

Harrogate Borough Council

Statement of Licensing Policy 2020-2025

Date of Adoption
Reviewed and adopted
Reviewed and adopted
Reviewed and adopted
Reviewed and adopted

03 December 2004
05 December 2007
08 December 2010
04 March 2015
15 July 2020

EXECUTIVE SUMMARY	1
1 INTRODUCTION	3
2 BACKGROUND TO THE STATEMENT OF LICENSING POLICY	4
3 THE POLICY	5
4 POLICY PRINCIPLES	6
Responsible Authorities	7
Planning (Development Control) and Building Control.....	7
Anti-Social Behaviour.....	7
Nuisance and Environment.....	9
Health	8
Cumulative Impact.....	11
Early Morning Restriction Orders.....	14
Children	15
Controlled Drugs.....	17
Legal Highs	17
5 LICENCES AND CERTIFICATES	18
Personal Licences	18
Premises Licences.....	18
Club Premises Certificate	20
6 OPERATING SCHEDULE	20
7 LICENSING HOURS.....	22
8 REGULATED ENTERTAINMENT	23
9 LATE NIGHT REFRESHMENT	24
10 GARAGES	25
11 CONDITIONS	25
12 REPRESENTATIONS.....	25
13 REVIEWS	26
14 TEMPORARY EVENT NOTICES	22
15 LICENSING COMMITTEE & SUB COMMITTEE	23
16 APPEALS AGAINST LICENSING AUTHORITY DECISIONS	28
17 MINOR VARIATIONS	28
18 MOBILE PREMISES.....	29
19 ENFORCEMENT	29
20 ANNUAL LICENCE FEES	31

21	THE ROLE OF DISTRICT COUNCILLORS.....	31
22	COMPLAINTS AGAINST LICENSED PREMISES	31
23	COMPLAINTS AGAINST POLICY OR LICENSING APPLICATION PROCESS.....	32
24	LIVE MUSIC ACT 2012	32
25	SEXUAL ENTERTAINMENT VENUES.....	32
26	GAMING MACHINES	33
27	POLICY DETERMINATION AND REVIEW	33
	Tourism and Employment.....	33
	Culture	33
	Community Safety: Crime and Disorder.....	33
	CCTV	34
	APPENDIX 1	
	OPERATING SCHEDULE, ISSUES TO BE CONSIDERED.....	33
	APPENDIX 2	
	LICENSING ACT 2003 GLOSSARY.....	37
	APPENDIX 3	
	RESPONSIBLE AUTHORITY CONTACT LIST	40
	APPENDIX 4	
	LIST OF CONSULTEES	41

EXECUTIVE SUMMARY

Under Section 5 of the Licensing Act 2003, the Licensing Authority is required to prepare a statement of principles (Statement of Licensing Policy) that they propose to apply in exercising their functions under this Act. This process is to be repeated at least every 5 years. It was last reviewed in March 2015.

This Statement of Licensing Policy is intended to aid applicants, residents, local businesses, the Responsible Authorities, Licensing Authority and any other persons in decision-making based on local knowledge and local people. Any decision taken by the Council in regard to determination of licences, certificates and notifications should aim to promote the licensing objectives which are: -

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

The policy covers the licensable activities as specified in the Act, which are: -

- Sale by retail or supply of alcohol;
- Regulated entertainment;
- Late night refreshment.

The council has the ability to grant licences for premises and certificates for club premises. It also grants personal licences and accepts temporary event notices.

When reading this policy it is important to remember that it relates to a wide range of activities and not just consumption of alcohol, for example theatres, cinemas, late night hot food takeaways and diverse cultural entertainments. The Council have a separate policy covering gaming and gambling activities.

The Statement of Licensing Policy takes account of the views of interested organisations, residents' associations, businesses and public bodies that have been consulted about licensing issues and this Statement of Licensing Policy. It does not, however, precisely reflect the views of all these bodies. Some views and comments have inevitably been incompatible with others and the Licensing Authority has attempted to balance them carefully to ensure that an appropriate Statement of Licensing Policy is implemented.

The Licensing Act 2003, Government guidance (issued under Section 182 of the Licensing Act 2003), Regulations and this Statement of Licensing Policy support a number of key aims and purposes. They are of vital importance and are the principal aims for all involved in licensable activities. They include:

- the introduction of better and more proportionate regulation, to give business greater freedom and flexibility to meet their customers' expectations,
- greater choice for consumers, including tourists, about where, when and how they spend their leisure time,

- the encouragement of more family friendly premises where younger children can go with the family,
- the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities,
- the regeneration of areas that need increased investment and employment opportunities that a thriving and safe night-time economy can bring,
- the protection of local residents whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

Enforcement of the Act is undertaken by the council. This policy describes the Council's Enforcement Principles and the principles underpinning the right of review.

1 INTRODUCTION

- 1.1** Harrogate Borough Council (The Council) is also the Licensing Authority (“the Authority”) as defined under the Licensing Act 2003 (“the Act”). The Authority is responsible for the administration and issuing of Premises Licences, Club Premises Certificates, Temporary Event Notices, Provisional Statements and Personal Licenses in the Borough of Harrogate.
- 1.2** The Act makes provision for the licensing of individuals for the retail sale of alcohol (Personal Licences); the licensing of premises for the retail sale of alcohol, provision of regulated entertainment or late night refreshments (Premises Licences); the supply of alcohol or the provision of regulated entertainment in certain clubs (Club Premises Certificates); and the permitting of certain licensable activities on a temporary basis (Temporary Event Notices).
- 1.3** The licensable activities are as follows:
- The sale by retail of alcohol;
 - The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
 - The provision of late night refreshment; and
 - The provision of regulated entertainment, which includes: -
 - An exhibition of a film;
 - A performance of a play;
 - An indoor sporting event;
 - A boxing or wrestling entertainment;
 - A live music performance;
 - Any playing of recorded music;
 - A performance of dance.
- 1.4** There are a number of exemptions to the above, and details are contained in the legislation.
- 1.5** The Act specifies licensing objectives which the Authority’s licensing function must promote, namely: -
- Prevention of crime and disorder;
 - Public safety;

- Prevention of public nuisance;
- Protection of children from harm.

1.6 These four objectives are the **only** matters that can be taken into account in determining an application. Conditions can be attached to licences, in order to achieve these licensing objectives.

2 BACKGROUND TO THE STATEMENT OF LICENSING POLICY

2.1 The Authority seeks to encourage the provision of a culturally diverse range of regulated entertainment within the district and recognises that the entertainment and hospitality sectors are significant contributors to the local economy and attract tourists and visitors. These sectors have grown significantly in certain areas over recent years.

2.2 Harrogate district has a considerable residential population (approximately 160,500*) whose rights the Authority has a duty to protect. Commercial operators have a legitimate expectation to contribute to and provide a vibrant and sustainable night time economy. Residents have an equal right to protection against any adverse effect arising from these activities. (*Office of National Statistics)

2.3 The Harrogate District is part of the County of North Yorkshire (comprising 8 district councils) with local government service delivery split between the borough and county council. The district is characterised by being both rural and urban in nature, having large, sparsely populated areas alongside the major settlements of Harrogate, Knaresborough, Ripon and Boroughbridge.

2.4 The District's economy was estimated to value £3.8bn in 2018. The life expectancy for both men and women is higher than the national average, with levels of adult physical activity and hospital stays for alcohol related harm better than the England average. *

2.5 The Council's Vision is: "One council that is customer focussed, commercially driven and fit for the future." We aim to be the best by listening to our customers and being willing to change, knowing our district and our communities and being clear about our strategic direction and priorities.

Our vision + our values + our behaviour = our responsibility, namely:

- Delivering excellent customer service;
- Taking responsibility;
- Showing resilience;
- Working together;
- Leading by example.

This statement of principles seeks to promote the licensing objectives within the overall context of the Corporate Plan 2018 – 2024. The Corporate Plan includes promoting a strong local economy, including increasing the contribution that tourism makes to the local economy by delivering major events and supporting Visit Harrogate.

- 2.6** The Authority will focus on the impact of the activities taking place at licensed premises on members of the public living, working, visiting or engaged in normal activities in the Harrogate district. This focus may be on either an individual premise or premises collectively.
- 2.7** It is the role of the Authority to influence the balance of the interests of the public and sustainable growth. The Authority must consider the impact of nuisance, crime, anti- social behaviour, littering, the ability of the Police, the streets and public transport infrastructure to cope with the effects of licensable activities.
- 2.8** The Authority will work to ensure the safety of people visiting and working in licensed premises.
- 2.9** It is important to note that all the expectations within the Statement of Licensing Policy may not be appropriate for all sizes and types of premises.
- 2.10** The Policy intends to shape the future of licensing, entertainment and related social activities within the district and has been produced after consultation. See Appendix 4 for details of consultees.
- 2.11** It is important to note that licensing and planning are separate systems of regulatory control. Licensing committees are not bound by decisions made by the planning committee and vice versa.

