

Mission Statement

To Improve the Quality of Life
For Those Who Live and Work in The District

26 October 2007

Dear Councillor

You are hereby invited to a meeting of the Licensing Committee to be held in Committee Room 2, Civic Centre, Portholme Road, Selby on Monday 5 November 2007 commencing at 10:00 am.

The agenda is set out below.

1. Apologies for Absence and Notice of Substitution

To receive apologies for absence and notification of substitution.

2. Disclosure of Interest

To receive any disclosures of interest in matters to be considered at the meeting in accordance with the provisions of Section 117 of the Local Government Act 1972, and Sections 50, 52 and 81 of the Local Government Act 2000 and the Members' Code of Conduct adopted by the Council.

3. Minutes

To confirm as a correct record the minutes of the proceedings of the meeting of the Licensing Committee held on 8 October 2007 (pages 5 to 7 attached).

4. Procedure

To outline the procedure to be followed at the meeting (pages 8 to 9 attached).

5. Chair's Address to the Licensing Committee

6. Change in legislation regarding Contract Exemption for Private Hire Vehicles

Report of the Head of Service – Legal and Democratic Services (pages 10 to 12).

7. Licensing Policy

Report of the Head of Service – Legal and Democratic Services (pages 13 to 146).

8. Private Session

That in accordance with Section 100(A)(4) of the Local Government Act 1972 in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 3 of Part 1 of Schedule 12(A) of the Act.

9. Application for Hackney Carriage Licence

Report of the Head of Service – Legal and Democratic Services (pages 147 to 167).

M Connor
Chief Executive
26 October 2007

Disclosure of Interest – Guidance Notes:

- (a) Councillors are reminded of the need to consider whether they have any personal or prejudicial interests to declare on any item on this agenda, and, if so, of the need to explain the reason(s) why they have any personal or prejudicial interests when making a declaration.
- (b) The Democratic Services Officer or relevant Committee Administrator will be pleased to advise you on interest issues. Ideally their views should be sought as soon as possible and preferably prior to the day of the meeting, so that time is available to explore adequately any issues that might arise.

[Please note that the papers relating to the applications have been circulated to councillors of the Licensing Committee only, who should return the agenda to Democratic Services at the conclusion of the meeting to enable the papers to be destroyed confidentially].

Dates of Future Meetings of the Licensing Committee

Date of Meeting	Deadline Date	Distribution Date
3 December 2007	15 November 2007	23 November 2007
7 January 2008	14 December 2007	27 December 2007

Membership of the Licensing Committee 10 Members

Conservative	Labour	Independent
J Dyson	D Davies	J McCartney
K McSherry	S Duckett	
C Pearson (Vice-Chair)		
S Ryder		
R Sayner (Chair)		
A Spetch		
D White		

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SELBY DISTRICT COUNCIL

Minutes of the proceedings of a meeting of the Licensing Committee held on Monday 8 October 2007, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10:00 am.

354	Minutes
355	Procedure
356	Chair's Address to the Licensing Committee
357	Private Session
358	Application for a Hackney Carriage Licence
359	Application for a Private Hire Driver's Licence
360	Application for a Hackney Carriage Licence

Present: Councillor C Pearson in the Chair

Councillors: Mrs D Davies, J Deans (for R Sayner), Mrs J Dyson, Mrs S Duckett, Mrs C Mackman (for Mrs K McSherry), Mrs A Spetch and Mrs D White.

Officials: Head of Service – Legal and Democratic Services, Licensing Enforcement Officer, Trainee Solicitor, Democratic Services Officer, Committee Administrator

Public: 0

Press: 0

352 **Apologies for Absence and Substitution**

Apologies were received from Councillors Mrs K McSherry and R Sayner.

Substitute Councillors were Mrs C Mackman (*for Mrs K McSherry*) and J Deans (*for R Sayner*).

353 **Disclosure of Interest**

None

354 **Minutes**

Resolved:

That the minutes of the proceedings of the meeting of the Licensing Committee held on 10 September 2007 be confirmed as a correct record and be signed by the Chair.

355 **Procedure**

The Procedure was noted.

356 **Chair's Address to the Licensing Committee**

The Chair gave no address.

357 **Private Session**

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, as there will be disclosure of exempt information as defined in paragraphs 1 and 3 of Part 1 of Section 12A of the Act, as amended by the Local Government (Access to Information) (Variation) Order 2006.

358 **Application for a Hackney Carriage Licence**

Councillors received the report of the Licensing Enforcement Officer for the grant of a Hackney Carriage Licence for a Ford Mondeo, a vehicle not fully accessible to the disabled.

Councillors and the applicant were issued with a copy of the Licensing Guidelines.

The Licensing Enforcement Officer outlined the details of the case.

The driver concerned outlined his reasons for the application.

After consideration, councillors were satisfied for the licence to be granted.

Resolved:

That the application for a hackney carriage licence for a vehicle not accessible to the disabled be granted.

359 **Application for a Private Hire Driver's Licence**

Councillors received the report of the Licensing Enforcement Officer in respect of the applicant's desire to be issued with a Private Hire Driver's Licence and his fitness to operate as a consequence of a CRB disclosure.

Councillors and the applicant were issued with a copy of the Licensing Guidelines.

The Licensing Enforcement Officer outlined details of the case.

The applicant then gave details of the concerns raised by the content of the disclosure.

Councillors gave consideration to the full facts regarding this matter and were satisfied for the application to be granted.

Resolved:

That the applicant be issued with a private hire driver's licence.

360

Application for a Hackney Carriage Licence

Councillors received the report of the Licensing Enforcement Officer for the grant of a Hackney Carriage Licence for a Ford Mondeo, a vehicle not fully accessible to the disabled.

Councillors and the applicant were issued with a copy of the Licensing Guidelines.

The Licensing Enforcement Officer outlined the details of the case.

The driver concerned outlined his reasons for the application.

After consideration, councillors agreed that the application be deferred until the applicant could produce accounts for the previous two years.

It was confirmed that the applicant could work on temporary plates whilst awaiting the final decision of the committee.

Resolved

That the application be deferred and that the applicant be requested to present to the committee the appropriate accounts in relation to his application.

The meeting closed at 11.30am

LICENSING COMMITTEE

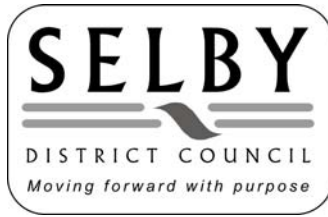
PROCEDURES TO BE FOLLOWED

The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Councillors of the Committee can take into account is evidence previously submitted to form the agenda and any verbal evidence given at the actual meeting by Officers representing the Council and by the applicant or his/her representative, and their witnesses. The following procedures must be followed.

