lighting batteries are fully charged before the admission of the public, members or guests.
- 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.

Curtains, hangings, decorations and upholstery

- Curtains, hangings and temporary decorations are arranged so as not to obstruct exits.
- Temporary decorations are not used without prior notification to the licensing authority/relevant responsible authority.

Capacity limits

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate is not exceeded.
- 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.

Access for emergency vehicles

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

First aid

- 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.

Temporary electrical installations

- Temporary Electrical Wiring And Distribution Systems Are Not Provided Without notification to the Licensing Authority at least ten days before commencement of the work/or 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.
- 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 should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

Indoor sports entertainments

- 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.
- Any ring is constructed and supported by a competent person and inspected by a competent authority.
- 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.
- 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).

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. Further details and guidance are given in Part 3.

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 to delete the relevant public safety condition. The applicant will need to propose how they intend to take alternative steps to promote the public safety objective in a new operating schedule reflecting the proposed alteration to the premises. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

Other measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to promote public safety. These might include the provision of door supervisors, bottle bins and requirements to use plastic or toughened glass containers.

Theatres, Cinemas, Concert Halls, and Similar Places (Promotion of Public Safety): Part 3

In addition to the points in Part 2, there are particular public safety matters which should be considered in connection with theatres and cinemas.

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

And one additional attendant for each additional 250 persons (or part thereof)

- b) Attendants shall not be engaged in any duties that would prevent them from promptly discharge their duties in the event of an emergency or require 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.

Seating

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodation 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.

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;
- 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. In these cases, the licensing authority should notify the fire and rescue authority, who will exercise their inspection and enforcement powers under the Regulatory Reform (Fire Safety) Order 2005.

Further guidance can be found in the following publications:

- HSE Guide 'The radiation safety of lasers used for display purposes' (HS(G)95);
- 'Smoke and vapour effects used in entertainment' (HSE Entertainment Sheet No 3);
- 'Special or visual effects involving explosives or pyrotechnics used in film and television production' (HSE Entertainment Sheet No 16);
- 'Electrical safety for entertainers' (HSE INDG 247);
- 'Theatre Essentials' – Guidance booklet produced by the Association of British Theatre Technicians 8.

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.

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
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
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
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

- 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).

Conditions relating to the Prevention of Public Nuisance: Part 4

It should be noted that provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 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.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted 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. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all 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. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might also 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.

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

Noise and vibration

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:
 - a simple requirement to keep doors and windows at the premises closed;
 - limiting live music to a particular area of the building;
 - moving the location and direction of speakers away from external walls or walls that abut private premises;
 - installation of acoustic curtains;
 - fitting of rubber seals to doorways;
 - installation of rubber speaker mounts;
 - requiring the licensee to take measure to ensure that music will not be audible above background level at the nearest noise sensitive location;
 - require licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
 - noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).
- 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.
- 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

- 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

- 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.

Other Measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking areas.

Conditions Relating to the Protection of Children from Harm: Part 5

An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely. This 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.

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.

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 naturethere should be a strong presumption against permitting any access at all for children under 18 years.
- 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 under the above circumstances, should when preparing new operating schedules or club operating schedules or variations of those schedules:

- explain their reasons;
- outline in detail the steps that they intend to take to protection children from harm on such premises.

In any other case the Secretary of State recommends that, 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.

Age Restrictions – specific

Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities will need 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,
 - 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 British Board of Film Classification classifies films in accordance with its published Guideline which are based on extensive research into public opinion and professional advice. The Secretary of State therefore recommends that licensing authorities should not duplicate this effort by choosing to classify films themselves. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role. Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

Licensing authorities should be aware that the BBFC currently classifies films 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.

Licensing authorities should note that these classifications may be subject to occasional change and consult the BBFC’s website at www.bbfc.co.uk before applying relevant conditions.

The Secretary of State considers that, in addition to the mandatory conditions imposed by section 20, conditions restricting the admission of children to film exhibitions should include 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 file 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;
- 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;

- 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 age restrictive category no person appearing to be under the age specified shall be admitted to any part of the programme; where a programme includes a film recommended by the licensing authority as falling into a category requiring any persons under a specified age to be accompanied by an adult no person appearing to be under the age specified shall be admitted to any part of the programme unaccompanied by an adult, and the licence holder shall display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. For example:

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.

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, a requirement for the production of proof of age cards before any sale or supply of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm.

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.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the "Challenge 21" or other 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 who is attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even those looking older would need to produce appropriate proof of age before making such a purchase.

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 G);
- 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).

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), Mill House, North Street, York, YO1 6JQ, (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 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.

Other details to be included in the operating schedule will be set out in the regulations made from time to time by The Home Secretary and the Secretary of State which may be viewed on the Home Office and DCMS websites.

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 G);
- 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 - 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 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:

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

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

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

Band	A	B	C	D	E
Fee	£100	£190	£315	£450	£635

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.

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

Band	A	B	C	D	E
Fee	£70	£180	£295	£320	£350

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:


Occasions on which fees are payable	Fee
Supply of copies of information contained in register.	Set by LA
Application for copy of licence or summary on theft, loss etc of premises licence or summary.	£10.50
Notification of change of name or address (holder of premises licence).	£10.50
Application to vary to specify individual as premises supervisor.	£23.00
Application to transfer premises licence.	£23.00
Interim authority notice.	£23.00
Application for making of a provisional statement.	£315 .00
Application for copy of certificates or summary on theft, loss etc of certificate or summary.	£10.50
Notification of change of name or alteration of club rules.	£10.50
Notification of change of relevant registered address of club	£10.50
Temporary event notice.	£21.00
Application for copy of notice on theft, loss etc of temporary event notice.	£10.50
Application for a grant or renewal of personal licence	£37.00
Application for copy of licence on theft, loss etc of personal licence.	£10.50
Notification of change of name or address (personal licence).	£10.50
Notice of interest in any premises.	£21.00
<u>Application for a Minor Variation</u>	<u>£89.00</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	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.
Authorised Persons, Interested Parties and Responsible Authorities	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.
Closure Order	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.
Club Premises Certificate	A certificate which "licences" a qualifying club for the sale/supply of alcohol. It can be granted to members clubs which comply with specific 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 28 days, serve an interim authority notice on the licensing authority. This revives the licence, subject to police objection, for a period of up to 3 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 prevent 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

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.

Regulated Entertainment

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.

Relevant Offences

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.

Relevant Representations

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.

Review of Licence


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 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.