3 THE POLICY

- 3.1** The “Act” requires a “Licensing Authority” to prepare and publish a Statement of Licensing Policy (“the Policy”) that sets out the principles the Licensing Authority will apply to promote the four Licensing Objectives when making decisions on any application under the Act.
- 3.2** This Policy was prepared in accordance with the provisions of the 2003 Act having had due regard to the Guidance issued under S182 of the Act (“the Guidance”). Where revisions are made to the Guidance there may be a period of time when this Policy is inconsistent with the Guidance. In these circumstances the Authority shall have regard, and give appropriate weight, to the revised Guidance in conjunction with this Policy.
- 3.3** This Policy shall be kept under review and the Authority may make any revisions to it as it considers appropriate. In any event the Authority is required to review their Statement of Licensing Policy every 5 years.

- 3.4** This Policy shall not undermine the right for any individual to apply for a variety of permissions under the Act and to have any such application considered on its individual merits. Similarly the Policy shall not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act. Each application shall be treated on its own merit.
- 3.5** The Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless it is a key aspect of such control, and licensing law will always be part of a holistic approach to the management of the evening and night time economy in towns and city centres.
- 3.6** This Policy is intended to provide clarification on how the Authority will determine applications and reviews. The Authority will consider representations; however, it shall apportion the weight of the representation between those persons immediately affected by the premises and its operation, and those persons who may have a lack of knowledge of the area or of personal experience.
- 3.7** The Authority may depart from this Policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the four licensing objectives.

4 POLICY PRINCIPLES

- 4.1** In determining applications, reviews and enforcement under the 2003 Act the Authority shall take the following into consideration:
- its responsibility to provide a safe environment for all people within the Borough;
 - promotion and compliance of the four Licensing Objectives;
 - representations or complaints and evidence or supporting documentation provided;
 - S182 Guidance issued by central government to Authorities; and
 - Harrogate Borough Council's Statement of Licensing Policy.
- 4.2** The Authority will primarily focus on the impact of the activities taking place at the licensed premises and their effect on people living, working or visiting the area concerned.
- 4.3** Equally the Council also acknowledges the rights of businesses to operate their premises without unnecessary restraint, but this must be

balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises.

- 4.4** The Authority may recommend actions as good practice. Applicants are asked to give these recommendations serious consideration as adoption of best practices may be considered in the investigation of complaints, if they arise, in connection with the premises in the future. In addition “voluntary” conditions may be mutually agreed thus avoiding a formal review.
- 4.5** The Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators. The Authority will have particular regard to the following provisions of the European Convention on Human Rights which is incorporated into the Human Rights Act 1998:
- Article 6: that in determination of the civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;.
 - Article 8: that everyone has the right to respect for his or her home and private life;
 - Article 1 of the First Protocol: that every person is entitled to the peaceful enjoyment of his or her possession, including the possession of a licence.
- 4.6** The Authority acknowledges its duty under Section 17 of The Crime and Disorder Act 1998. The Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions and the need to do all that it can to prevent crime and disorder in its area.

Responsible Authorities

- 4.7** Responsible Authorities (RAs) are clearly defined under the Section 13 of the Act, as amended and a list of the RAs is contained in Appendix 3.
- 4.8** Where the Authority is also acting in its capacity as a Responsible Authority it will ensure that there is a separation of responsibilities within the Council to ensure procedural fairness and eliminate conflict of interests.

Planning (Development Control) and Building Control

- 4.9** The use of premises for the sale or provision of alcohol, provision of entertainment or late night refreshment is subject to planning control. Such use will require planning permission or must be lawful under planning legislation. Planning permission is usually required for the establishment of a new premises or change of use of premises.

- 4.10** All premises to which an application is subject must normally have planning permission and comply with all conditions of that planning permission, or be deemed permitted development.
- 4.11** The Council recognises that the existence of planning permission, building regulation approval or outside table licences must be properly separated from licensing applications to avoid duplication and inefficiency. Similarly, the existence of a Premises Licence or Club Premises Certificate shall not prejudice the consideration of any planning, building regulation approval or outside table applications. However, the Authority expects applicants to have obtained the appropriate consents or licences prior to operation.
- 4.12** Where premises have not obtained such consents or licences, they will be liable for enforcement action under the appropriate legislation. There may be circumstances when as a condition of planning permission; a terminal hour is set for the use of commercial premises. 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 may be liable to enforcement action by the Planning Authority. Licensing applications therefore will not be a re-run of the planning application process and licensing decisions will not cut across decisions taken by the Planning Committee or permissions granted on appeal.

Anti-Social Behaviour

- 4.13** The Council wish to provide an environment that all people living, working and visiting the Borough feel safe in and can equally enjoy, License holders are expected to assist the appropriate authorities in ensuring anti-social behaviour and disturbances are kept to a minimum.
- 4.14** Alcohol misuse is a strong contributory factor in a wide range of offences, including public order offences. Often anti-social in nature, these can involve: -
- drug or substance misuse and dealing;
 - street drinking;
 - drunken behaviour;
 - criminal damage and vandalism;
 - disorderly groups of people;
 - hooliganism, loutish, rowdy (fighting, shouting, swearing), threatening and abusive behaviour;
 - urinating/ vomiting in public;
 - dropping of litter.

- 4.15** Procedures to prevent anti-social issues are expected to be included within the Operating Schedule (Appendix 1) and examples include: -
- use of SIA staff and the wearing of high visibility clothing - provides re-assurance to both premises users and general public;
 - policy on refusal of individuals or disorderly groups to a premise;
 - prevention of serving customers who are drunk, or of proxy sales by people attempting to purchase on their behalf;
 - use of non- glass drinking vessels and bottles for premises who are open beyond mid night, premises who have outside drinking areas, or during special, higher risk occasions e.g. screening of high profile football matches.
- 4.16** The Act is not the primary mechanism for the general control of anti-social behaviour by individuals once they are away from a licensed premise.

Nuisance and Environment

- 4.17** The Authority will consider the following steps the applicant has taken or proposes to take with regard to a licence application:
- to prevent noise and vibration nuisance arising from regulated entertainment e.g. installation of soundproofing, air conditioning, acoustic lobbies, sound limitation devices, closure of doors and windows etc.;
 - to prevent disturbance by patrons or staff entering or leaving the premises e.g. displaying prominent notices asking customers to leave quietly and not to slam vehicle doors, use of the internal PA system to make announcements to the same effect or instructing door supervisors to ask customers to leave the area quietly;
 - to prevent disturbance e.g. reduce volume of music or playing of quieter, more soothing music as part of the wind down period towards the end of trading session;
 - to prevent queuing or to minimise noise or disorder caused by queuing e.g. supervision of queues by door supervisors to keep noise to a minimum, no drinking should be allowed whilst queuing;
 - to prevent any impact of refuse or littering on the surrounding area e.g. use of flyers- only giving flyers to persons who are interested in the material, flyers should not be placed indiscriminately on vehicles, and provision for refuse by late night refreshment take away premises.
- 4.18** The Authority would expect to see such issues addressed within the Operating Schedule.

- 4.19** The Authority will consider routes used by customers when leaving specific premises and the likely impact on residents. People under the influence of alcohol are statistically more likely to be involved in criminal behaviour, including violence and damage to property.
- 4.20** The Act is not the primary mechanism for the general control of noise by individuals once they are away from a licensed premise.