1. Procedures to be followed when submitting an application to the Licensing Committee for consideration;
 - i) The Council's Officers will liaise with the Committee Section to arrange a suitable date for the meeting. The applicant and Members of the Committee will be informed of this date in writing and a copy of the procedure note will be included for the applicant.
 - ii) The applicant and Council's Officers will submit any written evidence to the Committee Section for inclusion in the agenda by a given date. If the evidence is to be verbal, this should be stated.
 - iii) If witnesses are to be called the Committee Section must be notified prior to the hearing.
 - iv) Any application for adjournment because of late submission of papers, will in principle be considered sympathetically by the Committee.
2. The procedure to be followed by the Licensing Committee:
 - i) For each individual case the applicant and any representatives will be shown into the Committee Room at the same time as the appropriate Council's Officers. Witnesses will enter the room at the same time unless there are any objections.
 - ii) The Head of Service – Legal and Democratic Service will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
 - iii) The Chair will introduce Councillors of the Committee.
 - iv) The Chair will then go through the procedure as follows:

- a) Officers representing the Council will present the case for the Council. They may present such witnesses as they believe are appropriate.
- b) Officers representing the Council, and any witnesses, will then answer questions from the applicant or his/her representative, and from Members of the Committee.
- c) The applicant or his/her representative will then present the applicant's case. They may present such witnesses as they believe are appropriate.
- d) The applicant or his/her representative, and any witnesses, will then answer questions from the Committee and the Council's Officers.
- e) The Council's Officers will then sum up on behalf of the Council.
- f) The applicant or his/her representative will then sum up.
- g) The applicant and his/her representative will then be asked whether they consider they have had a fair hearing and the Committee will take into account any comments, which are then made. The Chair of the Committee will then ask the Council's Officers presenting the case the same question and will again take account of any comments made.
- h) The Council's Officers, the applicant and his/her representative, all witnesses, will then withdraw from the meeting whilst the Committee makes their decision on the evidence presented.
- i) The applicant and his/her representative, the Council's Officers, all witnesses, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Head of Service – Legal and Democratic Services will write to the applicant informing them of the decision of the Licensing Committee.



Public Session

Agenda Item No: 6

Title: Impending changes to the law relating to contract hire vehicles – repeal of Section 75 (contract exemption) by Section 53 of the Road Safety Act 2006

To: Licensing Committee

Date: 5 November 2007

Service Area: Legal and Democratic Services

Author: Tim Grogan

Presented by: Tim Grogan

1. Purpose of Report

- 1.1 To apprise the Licensing Committee of legislative changes and the demands on staff resources.

2. Recommendation(s)

- 2.1 **That the councillors note the repeal of Section 75 of the Local Government (Miscellaneous Provisions) Act 1976 by Section 53 of the Road Safety Act 2006 and the actions identified in the report.**

3. Executive Summary

- 3.1 This report is to inform councillors of the impending legislative amendment to the Local Government (Miscellaneous Provisions) Act 1976, which currently allows vehicles to be used on contract hire without the vehicle or driver being licensed with the local authority.

4. The Report

- 4.1 The history of this matter is that currently throughout England and Wales but excluding the Metropolitan area of London, vehicles, drivers and their operators are exempt from the requirement to be licensed for private hire

usage if they are used for contracts lasting not less than seven days. This is commonly known as contract exemption.

- 4.2 For example, this might relate to a contract to convey children to school or persons to hospital on a regular basis.
- 4.3 Ministers recognised that this posed a significant safety risk and decided that from January 2008 this exemption will no longer be available. The part of the Local Government (Miscellaneous Provisions) Act 1976 currently allowing this exemption will be repealed by the Road Safety Act 2006.
- 4.4 Once Section 53 of the Road Safety Act 2006 comes into force next year, a large number of vehicles and drivers who were previously able to benefit from this exemption will require licensing. Licensing Authorities may, therefore, expect an increase in enquiries and applications from this previously unregulated sector. The type of vehicles affected by the new legislation might include hospital cars, airport transport services, hotel cars and stretch limousines. At the present time we are unable to assess the number of vehicles, which may need licensing within the district of Selby.
- 4.5 There is currently an exemption for vehicles used solely for weddings and funerals and this will remain the case.
- 4.6 In preparation of this change in legislation the department will contact known contract holders and undertake a media campaign.

5. Financial Implications

- 5.1 At this time it is not possible to assess the likely financial implications to the Council and a further report will be presented to the Committee as and when the increase in numbers of licensed individuals can be ascertained following the introduction of the new legislation.

6. Link to Corporate Plan

- 6.1 It is the Corporate Policy of the Council to promote the health and safety of those who live and work in the District.

7 How Does This Report Link to Council's Priorities?

- 7.0 It is a Council priority to promote the health and safety of those who live and work in the District.

8 Impact on Corporate Policies

- 8.1 **Service Improvement** **No Impact**
- 8.2 **Equalities** **No Impact**
- 8.3 **Community Safety and Crime** **Impact**

The change in legislation will serve to assist in the reduction of crime and disorder by ensuring the safety of the travelling public within Private Hire Vehicles and help to produce a more positive image on the district of Selby

8.4 **Procurement** **No Impact**

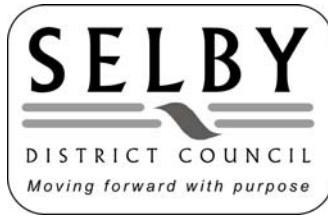
8.5 **Risk Management** **No Impact**

8.6 **Sustainability** **No Impact**

8.7 **Value for Money** **No Impact**

9 Background Papers

9.1 A copy of Section 53 of the Road Safety Act 2006 is available in the Legal Department.



Public Session

Agenda Item No: 7

Title: Licensing Policy
To: Licensing Committee
Date: 5 November 2007
Service Area: Legal and Democratic Services
Author: Tim Grogan
Presented by: Tim Grogan

1. Purpose of Report

- 1.1 To consider Selby District Council's Licensing Policy and approve its content prior to consideration by full Council.

2. Recommendation(s)

- 2.1 **That the Licensing Policy prepared under the authority of the Licensing Act 2003 and reviewed in 2007 be recommended for approval by full Council.**

3. Executive Summary

- 3.1 The Licensing Policy was originally drafted by the Licensing Department in 2004 in accordance with the Licensing Act 2003. It was approved by the Licensing Committee at a meeting held on 29th November 2004 and subsequently adopted by full Council on the 14th December 2004. The Policy has remained in force for three years after which it now requires to be reviewed. A review has deemed the Policy requires only minor amendment and copies of the original document and the amended version are attached to this report for consideration.

4. The Report

- 4.1 The history of this matter is that Selby District Council in common with all Local Authorities responsible for licensing the supply of alcohol, entertainment and late night refreshment under the Licensing Act 2003 was required to draft a Licensing Policy to come into force in January 2005. Essentially this policy impacts upon the manner the District Council conducts its Licensing business, which includes the operation of its Licensing Committee.
- 4.2 The Policy was duly drafted and consultation with regards to its content was wide and varied. This consultation included the relevant statutory bodies. Under the Act it is a statutory requirement to review the Policy every three years.
- 4.3 The Licensing Department has reviewed the policy and decided it required no alteration. Accordingly it consulted in the manner previously described.
- 4.4 As a consequence of the consultation only the British Beer and Pub Association responded and following their letter it has been decided to slightly amend the policy in line with some of the comments made. These are minor changes but seen as necessary. They relate to items involving the following sections: **3.4(g), 3.4(h), 5.6 and 7.2**. The appendices remain unaltered. Other changes requested by the Association have been resisted.

5. Financial Implications

- 5.1 There are no financial implications.

6. Link to Corporate Plan

- 6.1 It is the Corporate Policy of the Council to promote the health and safety of those who live and work in the District.

7 How Does This Report Link to Council's Priorities?

- 7.0 It is a Council priority to promote the health and safety of those who live and work in the District.

8 Impact on Corporate Policies

- | | | |
|-----|---|------------------|
| 8.1 | Service Improvement | No Impact |
| 8.2 | Equalities
The Licensing Policy shows in broad terms the expectations of the Council's requirement in respect of licensing issues. | Impact |
| 8.3 | Community Safety and Crime
The Licensing Policy shows in broad terms the expectations of the Council's requirement in respect of licensing issues | Impact |

- | | | |
|-----|------------------------|------------------|
| 8.4 | Procurement | No Impact |
| 8.5 | Risk Management | No Impact |
| 8.6 | Sustainability | No Impact |
| 8.7 | Value for Money | No Impact |

9 Background Papers

- 9.1 Copy of the original letter sent out from the Licensing Department to consultees
- 9.2 Copy of email and letter from the Beer and Pub Association
- 9.3 Copy of email in response to above letter from the Licensing Department
- 9.4 Copy of email in response to above response
- 9.5 The District Council's original Licensing Policy.
- 9.6 The District Council's amended Licensing Policy.