Health

- 4.21** The following is obtained from the Annual Progress Report 2016 on the North Yorkshire Joint Alcohol Strategy 2014-2019. In North Yorkshire :
- around 1 in 7 adults abstain from alcohol but around 1% of adults (5340 people) are alcohol dependent;
 - around 26.9 % of the population who drink are estimated to be drinking at above the safe level of 14 units per week;
 - alcohol related hospital admissions are increasing year on year;
 - alcohol associated deaths are highest in Scarborough – 16.8 deaths per 100,000 population per year.
- 4.22** Alcohol is associated with crime, including domestic violence and sexual crime and features in anti-social behaviour in particular with over a quarter of incidents associated with alcohol in some areas of North Yorkshire.
- 4.23** The Authority supports the principle of reducing the harms from alcohol and will, where possible, work in partnership with various agencies to deal with both actual and potential harms from alcohol.
- 4.24** Further information on National and Local Statistics can be found using the following links:
- https://www.nuffieldtrust.org.uk/resource/alcohol-related-harm-and-drinking-behaviour-1?gclid=EAlaIQobChMI-NyT8oXE5qIVibbtCh3mowXCEAAYASAAEgKIO_D_BwE
 - <https://nypartnerships.org.uk/sites/default/files/Partnership%20files/Health%20and%20wellbeing/Public%20health/2016%20Alcohol%20Strategy%20Annual%20Report.pdf>
 - <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/drugusealcoholandsmoking/bulletins/opinionsandlifestylesurvey/aduldrinkinghabitsingreatbritain/2017>

Crime and Disorder

- 4.25** Crime figures in relation to violent and sexual offences, anti-social behaviour and public order offences for three of the larger towns within the district, namely Harrogate, Ripon and Knaresborough have been included within the policy for completeness. These figures have been obtained from information available online www.police.uk and give an indication of numbers of incidents and how these have changed over the years.
- 4.26** Whilst it is not possible to draw any inferences from these figures, as there is no information which links the incidents to licensed premises, it does it will allow comparisons when further reviews of the policy are undertaken.
- 4.27** Police figures collated by the Council's Community Safety team show that reports on anti-social behaviour in Harrogate Town Centre have reduced in recent years; there have been 331 reports, up to November 2019 in the current financial year. This is down compared to the baseline figure of 587 in 2013/14.
- 4.28** However, the number of reports of violent crime/sexual offences (216) and public order offences (40) for the present financial year are currently higher than the baseline figure for 2013/14 of 189 and 33 respectively. However they are currently below the peak figures for 2014/15 of 236 and 56 respectively.
- 4.29** The North Yorkshire Police, Fire and Crime Commissioner believes that the police recorded ASB is, in part, due to the improved crime recording and does not necessarily reflect and does not necessarily reflect a reduction in actual anti social behaviour. Increasing violence and public order offences reflect this improved recording practice but are also a key concern in relation to alcohol.
- 4.30** Recorded incident figures obtained from the North Yorkshire Police crime statistics for Ripon and Knaresborough are as follows: -

	2017	2018	2019
Ripon Centre			
Violent and Sexual Offences	93	71	92
Anti- Social Behaviour	135	103	121
Public Order	8	17	13
Knaresborough Centre			
Violent and Sexual Offences	81	84	74
Anti- Social Behaviour	170	196	146
Public Order	8	18	11

Again the figures are provided for completeness and to allow comparison between Harrogate, Knaresborough and Ripon and shows the variation of the years. It is not possible to draw any inferences between these matters and licensed activities.

Cumulative Impact

- 4.31** The Authority will not take “need” into account when considering an application, as this is a matter for planning and the market. However, it recognises that the “cumulative impact” of the number, type and density of licensed premises in a given area, may lead to problems of anti-social behaviour and nuisance, both outside and some distance, from the premises.
- 4.32** “Cumulative Impact Assessments” were introduced at Section 5A in the Licensing Act 2003 by the Policing and Crime Act 2017. Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. (Para 14.24 Section 182 Guidance)
- 4.33** Evidence that areas are becoming saturated with the number, type and density of licensed premises has to be gathered before a Cumulative Impact Policy (“special policy”) can be adopted. Examples of evidence that the Authority will consider include:-
- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
 - statistics on local anti-social behaviour offences;
 - health related statistics such as alcohol-related emergency attendances and hospital admissions;
 - environmental complaints, particularly in relation to noise and litter;
 - complaints recorded by the Council, which may include complaints raised by local residents or residents’ associations
 - resident questionnaires;
 - evidence from local councillors;
 - evidence obtained through local consultation;
 - trends in licence applications, particularly by types of premises and terminal hours;
 - changes in terminal hours of premises.

- 4.34** A Cumulative Impact Assessment (CIA) may be published by a Licensing Authority to help it limit the number or type of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems undermining the Licensing Objectives.
- 4.35** The Authority will take the following steps into consideration when deciding whether or not to undertake a “Cumulative Impact Assessment”:
- - identify concern about crime and disorder, public safety, public nuisance, or protection of children from harm
 - consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or to children;
 - if such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
 - identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise);
 - consult with the Responsible Authorities and subject to the outcome of the consultation, include and publish details of the “special policy” in the licensing policy statement.
- 4.36** The effect of designating a “Cumulative Impact Area” is to create a presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, unless it can be demonstrated by the applicant that the operation of the premises involved will not add to the cumulative impact already being experienced.
- 4.37** The designation of a Cumulative Impact Area does not relieve Responsible Authorities, or any other person, of the need to make a relevant representation before the Authority may lawfully consider giving effect to its “special policy”. Responsible Authorities or any other person can make written representations maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information which has been before the licensing authority when it developed its Statement of Licensing policy.
- 4.38** While a “CIA” is in existence, applications will need to detail why the operation of the premises would not add to the cumulative impact being experienced. The Authority will review any “special policies” at least every five years to see whether they have had the effect intended and whether they are still needed.

- 4.39** “CIAs” may apply to the impact of a concentration of any licensed premises. When establishing the evidence base for introducing a “CIA”, the Authority will consider the contribution to cumulative impact made by different types of premises within its area, in order to determine the appropriateness of including different types of licensed premises within the “special policy”.
- 4.40** The Authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these have on the local community. It therefore also recognises that, within this “CIA”, it may be able to approve licences that are unlikely to add significantly to the saturation and will consider the circumstances of each application properly and individually on its own merits.
- 4.41** There are currently no “CIAs” in Harrogate district. The Authority will consider the evidence available should a representation be raised.

Early Morning Restriction Orders

- 4.42** The Police Reform and Social Responsibility Act 2011 (“the PRSR Act”) gives the Authority the discretion to restrict sales of alcohol in the whole or part of their area by introducing an Early Morning Restriction Order (“EMRO”).
- 4.43** An EMRO can restrict the sale or supply of alcohol between the hours of midnight and 0600 hours to promote the licensing objectives e.g. to tackle high levels of alcohol-related crime and disorder, serious public nuisance and alcohol related anti-social behaviour which is not specifically attributable to specific premises.
- 4.44** The decision to implement an EMRO must be evidence based and the Authority must be satisfied that such an Order would be appropriate to promote the licensing objectives. Furthermore, the Authority shall consider the potential burden that would be imposed on premises licence/certificate holders.
- 4.45** An EMRO is a powerful tool and a very stringent approach in tackling issues. The Authority will first consider whether other measures may address the problems and achieve the same goal. These could include:
- the use of a Cumulative Impact Assessment (see 4.27-4.37 of this Policy);
 - taking a robust joint agency approach to tackling problem premises;

- prior to reviewing a licence/certificate, meeting with the DPS and licence/certificate holder to ensure a Premises Improvement Plan is in place;
 - where this fails, reviewing Premises Licences/Certificates by any of Responsible Authorities or other persons;
 - using other mechanisms to control the cumulative impact, noise and anti-social behaviour;
 - introducing powers to designate parts of the local authority area as places where alcohol may not be consumed publicly;
 - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
 - provision of CCTV;
 - provision of night marshals and street angels/ pastors;
 - introduction of a late night levy.
- 4.46** The Authority will review any active EMRO's to ensure that it continues to be appropriate for the promotion of the licensing objectives. The applicant will be required to periodically submit evidence as part of this process to demonstrate that the EMRO is appropriate and achieving the goals and confirming that these cannot be achieved by alternative methods.
- 4.47** There are currently no EMROs in the Harrogate District.

Children

- 4.48** The Protection of Children from Harm is one of the four licensing objectives and the Authority recognises Children and Young People's Services at North Yorkshire County Council as the Responsible Authority.
- 4.49** The Council recognises its responsibilities under safeguarding legislation and guidelines.
- 4.50** The Authority shall not normally impose conditions requiring or prohibiting the admission of children to any premises believing this should remain a matter of discretion of the licence holder, having taken account of any risks in the operating schedule.
- 4.51** The Authority will impose conditions designed to protect children, where necessary.
- 4.52** Where alcohol is sold, including off sales, reference should be made in the operating schedule to plans for the control of underage drinkers.