SELBY DISTRICT COUNCIL

LICENSING POLICY

November 2004



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PREFACE

The new Licensing Act 2003 is designed to simplify the current complex regulatory framework covering the sale of alcohol, the provision of entertainment and the sale of hot food at night.

It is the first substantial change to the licensing laws in 90 years. It will affect pubs and nightclubs, cinemas, theatres, off-licences, restaurants, hotels, guest houses and shops selling alcohol and businesses selling hot food and/or drink between 11.00 p.m. and 5.00 a.m.

The Act has four fundamental objectives: **the prevention of crime and disorder; public safety; prevention of public nuisance and the protection of children from harm.**

Responsibility for licensing premises and individuals will move from magistrates to the council. The council will review its licensing policy every three years to meet the changing needs of the district.

1. PROFILE OF SELBY DISTRICT

- 1.1** Selby District Council covers an area of 227 square miles situated to the south of York. It is the most southerly District Council in North Yorkshire and it is primarily rural in character and aspect with a dispersed settlement pattern.
- 1.2** The District's population is approximately 76,500 and the principal towns are Selby, Sherburn and Tadcaster. There are 59 Parish Councils as well as various Parish and Community Meetings. Selby in particular is of historical importance built as it is around Selby Abbey. As a consequence tourism and leisure are important industries.
- 1.3** There is a diverse residential population which we have a duty to protect in line with the aims and objectives of the Licensing Act 2003. It is an aim of Selby District Council to secure the safety and amenity of the residential communities, whilst facilitating sustained entertainment for the benefit for the benefit of the residents of the district.
- 1.4** There are presently approximately 400 licences issued in respect of licensed premises and these cover a wide spectrum including public houses, licensed clubs, night clubs, restaurants and late night food establishments.
- 1.5** The Council welcomes the modernisation of licensing legislation and believes a balanced application of the Act 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, nuisance and anti-social behaviour;
 - improving the quality of life by bringing greater choice to residents, consumers, tourists and businesses about how they spend their leisure time;
 - encouraging more family friendly premises where younger children can be free to go with the family;
 - further developing a rich culture of live music, dancing and theatre in the area.

2 INTRODUCTION

- 2.1** Selby District Council is responsible under the Licensing Act 2003 for the licensing of 'licensable activities within its area. The licensable activities required to be licensed under the act are as follows:
- the sale by retail of alcohol (including via the internet or mail order);
 - the wholesale of alcohol to members of the public;
 - the supply of alcohol to members of qualifying clubs;

- the provision of regulated entertainment in the presence of an audience including the performance of a play, film exhibitions, indoor sporting events, boxing or wrestling events, performance of live music and playing of recorded music (except incidental music), dance performances and entertainment of similar descriptions;
- the provision of late night refreshment including the supply of hot food or hot drinks between 11pm and 5am;
- the permitting of licensable activities on an occasional basis to be known as Temporary Event Notices;
- the licensing of individuals for the retail sale of alcohol (Personal Licences see Appendix C);
- authorising of Premises Supervisors in premises supplying alcohol (Designated Premises Supervisors must also hold a Personal Licence).

2.2 The Licensing Act 2003 imposes a duty on the council to produce, develop and review a Statement of Licensing Policy that sets out what the council will generally apply in considering its responsibilities in promoting the licensing objectives when making decisions under the Act. The Council will actively seek to promote the four statutory licensing objectives that are set out in Section 5 of the Licensing Act 2003 which are as follows:

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

Each objective is of equal importance and the Council's policy relating to each of them is given in the Licensing Policy. The Council will where it believes necessary, consider attaching conditions to licences to promote these objectives.

2.3 This Licensing Policy has been prepared in accordance with provisions of the licensing Act 2003 and the Guidance issued by the Secretary of State under Section 182 of the Act. **The Policy will take effect on 7th February 2005** and will remain in force not more than 3 years. The statement of Licensing Policy is a live document subject to continuous review to meet the changing needs of the community and legislation. A formal review of the Policy will be made in January 2008. Any amendments to the Policy will be made with those parties shown in paragraph 2.4.

2.4 There are a number of groups who have an interest in the licensing of premises under the Act, including the trade, customers, residents and enforcement agencies. These parties each have views that require

consideration. Before publishing the Licensing Policy the Council will have full consultation with the following statutory consultees;

- (a) the Chief Officer of Police for the area (North Yorkshire);
- (b) the Fire Authority for the area (North Yorkshire);
- (c) persons/bodies representative of local holders of premises licences;
- (d) persons/bodies representative of local holders of club premises certificates;
- (e) persons/bodies representative of local holders of personal licences;
- (f) persons/bodies representative of business and residents in the area.

In addition, the Council may also consult with other agencies as appropriate. The views of all those listed will be given appropriate weight when Policy is determined.

2.5 The aim of the Policy is to strike a balances between:

- **securing the safety and amenity of residential communities, members of the public living, working or engaged in normal activity in and around the district;**
- **encouraging a sustainable entertainment and cultural industry.**

2.6 Licensing is about control of licensed premises, qualifying clubs and temporary events within the terms of the Act. The terms and conditions will be focussed therefore on matters within the control of the licensees and others granted relevant permissions. Accordingly these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.

2.7 When considering conditions the Council will focus on the direct impact that activities planned or taking place at licensed premises, qualifying clubs and temporary events may have on members of the public attending, living, working or engaged in normal activity in and around the area concerned.

2.8 The Council accepts that licensing law is not legislation controlling anti-social behaviour when it is divorced from licensed premises or individuals. This is the province of the Police. However, the Council expects licence and certificate holders to be responsible for minimising the impact of anti-social behaviour by their patrons within the immediate vicinity of their premises.

2.9 The Policy is intended to ensure that the provision of additional opportunities for licensable activities are matched by appropriate and proportional measures enabling the police and licensing authorities to act promptly to maintain public order and safety.

2.10 The Policy sets out a general approach to making licensing decisions that underpins the provisions of the Act and its associated guidance. It

is not intended to undermine the rights of any individual to apply for various permissions and each case will be considered upon its own merits.

- 2.11 The Policy does not override the right of an individual to make representations on an application or seek a review of a licence or certificate, where provision has been made for them to do so under the Act. However, frivolous, vexatious or repetitive representations will be disregarded. All appropriate representations will be weighted accordingly.
- 2.12 The Council will avoid duplication of existing legislation that already places obligations upon employers and operators. Conditions in respect of public safety will only be attached to licences for the promotion of licensing objectives.
- 2.13 In considering applications the Council will apply all definitions imposed not merely by the Act but by associated guidance and secondary regulations.
- 2.14 In pursuance of the Act the Council intends to work in partnership with statutory bodies and agencies located in Selby District to ensure a consistent approach is taken on licensing matters having regard also to individual community needs.
- 2.15 The Council will not require that access to licensed premises is given to children all times or limit such access unless it is necessary for promotion of the licensing objectives particularly in relation to preventing harm to children, for example:
- where entertainment of an adult or sexual nature are commonly provided;
 - where there have been convictions of members of staff for under age alcohol sales;
 - where the premises has a known reputation for under age drinking;
 - where premises have a known association with the use of illegal drugs;
 - where there is strong element of gambling on the premises. However, this would not include the presence of small numbers of cash prize gaming machines;

where the supply of alcohol for consumption on the premises is the exclusive purpose of that premises.

- 2.16** The Council expects to balance the needs of the wider and local communities, businesses against the needs of those who may be adversely affected by the applicant's activities.
- 2.17** Should the Council require to depart from the guidance provided a clear and sound reason for doing so will be published.
- 2.18** The Council may establish a Licensing forum made up of representatives from licensed premises, personal licensees, businesses, residents and other interested parties to meet periodically to discuss matters relating to the Policy.
- 2.19** The Licensing Committee will receive reports from those service departments and committees with responsibility for transport, tourism, the District's economy, cultural strategy and local employment at recognised intervals to ensure that issues can receive appropriate consideration.
- 2.20** The Licensing Committee may provide reports to the Planning Committee regarding Licensed Premises within the District. Such reports may include numbers and types of licensed applications received per ward.
- 2.21** The Licensing Committee will seek to impose only those conditions appropriate when licensing cultural events in order to promote the objectives of the Act.
- 2.22** The Council will monitor the impact of licensing on both regulated entertainment and the sale and supply of alcohol within the community and react accordingly.

GAMING MACHINES

- 2.23** Permits under Section 34 of the Gaming Act 1968, currently granted by the Licensing Justices for Amusements With Prizes Machines (AWPs) in premises that provide alcohol are now within the remit of the Licensing Act 2003 and therefore the Licensing Committee.
- 2.24** Despite the Gaming Act requiring that all machines be sited within view of the bar, this condition cannot be applied by the Council. The Licensing Committee can merely limit the number of machines. The Council will grant permits authorising up to two machines but any increase will necessitate the applicant attending a hearing.
- 2.25** This hearing will consider the size and layout of the premises and evidence of usage and further demand.

HUMAN RIGHTS

- 2.26 The Human Rights Act 1998 makes it unlawful for a Council to act in a way that is incompatible with a convention right.
- 2.27 **In conducting its business as the Licensing Authority for Selby District, the Council will have regard to the following provisions of the First Protocol of the European Convention on Human Rights:**
- **Article 1**
Every person is entitled to the peaceful enjoyment of his or her possessions
 - **Article 6**
In the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
 - **Article 8**
Everyone has a right of respect for his/her home and private life.

LICENSING POLICY OBJECTIVES

3. PREVENTION OF CRIME AND DISORDER

- 3.1 Licensed premises, particularly those offering late night entertainment, alcohol and refreshment, can sometimes become the source of public nuisance or crime and disorder problems. **The Council expect licensees to develop Operating Schedules that satisfactorily address those issues from the design of the premises through to the daily operation of the business.**
- 3.2 **In developing Operating Schedules applicants should take notice of this Policy and should seek advice where appropriate from the Council's Licensing Officer or the North Yorkshire Police Licensing Officer based at Selby Police Office.**
- 3.3 Quite separate from the Licensing Act the Council has a duty under Section 17 of the Crime and Disorder Act 1998 to prevent crime and disorder in the district. **The Council expects applicants to consider what action they can take in the management of their premises that will contribute to the reduction of crime and disorder.**
- 3.4 When considering all licence applications the Council will take into account the measures proposed to deal with the prevention of crime and disorder. **Applicants should include how they intend to address these issues within their Operating Schedule. The Council would normally expect that other than in unforeseen and avoidable circumstances a holder of a Personal Licence will be on the licensed premises when the premises are open for the sale of alcohol.** The Council will consider the actions the applicant has taken or intends to take in respect of the following:

- (a) The ability of the person in day to day charge to monitor the premises at all times it is open. The Council wish that the Designated Premises Supervisor would be in attendance at the premises at all times when the premises is open to licensing activities after 11pm and prior to closing;
- (b) The training given to staff regarding the prevention of crime (this would relate to public safety, conflict management, alcohol and drug issues);
- (c) Where necessary the use of CCTV;
- (d) Any appropriate security features relating to the storage of alcohol and the location of cash registers etc;
- (e) The measures employed to prevent the illegal use of drugs and offensive weapons;
- (f) That in the case of door staff being required the number be determined by the Designated Premises Supervisor having regard to the Licensing objectives;
- (g) Any other measure that may be appropriate in supporting the aim of the Act. (for example membership of pubwatch or shopwatch);where entry to premises is subject to age restriction that a recognised procedure is in place to conduct age verification checks. The Council would expect this to include the production of a citizen card, Portman card, Driving Licence or Passport;
- (h) The Operating Schedule shall specify how long customers are expected to finish their drinks, once the sale of alcohol has ceased. This is known as 'drinking up time' and **the Council will expect this time not to exceed 30 minutes;**
- (i) **Shops and supermarkets wishing to sell alcohol by retail will normally be expected to match their permitted hours to their normal trading hours unless there are compelling reasons relating to the prevention of crime and disorder to restrict these hours.**

3.5 Applicants wishing to apply for a premises licence involving the provision of entertainment and the sale of alcohol late at night may also have to show that they comply with the Home Office guidance on '**safer clubbing**'. In addition they should agree a protocol with the Council and the Police on the handling of illegal drugs.

3.6 The Council will review orders made under the Police and Criminal Justice Act 2001 regarding the consumption of alcohol in designated areas.

3.7 The Council will consider where necessary though not as a standard procedure to impose one or more conditions to licences and club certificates to prevent crime and disorder. These conditions are detailed in Appendix A.

DOOR SUPERVISORS

3.8 Door supervisors are important to ensure that premises are secure from disorder. Illegal access, occupation or damage. **From the 13th December 2004 all staff acting or Door Supervisors on licensed premises will be required to be licensed by the Security Industry Authority.**

4. CUMULATIVE EFFECT OF LICENCES ON THE AMENITY OF PARTICULAR AREAS

4.1 The Council will not take 'need' into account when considering applications. This is a matter for planning control in conjunction with normal market forces. However, the Council understands the cumulative impact of the number, type and density of licensed premises in areas, such as Selby, Tadcaster and Sherburn, may lead to problems of nuisance and disorder.

4.2 Representations may be received from any responsible authority or interested party that an area has become saturated with premises making it a focal point for individuals to gather and therefore create the conditions likely to promote disorder and crime.

4.3 In these circumstances, the Council may consider the imposition of conditions as unlikely to rectify matters and therefore may consider the adoption of a special policy of refusing new premises licences or club premises certificates on the grounds of saturation and therefore undermining the licensing objectives.

4.4 The Council will take the following steps when considering whether to adopt a special saturation policy:

- the identification of serious and chronic concern from a responsible authority or representative of residents about nuisance and disorder;
- where it is demonstrated that disorder and nuisance is arising as a result of customers from licensed premises, identifying the area from which problems are arising and the boundaries of that area;
- assessing the cause;
- adopting a policy about further licence applications from that area.

4.5 The Council will consider representations based on the impact on the promotion of the licensing objectives in the district.

4.6 The onus, however, will be upon the objectors to provide evidence to support that addition of new premises would create a cumulative effect.