- 4.53** Examples of premises where the introduction of additional controls are likely to be necessary are where:
- there has been a conviction for serving alcohol to a minor;
 - the Police have objections on the grounds of existing drug problems;
 - there is a strong element of gambling on the premises (not including the small number of amusement with prizes machines in traditional pubs and bars);
 - the entertainment of an adult or sexual nature is provided.
- 4.54** The Authority may impose a complete prohibition on entry of children, or impose conditions on the licence, if it is appropriate.
- 4.55** Where there are events solely provided for children, for example an “Under 18’s Disco” in a licensed premises, the Authority strongly advises that no alcohol is served at such events. In such cases, the management of the premises must ensure that measures are in place to prevent sales to underage persons.
- 4.56** Premises will not generally be expected to be open for normal trade until all under 18’s have left the premises. The Authority would expect the premise to close for a short period of time e.g. 30 minutes to allow the dispersal of the under 18’s. Where premises have more than one public area and are open for normal trade, whilst the under 18’s event is still in progress, there must be a clear separation between the different clientele i.e. separate room and toilets.
- 4.57** Measures must be in place to prevent alcohol being brought onto those premises and to prevent under aged persons leaving and returning to the premises in order to consume alcohol in the vicinity of the premises.
- 4.58** The Authority will consider the conditions offered in the Operating Schedule. The applicant is required to describe the steps they intend to take to promote this Licensing Objective and highlight any adult entertainment or services, etc. that may give rise to concern in respect of children. However, where the applicant does not state the steps they intend to take to promote this Objective but does state that “no adult or similar entertainment shall take place on the premise”, the Authority shall consider this restriction to be a condition on the Licence/ Certificate.
- 4.59** The 2003 Act, as amended by the Policing & Crime Act 2009, has introduced a number of mandatory conditions. One of these conditions provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with the recommendations given either by the British Board of Film Classification (“the BBFC”) or by the Authority itself. The Authority has a procedure in

place for the approval of unclassified films that includes conditions relating to the admission of children.

Controlled Drugs

- 4.60** It is recognised that the use and sale of controlled drugs can be associated with some licensed premises.
- 4.61** Documented cases of injury and death demonstrate the need for the control of controlled drugs in licensed premises. Drugs alter the way people behave which is why their distribution and possession is controlled by law. Controlled drugs are manufactured and supplied illegally and often vary in quality and strength, resulting in people taking them being at a significant increased risk. Controlled drugs usually involve or attract criminal involvement.
- 4.62** The Authority recognises that many premises already have good drug control procedures in place and have assisted the Police in the detection of related crime. Licence holders must co-operate with any Police operation involving the control of drugs. SIA door staff and external CCTV can help stop drug dealers from passing on drugs during the queuing process.
- 4.63** The Authority will expect licence holders to take all reasonable steps to prevent the entry of drugs into licensed premises and take appropriate steps to prevent drugs changing hands within the premises.
- 4.64** The Authority expects licence holders to have undertaken training in drug related matters through a recognised provider and be able to demonstrate implementation of the principles contained in the “Safer Clubbing” guide issued by the Drug Prevention Advisory Service in partnership with the London Drugs Policy Forum.
- 4.65** Evidence of a controlled drug related problem on a licensed premise will require the licensee to produce a written drugs policy for approval by the Authority. This will be to further the crime prevention objective and to ensure public safety by controlling drug abuse.

Legal Highs

- 4.66** There is currently an increasing trend in the use of legal highs within the UK population. Symptoms arising from the use of certain “legal highs” mirror those associated with drinking excessive amounts of alcohol.
- 4.67** The Council will work with the appropriate agencies to reduce the problems associated with people supplying or using “legal highs”

5 LICENCES AND CERTIFICATES

Personal Licences

- 5.1** Providing an applicant has an approved qualification and does not have certain specified criminal convictions, the application would normally be granted.
- 5.2** The police may make objections on the grounds of a relevant or foreign offence. If an applicant has a relevant conviction the Police can oppose the application. If an objection is received a hearing must be held.
- 5.3** At any subsequent hearing the authority will consider carefully whether the grant of the licence will compromise the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that elapsed since the offence(s) were committed and any mitigating circumstances. The authority will only grant the application if it is satisfied that it will not undermine this objective.
- 5.4** Prevention of crime is an objective of the Act and an important responsibility of the Authority under other relevant legislation involving crime and disorder.
- 5.5** The Policing and Crime Act 2017 gives licensing authorities the power to revoke or suspend personal licences with effect from 6th April 2017. This is a discretionary power exercised by the Licensing Committee or Sub-Committee under section 132A of the 2003 Act. The Committee have the ability to revoke or suspend a licence for up to 6 months. (Para 4.45 of Section 182 Guidance)
- 5.6** The Immigration Act 2016 amended the Licensing Act 2003 from 6th April 2017. For applications made after 6th April 2017, applicants who are subject to UK Immigration Control must be entitled to work in a Licensable Activity. Section 192A of the Licensing Act 2003 defines the “entitlement to work” in a licensable activity. The requirements are not retrospective.
- 5.7** Licensing authorities are required to notify the police when an applicant is found to have an unspent conviction for a relevant offence defined in 2003 Act or for a foreign offence. The police have no involvement or locus in such applications until notified by the Licensing Authority. Civil penalties received after 6th April 2017 for immigration matters are treated in the same way as relevant offences.

Premises Licences

- 5.8** New applicants and existing licence/certificate holders are encouraged to take heed of the information contained within this Policy. To avoid potential representations, which generally delay an application, the

Authority strongly recommends that prior to submitting their application, applicants consult all Responsible Authorities, in particular North Yorkshire Police and the Council's Environmental Protection team.

- 5.9** The Premises Licence/Certificate application outlines the operating conditions and the Operating Schedule that will form the basis of conditions that will be attached to the Licence/Certificate. The Authority shall expect the applicant to have carefully considered the promotion of all four Licensing Objectives in their Operating Schedule.
- 5.10** The Council will seek to encourage and promote festivals, carnivals and similar events in the district to promote a varied and vibrant culture.
- 5.11** The Authority recognises that large-scale events may attract large crowds and the risks to public safety, crime and disorder and public nuisance are likely to increase with these numbers. Event organisers are recommended to consult with Responsible Authorities and the Safety Advisory Group in good time to discuss the Operating Schedule and any potential issues well before an application is submitted.
- 5.12** The Operating Schedule is a key part of the application form whereby applicants may volunteer appropriate conditions to demonstrate compliance with the licensing objectives by describing the steps they intend to take to promote these objectives. These volunteered conditions will then form conditions on the Premises Licence or Certificate.
- 5.13** The Authority encourages applicants and existing operators to plan ahead to meet their legal responsibilities under the Equality Act 2010. In addition, applicants are expected to include positive proposals in their Operating Schedule on how they will manage any potential risks.
- 5.14** Premises Licence and Club Premises Certificate applicants may wish to refer to their Fire Safety and Health and Safety risk assessments that they will have conducted. Applicants are advised to seek the views of professional experts in relation to the preparation of these risk assessments. Where a maximum occupancy is set, applicants are advised to have an appropriate method in place to monitor the numbers of people entering and exiting the premises, thereby ensuring the maximum occupancy is not exceeded.
- 5.15** In completing their Operating Schedule, the Authority suggests that an applicant considers the issues detailed in Section 6 of this Policy and Appendix 1. This list is not exhaustive and advice can be obtained from the relevant Responsible Authorities. Applicants are reminded to contact the relevant Responsible Authorities to seek their expert advice **before** an application is submitted to the Authority.
- 5.16** Where an application is for a vessel, the Authority strongly recommends advice be sought from the Maritime & Coastguard Agency prior to submitting the application form. This Agency will offer advice on the safety of passengers aboard the vessel.

Club Premises Certificate

- 5.17** In order for a qualifying club to supply alcohol and provide other licensable activities on Club premises, a Club Premises Certificate is required. Qualifying conditions are specified in Section 62 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support the fact that the Club is non-profit making. Additional information is available from the Council and in the Section 182 Guidance Notes.
- 5.18** The Authority will require the Club to produce an Operating Schedule evidencing how it will promote the four Licensing Objectives.
- 5.19** Where a Club intends to open its premises to the general public a Temporary Event Notice or Premises Licence will be required. Whilst there is no definition of 'guest' within the Licensing Act 2003, the term may include a wide variety of people who are invited by the Club. The manner in which persons be admitted as 'guests' would be for the Club to determine, as detailed in the Club Rules.
- 5.20** Where the point is reached that a Club is providing commercial services to the public it will no longer be considered to be conducted in good faith and would therefore no longer meet Section 62(3) of the Licensing Act 2003. Where the Authority considers a club has ceased to operate in good faith, it shall give the Club notice withdrawing their Club Premises Certificate. The Club shall be entitled to appeal this decision and where the appeal is not successful the Club will be required to apply for a full Premises Licence.

6 OPERATING SCHEDULE

- 6.1** The Authority requires applicants to address the licensing objectives in their Operating Schedule, which the Act requires them to prepare.
- 6.2** Conditions volunteered in the Operating Schedule should be:
- targeted on the deterrence and prevention of crime and disorder;
 - appropriate for the promotion of the licensing objectives;
 - proportionate and enforceable;
 - relevant, clear and concise;
 - not duplicate other legislation.
- 6.3** A list of suggested issues that may be appropriate for the applicant to address during the completion of the Operating Schedule are listed in Appendix 1. In addition, the Authority expect the following to be addressed in the Operating Schedule;

- where appropriate and normally at town/ city centre premises where alcohol is sold, and late night take-ways, that CCTV be installed, both internally and externally of the premise. North Yorkshire Police, Licensing are able to give advice on the installation of CCTV in order to meet the licensing objectives;
- procedures for risk assessing sale of alcohol promotions and events such as “happy hours” for the potential to cause crime and disorder, and plans for minimising such risks;
- where a “vertical drinking” concept is to be adopted, appropriate controls are to be in place to reflect the nature of high volume, high capacity method of trading. Controls may include capacity limits and increased use of SIA door staff;
- the provision of non-alcoholic or low alcoholic drinks especially for designated vehicle drivers;
- where appropriate, measures to prevent the use or supply of illegal drugs, searching of customers for offensive weapons and drugs on entering premises;
- where appropriate, use of SIA door supervisors particularly in urban areas with alcohol sales taking place later than 2300 hours;
- steps taken to prevent under-age drinking in licensed premises or proxy sales i.e. the supply of alcohol intended to be consumed by underage persons off the premises;
- steps taken to identify customers who may be “drunk” upon arrival at the premises and refusal of entry e.g. use of alcoblow equipment;
- steps taken to prevent customers consuming excessive amounts of alcohol on the premises, and the refusal to serve “drunks”; including the prevention of proxy sales on behalf of such customers;
- “drinking up time” and how customers are managed after sale of alcohol ceases. The Schedule should specify how long the customers will be allowed to drink on the premises once the sale of alcohol has ceased, otherwise premises will have to close at the terminal hour for the serving of alcohol;
- where available, town/city centre premises would normally join the “RadioLink” scheme, or any other approved recognised scheme,
- arrangements if a designated premises supervisor is not present at a premise. The person (s) responsible for authorising the sale of alcohol should be issued with a written authority from the Designated Premises Supervisor which would need to be available to the Police or an Authorised Officer for inspection. The Authority will sometimes regard

it as appropriate for a Personal Licence holder to be on the premises at all times when alcohol is sold, particularly after 2300 hours.

- 6.4** The Authority expects the Operating Schedule to demonstrate how it is intended that the premises will be “good neighbours” both to residents and other venues and businesses.
- 6.5** The Authority when preparing the licences/certificates shall not simply replicate the wording from an applicant’s Operating Schedule but will interpret conditions in accordance with the applicant’s overall intentions.
- 6.6** With reference to the Protection of Children from Harm Licensing Objective, those conditions relating to the admission of children to any premise remain a matter for the individual licensee or club or person who has given a Temporary Event Notice (TEN). Venue operators may however volunteer prohibitions or restrictions in their Operating Schedules.
- 6.7** All relevant representations will be considered during the decision making process unless they are considered to be frivolous, vexatious, repetitious, or not in line with the four Licensing Objectives.

7 LICENSING HOURS

- 7.1** The Authority will consider each application on its own merit and shall not seek to impose predetermined licensed hours. Where there are no objections to the hours applied for, the Authority will have no discretion but to grant the hours requested.
- 7.2** The Authority recognises that in some circumstances flexible licensing hours for the sale of alcohol may help to ensure that concentrations of customers leaving premises are avoided.
- 7.3** Any activity involving public entertainment, eating or drinking on a premise has the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. The impact of noise generated by these activities, especially customers departing late at night, are intrusive when ambient noise levels are much lower.
- 7.4** Much of the Harrogate District is very sensitive to the impact of licensed activities due to the fact that it is predominantly residential in character or close to other noise sensitive premises e.g. hotels, bed and breakfasts and other such premises.
- 7.5** It is important that transport facilities are available to move customers away without delay to minimise disorder and disturbance. Transport is a relevant consideration in licensed hours. The difference between rural and urban premises is recognised by the Authority and appropriate consideration will be given in all cases.

- 7.6** The Authority will strike a fair balance between the needs of a licence holder and the risk of disturbance to local residents and businesses. The Authority may restrict the hours of operation, as a result of either receiving representations on application, or as a result of a review.
- 7.7** The Authority will give consideration to the risk of disturbances to local residents and possibly to businesses when licensable activities continue late at night and into the early hours of the morning or are involving a significant number of attendees i.e. large scale concerts, performances etc.

8 REGULATED ENTERTAINMENT

- 8.1** The Authority recognises that the definition of regulated entertainment is determined by central Government and may be subject to change.
- 8.2** There are a number of key publications/sources of information in the context of regulated entertainment which provide guidance to applicants and other parties:
- General health and safety advice for the entertainment industry can be found at <https://www.hse.gov.uk/entertainment/index.htm>
 - Advice on undertaking risk assessments and risk management can be found at <https://www.hse.gov.uk/risk/controlling-risks.htm> including the management of work-related violence in licensed premises <https://www.hse.gov.uk/pubns/indg423.pdf>
 - The Purple Guide to Health, Safety and Welfare at Music and Other Events www.thepurpleguide.co.uk
 - Managing crowd <https://www.hse.gov.uk/event-safety/crowd-management.htm>
 - The Guide to Safety at Sports Grounds (6th Edition) known as the “Green Guide” <https://sgsa.org.uk/greenguide/>
 - Safety Guidance for Street Arts, Carnivals Processions and Large Scale Performances. (Published by Independent Street Arts Network) <https://outdoorartsuk.org>
 - Guidance on minimising noise can be found in [A simple guide for managing entertainment noise](#)

9 LATE NIGHT REFRESHMENT

- 9.1** The provision of late night refreshment forms an important part of Harrogate district's late night economy. Where late night refreshment is provided between the hours of 2300 hours and 0500 hours applicants must demonstrate in their Operating Schedule how they will promote the four Licensing Objectives, particularly with regard to the Prevention of Crime and Disorder and the Public Nuisance licensing objectives.
- 9.2** Where an applicant wishes to sell alcohol either on or off the premises or provide an alcohol delivery service, the Authority recommends that the Operating Schedule sets out specific measures to ensure the prevention of Crime and Disorder and/or Public Nuisance in the vicinity of the premises. Existing premises that seek to provide an alcohol delivery service are expected to notify the Authority that they are operating such a service, setting out specific measures they intend to take to promote the licensing objectives, especially Protection of Children from Harm.
- 9.3** Where a delivery service is operated from these premises extra care must be taken by the operator with regard to compliance/breach of licensing hours. For example, a pizza order must be capable of reaching the customer at the delivery address by no later than the end of the permitted hours.
- 9.4** The Authority expects takeaways and late night refreshment houses to have an appropriate policy for regularly clearing litter resulting from their operation.
- 9.5** The Deregulation Act 2015 enables LAs to exempt certain premises by: -
- Area;
 - Type of premises;
 - During a designated period.

Premises which can be exempt are: -

- Motorway Service Areas;
- Petrol Stations;
- LA premises;
- Schools;
- Hospitals;
- Community Premises;
- Licensed Premises.

Late night refreshment from vessels, vehicles and moveable structures may be exempt from the Late Night Refreshment requirements, but only in those instances where they are not operating in a town centre location.

10 GARAGES

10.1 The Act provides that the sale of alcohol from premises used primarily as a garage, or parts of premises used primarily as a garage, shall not be authorised.

10.2 Premises are used as a garage if they are used primarily for one or more of the following, the:

- retailing of petrol or derv;
- sale of motor vehicles, and
- maintenance of motor vehicles.

11 CONDITIONS

11.1 The Authority is unable to impose conditions on applications where no relevant representations have been made.

11.2 Where relevant representations have been made, the Authority shall aim to facilitate negotiations or mediation between the applicant, Responsible Authorities and any “Other Person”, as defined under the Act. If this proves unsuccessful the Authority will convene a hearing. This may result in the grant or refusal of the application or the imposition of conditions.

11.3 Where conditions are imposed at a licensing hearing, they shall be appropriate and proportionate and shall be tailored to the size, style, characteristics and activities that take place at the premise concerned.

11.4 Any conditions imposed shall be precise and enforceable, clear in what they intend to achieve, shall not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation, shall be justifiable and capable of being met and shall focus on matters which are within the control of the individual licence holders.