4.7 The Council will review any special saturation policies every three years.

4.8 The Council will not use policies solely;

- as the grounds for removing a licence when representations are received about problems with existing licensed premises;
 - to refuse modifications to a licence, except where the modification is directly relevant to the policy.
- 4.9 The Council recognises that the diversity of premises providing alcohol, food and entertainment covers a wide range of contrasting styles and will have full regard to those differences and their impact upon local communities.
5. PUBLIC SAFETY
- 5.1 Each of the type of premises covered by the Act present a mixture of risk to public safety. Some may be of a general nature whilst others may be premises or location specific.
- 5.2 It is essential that premises are operated in order that occupants are kept safe. The premises will also need to have obtained the relevant planning permission. A key issue will be safe occupancy levels, particularly where a current fire certificate does not take into account the licensable activity. **Safe occupancy levels will be imposed where considered necessary.**
- 5.3 The Council will expect Operating Schedules to satisfactorily address the relevant fire and health and safety legislation issues and applicants are advised to seek advice from the Council's Licensing Officer and North Yorkshire Fire and Rescue Service.
- 5.4 Where an inspection is required for premises, the Council's Licensing Officer will promote consistency by co-ordinating inspections with the fire authority, police, building control and environmental health officers as appropriate.
- 5.5 The purpose of imposing occupancy levels is to ensure the safety of occupants. These levels will normally be set in conjunction with North Yorkshire Fire and Rescue Service and the Council's appropriate officers. In accordance with the Secretary of State's guidance it should be noted that where a fire certificate has been issued under the Fire Protection Act 1971, premises will not have an occupancy level imposed under the Act unless the fire authority recommends a change.
- 5.6 Licence applications should normally accompanied by:
- a scaled plan of the premises, denoting the areas to be licensed including beer gardens where appropriate and all existing and proposed fire safety features, including seating arrangements;
 - suitable risk assessments;
 - a plan detailing how the premises will be managed and maintained to ensure public safety;

- maximum occupancy levels.

5.7 The Council will consider attaching conditions to licences and certificates to promote public safety. Any conditions will be premises specific and not imposed as standard procedure.

6. PREVENTION OF NUISANCE

6.1 Licensed premises by their very nature can sometimes create a range of nuisance which impacts negatively upon local communities.

6.2 The Council understands the importance of the licensing trade to the local economy and the leisure and cultural aspirations of the district. It will therefore work together with all interested parties, statutory agencies and licensed businesses to ensure mutual co-existence.

6.3 In considering all licence applications **the Council will take into account the adequacy of measures proposed to deal with the potential for nuisance in the premises Operating Schedule. As a consequence the Council will consider the action taken by the applicant with regard to the following:**

- (a) Preventing inappropriate noise and vibration escaping from the premises including music, noise from ventilation equipment and human voices;
- (b) Preventing disturbance by customers arriving at or leaving premises;
- (c) Ensuring that in the event of queuing that the queues are managed to prevent disturbance and obstruction;
- (d) Ensuring that the arrival and departure of patrons and staff are managed in a manner not likely to disturb residents;
- (e) Consideration of CCTV where appropriate;
- (f) Preventing the illegal possession and supply of drugs;
- (g) Preventing nuisance caused by refuse, vomit, urine or litter;
- (h) Any other measures that will contribute to reducing likelihood of nuisance by use of communication (use of pubwatch, shopwatch, radios etc).

6.4 The Council will consider imposing conditions to licences and permissions to prevent public nuisance but these will be premises specific and not to be attached as a standard procedure.

6.5 The Council is aware that there are a number of instruments available to combat unruly behaviour that occurs away from licensed premises:

- planning control
- powers to designate parts of the district as no alcohol areas

- police and the Council enforcement of the law with regard to anti-social behaviour
- the power of authorised and interested parties to request a review of a licence
- enforcement action against those selling alcohol to persons who are drunk.

7. PROTECTION OF CHILDREN FROM HARM

7.1 The Council understands that there are a range of activities and premises for which licences may be sought where children can be expected to visit for food or entertainment either alone or in company with adults. The Licensing Act 2003 does not prohibit the free access of children to any licensed premises. The Council accepts that limitations may have to be considered where it is necessary to protect children from harm. The following are examples of premises that may raise concerns:

- where there have been convictions for serving alcohol to minors, or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is provided;
- where there is a presumption that children under 18 should not be allowed.

7.2 **The Council expects Personal Licence holders to contribute by not serving alcohol to children under the age of 18. The Council recommends that the preferred way to verify a person's age is with reference to the following;**

- **A passport;**
- **A photocard driving licence;**
- **Proof of Age Scheme card;**
- **A Citizen Card supported by the Home Office;**
- **Where the supply of alcohol for consumption on the premises is exclusive purpose of the services provided at the premises.**

7.3 When deciding whether to limit the access of children to premises **the Council will judge each application on its own merits before deciding whether or not to impose conditions limiting the access of children to individual premises.** To assist in the process the Council will consult with

North Yorkshire Police, the body responsible for child protection within North Yorkshire County Council and any other agencies as appropriate. Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted. The options available would include:

- **limitations on the hours when children can be present;**
- **age limitations for persons under 18**
- **limitations or exclusion when certain activities are taking place;**
- **full exclusion of persons under 18 when certain licensable activities are taking place;**
- **limitations of access to certain parts of the premises for persons under 18;**
- **a requirement for an accompanying adult to be present.**

This list is not meant to be exhaustive but gives applicants examples of the conditions the Council may seek to impose in meeting its obligations towards the protection of children from harm.

7.4 The Council will impose no conditions requiring that children be admitted to any premises and where no limitation is imposed this will be left to the discretion of the individual licensee.

7.5 The Act provides a number of offences designed to protect children in licensed premises and the Council will work closely with the police to ensure the appropriate enforcement of the law.

ACCESS TO CINEMAS

7.6 Films cover a vast range of subjects some of which deal with adult themes unsuitable for children. **In order to prevent children from seeing such films the Council will impose conditions requiring licensees restrict access only to those individuals who meet the required age limit in line with any certificate granted by the British Board of Film Classification.**

7.7 The Council expects licensees to ensure that age restrictions for film exhibitions are properly complied with and when considering applications, the Council will take into account any evidence that age restrictions for film exhibitions are not being properly observed.

CHILDREN AND PUBLIC ENTERTAINMENT

7.8 Many children both view and take part in entertainment arranged specifically for them. As a consequence it is essential they are kept safe throughout such performances.

- 7.9 Conditions will be imposed requiring that responsible adult staff are available to control the access and egress of children to ensure their safety. **The Council expects the premises to provide one member of staff for every fifty children present to ensure their safety and to control their access and egress at premises.**
- 7.10 The Council understands that licensees may wish to hold functions targeted specifically towards children. **The Council expects the Operating Schedule to address issues relating to preventing harm to children.**
- 7.11 **The Council will consider imposing conditions to licences and permissions to prevent harm to children but these will be premises specific and not to be attached as standard procedure.**
8. **LINKS TO PLANNING OTHER LEGISLATION, POLICIES AND STRATEGIES**
- 8.1 The use of premises for the sale or supply of alcohol, provision of entertainment or late night refreshment, is subject to planning control. Such use will require planning permission or must otherwise be lawful, having a lawful development certificate under planning legislation. Planning permission is usually required for the establishment of a new premises or change of use of premises.
- 8.2 **In general, all premises to which an application is subject must have authorised planning permission and comply with all conditions of any planning permission, or be deemed permitted development. The Council may not consider a new licence application or variation of conditions if the activity authorised by the licence would constitute unlawful planning use or the hours of operation sought exceed those authorised by any planning permission. Additionally, when considering applications and applications for provisional statement reference will be made to Selby District Council's Local Development Plan.**
- 8.3 **If an applicant wishes the Council 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.**
- 8.4 The Policy shall avoid unnecessary duplication or inefficiencies by properly separating the planning and licensing regimes in operation. **Licensing decisions will take into account any relevant planning decision either by the Planning Committee or following appeals against decisions taken by that Committee and will not normally cut across such decisions.**
- 8.5 There are several key differences between licensing and planning control, the most significant of which is that planning is concerned with how land is used, whereas licensing is concerned with ensuring that public safety in its widest sense is protected.