12 REPRESENTATIONS

12.1 Responsible Authorities and ‘Other Persons’ may make representations on premises licence/ certificate applications and review existing premises licences/ certificates. A list of Responsible Authorities can be found in Appendix 3.

12.2 All representations must be relevant and any representation must relate to the likely effect of the grant of the licence/certificate on the promotion of at least one of the licensing objectives.

- 12.3** ‘Other Persons’ is defined as any individual, body or business that may be affected by the operation of a licensed premise regardless of their geographical location. In addition, the “Other Person” is encouraged to provide evidence supporting their representation or review. Any representation however must be specific to the premise in question and not to the area in general.
- 12.4** The Authority will consider the geographical location of any “Other Person” who has made a representation in order to give the appropriate weighting.
- 12.5** The Authority will determine whether a representation from an individual, body or business is relevant. If a representation is considered by the Authority to be frivolous, repetitive or vexatious it will be rejected.
- 12.6** On receipt of a valid representation, the Authority will assess the likelihood of the application causing unacceptable adverse impact, particularly on local residents. The following factors will normally be considered, although other relevant matters will be considered as the individual case dictates:
- type of use, the number and types of customers likely to attend the premises;
 - proposed hours of operation;
 - level of public transport accessibility for customers either arriving or leaving and the likely means of public or private transport that will be used by customers (considered on the merits of each application). Transport arrangements will not always be necessary;
 - scope for mitigating any impact;
 - frequency of the activity.
- 12.7** In considering any application relating to an existing licensed premise the Authority will take into account any evidence:
- of past demonstrable adverse impact from licensable activities, especially on local residents or businesses; and
 - that if adverse impact has been caused, appropriate measure have been agreed and put into effect by the applicant to mitigate that adverse impact.

13 REVIEWS

- 13.1** Responsible Authorities and “Other Persons” may apply to review a licence or certificate where it is believed an operator of a licensed premise is, in their opinion, not complying with the promotion of any of the four licensing objectives.

- 13.2** Where an application for a review has been submitted the Authority will determine whether or not it is relevant, frivolous, vexatious or repetitious. In borderline cases the benefit of the doubt will be given to the person making that application.
- 13.3** The Authority expects persons calling for a review to gather sufficient and relevant evidence relating to the specific premises that is subject to the review. This may include a diary of events and any potential witnesses.

14 TEMPORARY EVENT NOTICES

- 14.1** The Act 2003 provides for a light touch authorisation by way of a Temporary Event Notice (TEN) under which any person may submit a notification to the Authority to conduct licensable activities on a temporary basis.
- 14.2** A TEN may be given for part of a building such as a single room within a village hall, a plot within a larger area of land or a discrete area within a marquee, as long as the Notice clearly describes the area where the event is to be held.
- 14.3** Although holders of a TEN are not required to be on the premises for the event, they will remain liable for any offences that may be committed at the premises whilst the TEN is in place.
- 14.4** As a TEN does not relieve the premises user from any requirements under planning law for the appropriate planning permission, the Authority recommends the holder of the TEN to contact the Planning Authority, Highways and any other relevant authority well in advance of the event to ensure any other permissions are in place.
- 14.5** To avoid the potential police objections, it is strongly recommended to contact the North Yorkshire Police Licensing Officer and Environmental Protection prior to the submission of the TEN and outline any measures in place to promote the Crime and Disorder and Prevention of Public Nuisance licensing objectives.
- 14.6** Where a TEN is sought as part of a large scale or outdoor event, the Authority encourages event organisers to seek advice from the Safety Advisory Group in advance of submitting their application. The group will be able to offer local advice on other legislative requirements, such as health and safety issues, road closures, the use of pyrotechnics, local byelaws, etc. along with the need to prevent anti-social behaviour.
- 14.7** There is a provision for a late TEN to be submitted. These must be received no later than 5 working days prior to the event. If objections are received to a late TEN a Counter Notice will be issued and the event will not be allowed to take place.

- 14.8 Event organisers must submit their TEN to Harrogate Borough Council Licensing, Environmental Protection and Police Licensing Officer at the same time.
- 14.9 Temporary Event Organisers are advised to submit their TENS well before the date of the event and in any event, must submit their notifications in accordance with the number of working days specified in Regulations.

15 LICENSING COMMITTEE & LICENSING SUB COMMITTEE

- 15.1 Decisions on all licensing matters shall be taken in accordance with the Council's approved scheme of delegation. This is aimed at underlining the principles of timely, efficient and effective decision-making.
- 15.2 The Licensing Committee will consist of 15 Members. The Licensing Sub-Committee, which will normally consist of 3 members from the Licensing Committee, will hear any relevant representations from Responsible Authorities and any Other Persons. Any of these individuals or groups may specifically request a representative to make representations on their behalf.
- 15.3 Applications for Premises Licences, Club Premises Certificates or Temporary Event Notices, where relevant representations have been received, will be heard by a Licensing Sub Committee unless such representations are considered irrelevant, frivolous or vexatious or, unless the Authority, the applicant and everyone who has made a representation agree that a hearing is not necessary.

16 APPEALS AGAINST LICENSING AUTHORITY DECISIONS

- 16.1 Following a hearing of an application by the Authority, the applicant or any person who submitted a representation has the right to appeal against a decision made by the Licensing Sub Committee to Magistrates' Court within 21 days. In hearing an Appeal against the Licensing Authority's decision, the court will have regard to the Act, this Policy and the Section 182 Guidance issued under the Licensing Act 2003.
- 16.2 Where an appeal has been lodged against a decision of the Authority, the Authority will in all cases be the respondent to the appeal and may call as witnesses any Other Person or Responsible Authorities who made representations. In addition, and provided the court considers it appropriate, the Authority may also call as witnesses any individual or body it considers may assist in their response to an Appeal.

17 MINOR VARIATIONS

- 17.1 Minor variations allow small changes to be made to a premises licence or club premises certificate. A minor variation is defined as one that will not impact adversely on any of the four licensing objectives.

- 17.2** In considering applications, if there is any doubt about the impact of the variation on the licensing objectives the Authority will consult the relevant Responsible Authorities and take their views into account when reaching a decision on whether it is a minor variation.

18 MOBILE PREMISES

- 18.1** Where licensable activities take place in mobile vehicles, a Premises Licence will be required for the land upon which the vehicle operates. The application must specify the pitch from where trading is to take place.
- 18.2** As this type of premises is likely to cause people to congregate, the Authority shall expect applicants to demonstrate specific measures to prevent Crime and Disorder and Public Nuisance, and promote Public Safety.
- 18.3** In addition, the Authority shall expect the applicant to consider specific measures to ensure that litter from such premises is regularly disposed of.

19 ENFORCEMENT

- 19.1** The following officers are empowered by the Act to carry out inspections and enforcement role:
- Officers of the Licensing Authority;
 - Fire Authority Inspectors;
 - Inspectors locally responsible for the enforcement of the Health and Safety at Work, etc. Act 1974;
 - Environmental Health Officers;
 - Trading Standards Officers.
- 19.2** North Yorkshire Police are separately empowered and not included in the above list.
- 19.3** Enforcement action by the Council will be taken in accordance with the Regulator's Code and Harrogate Borough Council's Safer Communities Enforcement Policy.
- 19.4** With regard to enforcement action the Authority will normally take a graduated approach and work with the licence/certificate holder, Designated Premises Supervisor (DPS) and relevant Responsible Authorities in ensuring the premises complies with the licensing laws and promotes the licensing objectives.
- 19.5** The Authority will seek to meet with the licence or certificate holder and/or DPS working closely with them and relevant Responsible Authorities in implementing a Premises Improvement Plan ("PIP") where appropriate.

- 19.6** Where the licence holder does not comply with an agreed PIP and continues to breach the licensing laws and/or licence conditions, the Authority will consider further sanctions, either by way of a review, simple caution, prosecution or serving a Section 19 Closure Notice.
- 19.7** However, where a licence holder acts irresponsibly, or serious issues are identified, firm action will be taken that may include immediate prosecution, particularly where the licensing objectives have been undermined.
- 19.8** Enforcement action will be:
- targeted toward those premises presenting the highest risk;
 - proportional to the nature and seriousness of the risk those premises present;
 - consistent, so that the Licensing Authority takes similar approaches in similar situations;
 - transparent, so those who are subject to enforcement action know what to expect;
 - accountable so that the Authority and its officers take responsibility for their actions.
- 19.9** The Authority will work in partnership with responsible authorities as appropriate, and conduct non-routine inspections to ensure compliance with the licensing conditions and the law. After each visit the DPS and licence or certificate holder shall be notified in writing of any concerns and be given an opportunity to rectify any issues. Where one off events take place, the Authority may also carry out inspections to ensure the licensing objectives are promoted. Where inspections are carried out solely by North Yorkshire Police, a written notification will not normally be issued.
- 19.10** The Authority may conduct checks to ensure that official notices for new and variation applications and reviews, are accurate and clearly displayed. Notices for reviews must be displayed at or near the site of the premises, and, where necessary, these may be regularly checked and recorded.
- 19.11** The licence/certificate holder is required to ensure that the Premises Licence/Club Premises Certificate, or certified copy of that licence or certificate, is kept at the premises and is available for inspection by an authorised officer at all times
- 19.12** The Act requires that a summary, or certified copy, is prominently displayed at the premises. With regard to enforcement, where a premise does not display the licence summary or does not have the licence/certificate, or certified copy, on the premises, then the Authority shall write to the licence/certificate holder giving them an initial warning prior to

taking any legal action. Continued failure will result in further sanctions being taken as outlined above.

19.13 The Government recommends that licensing authorities should set out joint enforcement protocols with the police and other authorities.

20 ANNUAL LICENCE FEES

20.1 The Police Reform and Social Responsibility Act 2011 give the Authority the power to suspend a licence or certificate if the holder fails to pay the annual licence fee promptly in accordance with the invoice. Where the licence/certificate holder fails to pay the annual fee, the Authority will notify the licence/certificate holder in writing specifying the date on which the suspension takes effect. This date will be two working days after the day the Authority has given the licence/certificate holder such notice. It is an offence to continue to undertake licensable activities when the licence/certificate has been suspended and appropriate action will be taken.

20.2 Where the licence/certificate holder has paid the annual fee the Authority will lift the suspension.

21 THE ROLE OF DISTRICT COUNCILLORS

21.1 The Authority recognises that District Councillors play an important role in the local community. They may make representations in writing and speak at the hearing on behalf of any other person such as a local resident or business if specifically asked to do so. They can also make representations in their own right if they have concerns about a premise.

21.2 District Councillors may attend hearings of licensing sub committees considering applications and speak on behalf of local residents and businesses, but only if:

- they have made a personal representation; or
- they have made a representation on behalf of local residents or business as 'community advocates; or
- they have been nominated by (an objector) who cannot attend the hearing or prefers to be represented at the hearing.

22 COMPLAINTS AGAINST LICENSED PREMISES

22.1 Complaints will be dealt with in a timely and efficient manner. All noise-related complaints should initially be raised with the Council's Environmental Protection team.

22.2 Complainants in the first instance should whenever possible, raise their complaint directly with the licensee in order to resolve the matter. The

Authority, however, recognises that it is not always possible or practical for the public to raise complaints directly with the licensed Complaints

- 22.3** Complaints regarding unlicensed activities and operating outside the permitted hours should be raised with the Council's Licensing team or Police Licensing Officer, contact details appear in Appendix 3.

23 COMPLAINTS AGAINST POLICY OR LICENSING APPLICATION PROCESS

- 23.1** Complaints against this Policy and the application process can be made in writing to:

Head of Safer Communities
Harrogate Borough Council
PO Box 787
Harrogate
HG1 9RW

24 LIVE MUSIC ACT 2012

- 24.1** Under the Live Music Act 2012 the public performance of live amplified and unamplified music between the hours of 0800 hours and 2300 hours is no longer a licensable activity. This applies to premises authorised by a premises licence or club premises certificate, for the sale or supply of alcohol for consumption on a premises.
- 24.2** In some cases, certain workplace locations, including schools, colleges, village and church halls may be excluded from the requirements to hold a premises licence or TEN but further advice should be sought from the Council's Licensing, for contact details see Appendix 3.
- 24.3** Any existing licence/certificate conditions relating to live music remain in place but are suspended between these hours
- 24.4** The Authority may impose new, or reinstate existing conditions, following a review of the premises licence or club premises certificate.

25 SEXUAL ENTERTAINMENT VENUES

- 25.1** Where an operator seeks to provide activities that include striptease or any other kind of nudity or sexual entertainment (for example, lap dancing clubs or topless waitresses), an application will need to be submitted for a Sexual Entertainment Venue Licence under the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.
- 25.2** A premises is not a sexual entertainment venue if :
- it is a sex cinema or sex shop;

- there have been no more than 11 occasions on which relevant entertainment has been provided, within a period of 12 months.

26 GAMING MACHINES

- 26.1** Compliance within the Gambling Commission's Codes of Practice relating to gaming machines on licensed premises is mandatory.

27 POLICY DETERMINATION AND REVIEW

- 27.1** The Authority will keep the Statement of Licensing Policy under review and make such revisions it feels appropriate. Where revisions are made, the Authority shall publish a standard of revisions or a revised Statement of Policy. The Authority may make revisions to this Policy following changes to, for example:

- local circumstances;
- the Licensing Act, associated regulations or statutory guidance;
- national legislation;
- the policies and practices of a responsible authority.

- 27.2** When reviewing the Policy the Authority will undertake comprehensive consultation, as detailed in Appendix 4. Consultees will be amended as appropriate

Tourism and Employment

- 27.3** Links where possible will be made to the Economic Development Programme and Tourism Strategy.

Culture

- 27.4** The Authority will keep under review the impact of licensing on regulated entertainment, and particularly live music and dancing. Where there is any indication that licensing requirements is deterring such events, the policy may be revisited with a view to investigating how the situation might be reversed.

Community Safety: Crime and Disorder

- 27.5** Arrangements are in place to ensure that proper integration with the Safer Harrogate District Local Delivery Group and the CCTV service is achieved. This will include where appropriate providing reports to the Safer Harrogate District Local Delivery Group Links where possible will be made to the local action and deliver plans and any relevant strategies.
- 27.6** The Authority will endeavour to ensure that the Licensing Function meets its responsibility under Section 17, Crime and Disorder Act 1998.

CCTV

- 27.7** Close partnership working and communication with Harrogate Borough Council's CCTV team are established to allow patterns and problems to be recognised and review specific incidents.

APPENDIX 1

OPERATING SCHEDULE, ISSUES TO BE CONSIDERED

General

Premises log book

Management and staff training and awareness of duties under the Licensing Act
Policies and procedures relating to e.g. age restricted sales, capacity, noise monitoring, dispersal, queuing, etc.

Safe capacities

Evidence of competent management procedures

Prevention of Crime and Disorder

Drugs policy

CCTV

Pub Watch and Radio links with other licensed premises

Security Industry Authority Door supervisors and Approved Contractor Scheme

Polycarbonate or shatterproof vessels

An appropriate ratio of tables and chairs to customers

Management of outside areas

Use of 'spikeys' or similar anti drink spiking device

Calming atmosphere at close of business/event

Safe capacities

Queuing policy

Stewards for events and event plan

Public Safety

Active promotion of non/ low alcoholic drinks, particular in premises with late night extended opening hours

Health and Safety and Fire Safety risk assessments and staff training

Safeguarding measures

Use of CCTV internally and externally, where appropriate

Safe capacities and monitoring procedures

Provision of local taxi companies who can provide safe transportation home

Procedures to control access to and egress from premises

Patrolling of premises

Glass clearance policy, both inside and outside, where appropriate

Use of "plastic" glasses i.e. after 2300 hours or for drinks to be consumed outside the premises

Control of ventilation

Control of litter immediately outside the premises

First aid trained staff

Adequate external lighting

Consideration of the safety of performers appearing at any premises

Indoor sporting events: medical practitioner; flame retardant material location of public to wrestling ring; water sports events – lifeguards

Stewards for events and event plan; and regard to standards of the National Sporting Body

Ensuring appropriate access for emergency services

Prevention of Public Nuisance

Control of general noise, disturbance, light, odour, litter and anti-social behaviour

Whilst regulated entertainment taking place, management of noise disturbance

Control of litter (e.g. cigarette ends, rubbish, printing of premises name on food wrappings etc.), vomiting, urinating and anti-social behaviour in the vicinity of the premises

Dispersal policy to ensure customers respect their neighbours

Removal of persons causing disturbance or under the influence of drink or drugs

Management of outside areas, e.g. pub gardens, smokers, etc.