- 8.6 When planning permission is attached to the premises, a new occupier is not required to obtain new permission when taking over premises (unless they are planning to alter the premises). They are however, required to apply to transfer the premises licence.
- 8.7 Licensing is concerned with the fitness of the operator and detailed issues concerning the operator and management of the premises that are not addressed through planning concerns. For example it is not the function of the planning authority to impose occupancy levels or to require CCTV to be installed in premises whereas this may be imposed by way of licence conditions where it is reasonable to do so.
- 8.8 Planning permissions for existing premises do not generally expire. However, licensed premises can be inspected on a regular basis to ensure that licence conditions are being maintained. This process allows the Council to look afresh at the terms and conditions of the licence depending on the nature and history of the operation. In extreme cases where an application has been made for a licence to be reviewed, this may lead to the licence conditions being amended or, at worst, the licence being revoked.
- 8.9 Partnership working and integration with other relevant legislation and strategies is a key part of this policy. **The Council will aim to ensure that it will integrate its various strategies to achieve the licensing objectives in the interests of clarity for applicants and effective determination. Regard will be given to the obligations and objectives of other legislation and incentives:**
- **Section 17 of the Crime and Disorder Act 1998 requires a Local Authority to do all that is reasonably practicable to prevent crime and disorder. The Council will take in to account matters contained in the Selby Community Safety Strategy relating to the four main licensing objectives;**
 - **European Convention on Human Rights and specifically Articles 1, 6 and 8;**
 - **Planning Acts and Local Plan;**
 - **Enforcement Concordat;**
 - **Section 17 of the Criminal Justice and Police Act 2001 (in relation to Police powers to close without notice for up to 24 hours licensed premises that are disorderly, likely to become disorderly or excessively noisy);**
 - **Selby District Council's Community Strategy. The Local Government Act of 2002 requires all Local Authorities to produce a Community Strategy within the frame work of the UK Sustainable Development Strategy "A Better Quality of Life" and relevant regional strategies. Local strategic partnerships, typically involving Police, Local Authorities, Primary Health Care Trusts, representative**

from business and the voluntary sector organisations are responsible for the achievement of locally set objectives;

- **The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people. For service providers such as Licensees the following should be noted:**
 - (a) It is unlawful to treat disabled people less favourably than other people for reasons related to their disability;**
 - (b) Licensees must make reasonable adjustments for disabled people such as providing extra help or making changes to the way they provide their services**
 - (c) Licensees will now have to make reasonable adjustments to the physical features of their premises to overcome physical barriers to access.**
- **The Council will have regard to the likely impact of licensing on disability discrimination when considering the operation and management of all proposed licence applications, renewals and variations of conditions;**
- **Race Relations and Equalities. Licences for any form of regulated entertainment will be subject to conditions to prohibit entertainment which are likely to lead to disorder, or stir up hatred or incite violence towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender;**
- **Health and Safety at Work Legislation. This imposes duties on employers and persons in control of premises to prevent where possible or minimise the risk of injury or ill health to people affected by work activities or the condition of the premises. Councils are the enforcing authority for the majority of premises on which licensable activities are carried on, in other cases the Health and Safety Executive is responsible;**
- **Licensing objectives overlap with health and safety requirements in so far as foreseeable risk is concerned. However, these general duties, for example risk assessment under the Management of Health and Safety at Work regulations, may not adequately cover specific issues, which arise from licensable activities. In these cases it may be more prudent to use conditions to ensure that an appropriate degree of control exists at all times during the operation of the licensable activities;**
- **Building Control. Building regulations govern a variety of issues which will directly contribute to the licensing objectives, including**

means of escape, structural integrity, accessibility and public safety. “Approved Inspectors” offer a private sector alternative to local authority ‘Building Control Services’. Building regulation approval and completion certificates will be required prior to the use of premises for licensable activities;

- **Environmental Protection Legislation.** This places a duty on the Council to investigate complaints of nuisance which includes noise and take enforcement action where a statutory nuisance exists. The Licensing Act provides the power for the police to close licensed premises to prevent nuisance to the public as a result of noise coming from the premises. Joint working procedures or protocols between environmental health officers, police and licensing staff will ensure that these control measures are properly used to protect the local environment;
- **Fire Precautions.** Where a fire certificate is in force and deals with or could have dealt with matters relating to fire safety and the fire certificate was issued for the use of the premises for licensable activities, the Council need not attach conditions to any licence or certificate. However, where the activities carried out on premises have changed to include those covered by the licensing regime it may be necessary to attach conditions relating to fire safety. Close cooperation between licensing and fire authorities will be required to ensure that the public is properly protected.

9. LICENSING HOURS

- 9.1** The Act introduces flexible hours for premises with the potential for 24 hour opening, seven days a week. As a result of this change the Council understands that operators of licensed premises might wish to seek variations to their present permissions so as to extend their current licensing hours.
- 9.2** The Council understands the variety of premises for which licences will be sought and that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance when people leave licensed premises. **When dealing with licensing hours, each application will be dealt with on its own merits.**
- 9.3** The Act provides opportunities for applicants to increase the potential of their business by applying for licensing activities or extending operating hours that they do not realistically propose to provide as part of their current operation. **Understanding that the Act allows operators to apply at any time to the licensing authority for a variation in their licensing activity and hours of operation the Council encourages and expects all applicants to take a responsible view of these opportunities and only make applications for those licensable activities and operating hours that they intend to provide as part of their intended normal business operation.**
- 9.4** The Council will consider licensing shops and supermarkets to sell alcohol for consumption off the premises during the hours they are

open for shopping purposes. However, there may be occasions where it is considered that there are good reasons for restricting those hours.

9.5 The Council will have a flexible approach to opening hours and will deal with the issue of licensing hours having regard to the individual merits of each application, taking into account requests for terminal hours in the light of the following:

- environmental quality;
- residential amenity;
- character or function of a particular area;
- nature of the proposed activities to be provided at the premises.

9.6 Consideration may be given to imposing stricter controls on noise and disturbance from licensed premises particularly those located in mainly residential areas or served by common thoroughfares.

9.7 The Council will not normally set fixed trading hours within a designated area as this could lead to significant movements of people across boundaries at particular times with the attendant concentration of disturbance and noise. This would treat residents less favourably than those in another. Stricter conditions with regard to noise control may be required in areas that have denser residential accommodation, but this will not normally be considered as a reason to limit opening hours without regard to the individual merits of any application.

9.8 Subject to representations the Licensing Committee will have regard to the closing times of other premises in the area when considering the terminal hour of premises. The operation of such premises should not attract persons into an otherwise quiet area if it has a potential to cause disturbance to residents.

10. PROMOTION OF EQUALITY

10.1 The Council recognises that the Race Relations legislation places an obligation on public authorities to have regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations.