Control of deliveries in early hours

Queuing policy

Winding down period

Partnership with local transport providers

Protection of Children from Harm

Refusals book

Consideration of access to premises where adult entertainment may take place

Consideration to proximity of premises to schools and youth clubs

Clarity on activities and times at which events take place to determine whether or not it is appropriate to allow access to children

Challenge 21/ 25 policy

Prompting mechanism on tills at retail outlets

Measures to control access to hotel minibars

Operational measures to avoid proxy purchases

How to prevent children from being exposed to alcohol sales at under age events, gambling, incidents of violence and disorder and drugs or drug taking

Consideration of safeguarding issues

Consideration of children as performers where relevant

Supervision of children

Under 18 event Code of Conduct, for example: searches, ticketed event, door supervisors, stewards monitoring event, set hours for event, restricted event, policy to ensure young people leave premise safely, etc.

APPENDIX 2

LICENSING ACT 2003 GLOSSARY

Alcohol	Includes beer, wine, cider, spirits or other fermented, distilled or spirituous liquor of, or exceeding, 0.5% strength. The definition of alcohol was amended by the Policing and Crime Act 2017 to include alcohol “in any state”. (Para 5.4 Section 182 Guidance)
Alcohol Wholesaler Registration Scheme (AWRS)	From 1 st April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) will need to ensure that the UK wholesalers that they buy alcohol from have been approved by the HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database. Businesses buying from an unapproved wholesaler may be liable to a penalty or could even face criminal prosecution and their alcohol stock may be seized. (Para 2.32 Section 182 Guidance).
Conditions:	
Proposed Condition	Conditions proposed by the applicant in the Operating Schedule
Imposed Condition	Conditions imposed by the Licensing Authority after a licensing hearing
Mandatory Condition	Conditions laid down by the Licensing Act 2003 as amended
Cumulative Impact	Where there is a potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area
Designated Premises Supervisor (DPS)	A specified individual holding a Personal Licence, who is responsible for the day to day running of the business and whose name will appear on the Premises Licence
DCMS	Department of Culture, Olympics, Media & Sport
Frivolous Representation	Representation or objection that is categorised by its lack of seriousness
Hot Food and Drink	Supplied on or from any premises is “hot” if the food or drink, or any part of it is above ambient temperature

Licence Holder	Licence holder is defined as the Premises Licence Holder or Club Premises Certificate Holder
Licensing Qualification	Qualification obtained from for example the British Institute of Innkeeping and a requirement for a Personal Licence
Occupancy Levels	Safe occupancy limits for a premises is determined by the size of the premises combined with ensuring that escape routes are adequate for the people, and numbers of people, who are likely to use them. This prevents overcrowding which can lead to crime, disorder and concerns over public safety
'Other Persons'	Defined as any individual, body or business affected by the operation of a licensed premises, regardless of their geographical location.
Prejudicial Interest (Members)	An interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest
Premises Improvement Plan	An agreed action plan with timeframes agreed between the licence holder and the Responsible Authority
Premises Licence	A Licence in respect of any premises, such as land or buildings within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless reviewed or revoked
Proprietary Clubs	Clubs run commercially by individuals, partnerships or business for the purpose of profit
Provisional Statement	A statement where premises are being constructed or extended or substantially altered that the Licensing Authority would be provisionally minded to grant a Licence on completion of the works
Proxy Purchases	Illegal purchasing of alcohol on behalf of a person under the age of 18
Qualifying Club	Where members have joined together for particular social, sporting or political purposes and then combined to buy alcohol in bulk as members. Examples of Qualifying Clubs are: <ul style="list-style-type: none"> • Conservative, Labour and Liberal Clubs • Royal British Legion/ Ex-Servicemen's Club • Working Men's Club

	<ul style="list-style-type: none"> • Social and Sports Clubs
Relevant licensed premises	Premises that are authorised to supply alcohol for consumption on the premises by a Premises Licence or Club Premises Certificate
Relevant Offences	As set out in Schedule 4 to the Licensing Act 2003
Relevant Representations	Representations, or objections, are relevant if they relate to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives
Safety Advisory Group (SAG)	A group of officers from Licensing, Highways, Police, Fire, Ambulance, Health and Safety, Emergency Planning formed to offer advice to applicants on carrying out events
Vexatious Representation	A representation may be considered vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification

APPENDIX 3

RESPONSIBLE AUTHORITY CONTACT LIST

In accordance with the S182 Guidance this policy lists all the relevant contact points where members of the public may obtain general advice. The Licensing Authority in particular recommends that all applicants seek advice from the Responsible Authorities below prior to submitting applications.

Licensing Authority

Licensing
Harrogate Borough Council
PO Box 787
Harrogate
HG1 9RW

Tel: 01423 500600 Ext 56843
E-Mail: licensing@harrogate.gov.uk

N.B. The Licensing Authority is also a Responsible Authority in its own right.

North Yorkshire Police

Alcohol Licensing Unit
North Yorkshire Police
Fulford Road
York
YO10 4BY

Tel: 01904 643273
E-mail: nyplicensing@northyorkshire.pnn.police.uk

North Yorkshire Fire & Rescue Authority

Station Manager
North Yorkshire Fire & Rescue Service
Northallerton Fire Station
Crosby Road
Northallerton
DL6 1AB

Environmental Health Services

Harrogate Borough Council
Environmental Protection
PO Box 787
Harrogate
HG1 9RW

Tel: 01423 500600 Ext 56633
E-mail: environmentalprotection@harrogate.gov.uk

Continued overleaf.....

Health & Safety Enforcement for all non-Local Authority/County Council-owned and operated premises:

Harrogate Borough Council Tel: 01423 500600 Ext 56815
Food and Occupational Safety E-mail: foodandoccupationalsafety@harrogate.gov.uk
PO Box 787
Harrogate
HG1 9RW

OR

Health & Safety Enforcement for all Local Authority/County Council-owned and operated premises

The Operations Manager Tel: 0113 283 4200
Health & Safety Executive Fax: 0113 283 4382
The Lateral
Leeds
LS11 9AT

Planning Services

Harrogate Borough Council Tel: 01423 500 600
Planning Department E-mail: DMST@harrogate.gov.uk
PO Box 787
Harrogate
HG1 9RW

Children and Young Persons

Children and Young Persons Participation, Quality & Standards Officer
Children's Social Care
Room SB009 South Block Tel: 01609 780780
North Yorkshire County Council
County Hall
Northallerton
DL7 8AE

Trading Standards

North Yorkshire Trading Standards
Unit 4/5, Block B Tel: 01609 534800
Thornfield Business Park
Standard Way
Northallerton
DL6 2XQ

Continued overleaf.....

Public Health

Dr Lincoln Sargeant
Director of Public Health
North Yorkshire County Council
County Hall
Northallerton
DL7 8AD

Tel: 01609 780780
E-mail: nypublichealth@northyorks.gov.uk

Home Office Immigration

Home Office UK Visas and Immigration (UKVI)
Alcohol Licensing Team
Lunar House
40 Wellesley Road
Croydon, CR9 2BY

For vessels only

Maritime & Coastguard Agency

Surveyor in Charge
Maritime & Coastguard Agency
Crosskill House
Mill Lane
Beverley
HU17 9JB

Tel: 01482 866 606
E-mail: mcahull.mo@mcga.gov.uk

This list may from time to time be subject to change and applicants and existing licence holders are recommended to contact the Licensing Authority for an up to date list.

APPENDIX 4

List of consultees

Abbeyfield
Accent Group
All District Councillors
Andrew Jones, MP
Parish Councils
British Beer and Pub Association
Broadacres Housing Association Limited
Federation of Small Businesses
Guinness Northern Counties
Harrogate BC – Environmental Protection
Harrogate BC - Planning
Harrogate Bid
Harrogate & Rural District Clinical Commissioning Group
Harrogate and District NHS Foundation Trust
Harrogate District Chamber of Commerce
Harrogate Families Housing Association
Harrogate Convention Centre
Harrogate Justice Centre
Home Housing Association Limited
Home Office UKVI
Julian Smith, MP
Knaresborough Chamber of Trade
Leeds Federated Housing Association
West and North Yorkshire Chamber of Commerce
Nidderdale Chamber of Commerce
Nigel Adams, MP
North Yorkshire County Council Partnerships
North Yorkshire Safeguarding Children
North Yorkshire County Council-Trading Services
North Yorkshire County Council – Public Health
North Yorkshire Fire and Rescue Service
North Yorkshire Police Licensing
Public Health England
Places for People
Police, Fire and Crime Commissioner
Public Health England
Pubwatch Harrogate
Pubwatch Knaresborough
Ripon City Council
Sanctuary Housing Services Limited
The Association of Licensed Multiple Retailers
The Wine and Spirit Trade Association
Club and Institute Union
Yorkshire Ambulance Service
Yorkshire Housing Association
YMCA