10.2 In seeking support a community in which diversity is encouraged **the Council will expect applicants where appropriate to take steps that ensure no person is treated differently on the grounds of race, colour, religion, ethnic or national origins, age, sex, sexual orientation or disability and that the management and operating practices of licensed premises within the district comply with all race relations, equal opportunities and anti-discrimination legislation.**

- 10.3** Disabled people have the right to access services and there are now legal responsibilities under the Disability Discrimination Act requiring all service providers to make reasonable adjustments to enable disabled people due access.
- 10.4** **The Council will have regard to disability discrimination when considering licence applications, renewals and variations and expect that there should be reasonable facilities and access for people with disabilities. The Council therefore expects the needs of disabled people to be addressed in the operating Schedule.**
- 10.5** **The Council will expect all Operating Schedules to include physical and managerial methods for the safe evacuation of disabled people.**

11. CULTURAL STRATEGIES

- 11.1** In its role of implementing Local Authority cultural strategies, the Council understands the need to encourage and promote live music, dance and theatre for the wider benefits of the community, especially children. The Council accepts that licensed premises in the district are a major contributor to the promotion of these activities, which attract tourists and visitors and contribute to the local economy.
- 11.2** When considering applications for such events and the imposition of conditions on licences and certificates **the Council will balance the cultural needs with the necessity of promoting the licensing objectives.**

12. DETERMINATIONS

- 12.1** When determining applications **the Council will work within the framework of this policy which has been prepared having regard to guidance issued by the Department of Culture, Media and Sport.**
- 12.2** **The provisions for the determination of Club Premises Certificates will be the same as those used for a Premises Licence.**
- 12.3** **The policy shall apply to all new consents, renewals, transfers and variations to the following:**
- **Premises Licences**
 - **Club Premises Certificates**
 - **Personal Licences**
 - **Temporary Event Notices**
- 12.4** **Premises must be constructed or adapted so as to be safe and appropriate to the nature of the activities to be licensed. In the course of construction, alteration, extension a Premises can be granted a provisional statement, pending completion to the required standard and compliance with all other requirements.**

- 12.5 Applicants will be expected to undertake a thorough and appropriate risk assessment of their business having regard to the licensing objectives.
- 12.6 Applicants should be aware of any local crime reduction; tourism and cultural strategies adopted by the Council and where appropriate to take account of these when formulating their Operating Schedules.
- 12.7 In considering all licence applications the Council will take account of the measures proposed to promote the four licensing objectives. The Council will expect the Operating Schedule to address these issues from the design through to the daily operation of the business. Particular attention will be paid to the following:
- Internal safety arrangements
 - All means of escape
 - Steps the applicant has taken to prevent public nuisance both in and around the premises
 - Measures to prevent disorder and secure public safety in and around the premises
 - Measures to prevent the illegal use of drugs
 - Measures to prevent age-related offences in and around premises
- 12.8 If the police object to any application on the grounds of crime prevention the applicant is entitled to a hearing before the Licensing Committee according to the scheme of delegation.
- 12.9 Each application will be considered on its individual merits and decisions made in relation to licensing applications will be made entirely separately from any decision in relation to planning.
- 12.10 If there is a language difficulty with either the applicant or any objector the services of an interpreter will be necessary. Relatives of applicants or objectors will be regarded as independent. The Council will be prepared to organise an interpretation service but the applicant or objector will be responsible for any fees.

13. CONDITIONS

- 13.1 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary licences and the people who hold Personal Licences within the terms of the Act. Where relevant representations are made **the Council will seek to make judgements as to whether conditions needs to be attached to a licence, certificate or permission to secure the achievement of the licensing objectives.**

- 13.2** Conditions attached to licences and certificates will be tailored to the specific style and character of the premises and events concerned. They will relate to matters within the control of the licensee, the premises themselves and the immediate vicinity in order to meet the licensing objectives.
- 13.3** Upon grant of the licence the Act sets out mandatory conditions, which will be attached in certain circumstances. In addition to these, special conditions may also be attached. These conditions will be appropriate to the nature of the activities specified in the Operating Schedule and shall reflect the four licensing objectives. Any special conditions will be drawn from the pool of conditions set out in Appendix A.
- 13.4** A suitable individual who is also a Personal Licence holder must be nominated as a Designated Premises Supervisor responsible for the day to day management of the premises at any time when it is open for the sale of alcohol.
- 13.5** The Council may set maximum occupancy levels in consultation with North Yorkshire Fire and Rescue Service for licensed premises. Premises where a fire certificate has been issued which imposes an occupancy level will not have an occupancy level imposed under the Premises Licence, unless the Fire Authority recommends a change.
- 13.6** Whenever any persons are employed at licensed premises to carry out door security such persons must be licensed with the Security Industry Authority and this requirement will be imposed as a condition. The Council may also consider that certain premises require stricter control for the purposes of promoting the reduction of crime and disorder. In such cases the Council may impose a condition that licensed door supervisors must be present at the premises either at all times or at such times as certain licensable activities are being carried out.
- 13.7** Licensees will be expected to keep a record clearly identifying all door security personnel employed at the premises together with an incident book. Both registers shall be available for inspection by an authorised officer of the council or a Police Officer.

14. FILMS

- 14.1** No film shall be exhibited at licensed premises which is likely to lead to disorder. If the Council believes that a particular film falls into this category it will not be shown.
- 14.2** In connection with a film exhibition, conditions will specify that immediately before each showing a film passed by the British Board of 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 a certificate of the Board, or as regards a trailer advertising a film, a statement approved by the Board indicating the category of the film.

- 14.3** No film shall be available to the public without being classified. If it is unclassified it must be made available to the Council 28 days prior to screening.
- 14.4** Where videos are shown on licensed premises they should be suitable for children where the entry of children is permitted within the Operating Schedule.
- 14.5** The admission of children to any film shall be restricted in accordance with the recommendations given to films by the above Board or the Council.
- 14.6** If the Council do not agree with the category in which the films have been passed by the Board they shall be at liberty to alter such category and, on notice of such alteration being given to the licensee, the film shall be treated as having been placed in the altered category and conditions appertaining to the altered classification shall be complied with.
- 14.7** The licensee shall maintain good order and decent behaviour in such licensed premises. In addition the licensee shall immediately inform North Yorkshire Police in the event of any indecent conduct occurring on the premises.
- 14.8** The nature of any certificate received in respect of a film shall be clearly indicated by the letters U, PG, 12, 12A, 15 or 18.
- 14.9** No advertisement, displayed at the premises relating to a film to be exhibited at the premises, shall depict a scene that is not included in that film as certified by the British Board of Classification or the Council.
- 14.10** Where the Council have given notice in writing to the licensee of the premises objecting to any advertisement on the grounds that, if displayed it would offend against good taste or decency or be likely to encourage crime or lead to disorder, that advertisement shall not be displayed without the written consent of the Council and any conditions of such permissions shall be complied with.
- 14.11** If the Council request that the licensee show them a film, this will be shown at a reasonable time as directed by the Council in writing.
- 14.12** For the purposes of this licence “film exhibition” means any exhibition of moving pictures other than the simultaneous exhibition of television programmes, programmes included in a cable programming service, or programmes received via a satellite or similar receiver.
- 15. PREMISES LICENCE**
- 15.1** The application of a Premises Licence is open to any person aged over 18 years, any business or partnership. The application must be accompanied by the following:

- **Application form**
- **Required fee**
- **Operating Schedule**
- **A scale plan of the premises to which the application relates in the prescribed form**
- **If the premises involve the supply of alcohol, a form of consent from the individual who is to be specified as the Designated Premises Supervisor**
- **Application to be advertised in the prescribed manner**

15.2 The Operating Schedule should include information to enable the Council, responsible authorities or any interested parties to assess the steps taken by the applicant to promote the licensing objectives. For the premises where alcohol is to be sold for consumption on the premises, it would be valuable to know the extent of seating, the type of activities available and whether licensable under the Licensing Act 2003 or not. If there is to be dancing on the premises the Schedule should describe the type of dancing, if striptease or lap dancing is involved and the circumstances of this form of entertainment.

Other examples of information required in the Operating Schedule are as follows:

- **relevant licensable activities to be conducted on the premises;**
- **times/days including holiday periods or different times of the year the activities will take place;**
- **any other times the premises will be open to the public;**
- **where the licence is required for a limited period the period indicated**
- **if the activities include the supply of alcohol, the name and address of the Designated Premises Supervisor;**
- **if the alcohol is to be supplied, whether it is to be consumed on or off the premises;**
- **the steps the applicant proposes to promote the licensing objectives;**
- **the applicant will be expected to undertake a thorough risk assessment with regard to the licensing objectives when preparing the application.**

15.3 Small Venues Providing Dancing and Amplified or Non Amplified Music.
These include the following:

- a Premises Licence or Club Premises Certificate which authorises the supply of alcohol for consumption on the premises and the provision of music entertainment;
- the relevant premises are used primarily for the consumption of alcohol on the premises;
- the premises have a capacity for up to 200 persons.

Any condition relating to the provision of music entertainment imposed on the licence by the Council other than those set out by the licence or Certificate which are consistent with Operating Schedule, will be suspended except where they are imposed as being necessary for public safety or the prevention of crime and disorder.

In addition where:

- a Premises Licence or Club Premises Certificate authorises the provision of musical entertainment;
- the premises have a capacity limit of 200.

then during the hours between 8am and midnight, if the premises are being used for unamplified music or the facilities to enable people to take part in such entertainment but no other description of regulated entertainment, then no conditions except those included in the licensee to comply with the operating schedule will apply. The provisions of this section can be dis-applied in the event of a review of the licence.

15.4 Wholesale of alcohol. The wholesale of alcohol to the public is now a licensable activity under the Act. There will therefore be the need for a Premises Licence and a Designated Premises Supervisor.

15.5 Internet and mail order sales. A Premises Licence will be required for the warehouse storage of the alcohol.

15.6 Regulated entertainment. This will require a Premises Licence.

15.7 Late night entertainment. The provision of hot food and hot drink for consumption either on or off premises between 11.00 p.m. and 5.00 a.m. is licensable under the Act. The exception to this requirement includes:

- Clubs, serving to their members only
- Hotels or comparable premises serving to customers
- Premises serving to their own employees

- Premises serving to guests of any individuals falling into any of the above categories.
- 15.8 **Restaurants and cafes.** These will require a premises licence in respect of hot food. For the sale of alcohol both a Premises Licence and Personal Licence will be required.
- 15.9 **Casinos and Bingo Clubs.** Where activities are licensable under the Act the conditions imposed will apply alongside those imposed under the Gaming Act.
- 15.10 **Garages.** Normally the sale of alcohol from a garage is prohibited, but each case will be judged upon its own merits considering the main function of the premises.
- 15.11 **Vehicles.** The sale of alcohol or the provision of other licensable activity from vehicles or other moveable structures may only be carried out from a premises or site holding a Premises Licence. It should be noted that performances taking place when the vehicle is in motion is exempt.
- 15.12 **Vessels and ships.** These are licensable where they are moored.
- 15.13 **Sports grounds.** Premises subject to the Safety of Sports Grounds Act shall have safety taking precedence over conditions imposed or activities authorised by the Licensing Act 2003 during the time the Safety Certificate applies.
- 15.14 **Vending machines.** Premises selling hot food or drink between 11pm and 5am will need to apply for a Premises Licence unless exempted. See 14.7 above.
- 15.15 **Amusement with Prize Machines.** Please refer to paragraphs 1.23, 1.24 and 1.25.

16. CLUB PREMISES CERTIFICATE

- 16.1 A **Club Premises Certificate** is required in order that qualifying clubs can supply alcohol or provide other licensable activities on Club premises. However such premises do not require either a Personal Licence or a Designated Premises Supervisor.
- 16.2 Club Premises Certificates will be issued to Clubs formerly known as Registered Members Clubs. To be eligible for a Club Premises Certificate the club the members must have joined together for a particular social, sporting or political purpose and then have combined to purchase the alcohol in bulk for supply to members and guests. Qualifying conditions are specified in Section 61 of the Act and the Council must be satisfied that these conditions have been met. In particular the Club must be non-profit making and there must be a 48 hour delay between application and acceptance of new members.
- 16.3 The Club must be established and conducted in 'good faith'.

16.4 Any member of a club can apply for a Club Premises Certificate provided they are over 18 years of age. However, an application is required to be accompanied by the following:

- the required fee;
- the operating schedule;
- a scale plan of the premises in the prescribed form;
- a copy of the Club rules;
- a copy of the notice to be advertised in the prescribed form.

16.5 Operating Schedule The Council will require the Club to produce an Operating schedule which should include the following detail:

The qualifying club activities to which the application relates;

- The proposed hours of those activities and any other times during which it is proposed that the premises are to be open to the public;
- Where the relevant qualifying club's activities include the supply of alcohol, whether the supplies are for consumption on or off the premises;
- Information to enable either the Council, other responsible authority or interested party to assess the steps taken by the applicant to promote the licensing objectives.

16.6 Where a club intends to admit the general public to Regulated Entertainment then a Premises Licence or a Temporary Event Notice is required. Where alcohol is sold and there is a Premises Licence then there will also be a requirement to obtain a Personal Licence.

16.7 If an applicant wishes to vary a Club Premises Certificate, the Council require the application to be processed in the same manner as a Premises Licence.

16.8 The Council will require the club secretary's contact details to be readily available.

17. PERSONAL LICENCES

17.1 The Council will grant Personal Licence applications providing the following criteria are met:

- (a) the applicant is over 18;
- (b) contains the required fee;
- (c) the applicant possesses a relevant licensing qualification;

- (d) the applicant has not forfeited a Personal Licence in the previous five years from the day the application is made;
 - (e) the applicant has not been convicted of any relevant offence which is defined in the Act;
 - (f) the Police have not given an objection notice about the grant of a Personal Licence following notification of any unspent relevant offences;
 - (g) the application has been submitted correctly.
- 17.2 Applicants will be required to produce a current Criminal Record Bureau Certificate which should be copied to the Police along with the application. The Council will consult with the Police regarding any relevant offences.
- 17.3 Applications will generally be granted unless there are good reasons for not doing so. For an applicant who has relevant convictions the refusal of the application will be the normal course unless there are in the opinion of the Council exceptional and compelling circumstances that justify granting the application.
- 17.4 If a representation is made by the Police to an application the matter will be referred to the Licensing Committee.
- 17.5 Where an applicant for a Personal Licence has an unspent criminal conviction for a relevant offence, the Police and Council may interview the applicant should the Police decide to object to the grant of the Licence.
- 17.6 The Personal Licence holder has a duty to inform the Council of any new relevant convictions.
- 17.7 The Council will require one of the Personal Licence holders to be a Designated Premises Supervisor who is in charge of the day to day running of the business.
- 17.8 Where the Designated Premises Supervisor is not available at the premises the Council will expect an individual to be nominated as a point of contact who will have details where the Designated Supervisor can be contacted.
- 17.9 The Premises Licence will specify the name of the Designated Premises Supervisor. It is the responsible of the Premises Licence holder to notify the Council immediately of any change of Designated Premises Supervisor.
- 17.10 Where a Personal Licence holder is convicted of a relevant offence, the Court will advise the Council accordingly. On receipt of such notification, the Council will contact the holder within 14 days requesting return of the licence so that the necessary action can be

taken. Licensees are advised to let the Council know of any relevant convictions.

18 TEMPORARY EVENT NOTICES

- 18.1** The Act provides for certain occasions when regulated entertainment at small scale events (events for not more than 499 people at a time and lasting for no more than 96 hours) do not need a licence but do need to provide advance notice to the Police and Council. The Police can only object to a Temporary Event Notice if the event is likely to undermine the crime prevention objective.
- 18.2** Where a Premises Licence would normally be required for a short period of time a Temporary Event Notice may be a better and easier alternative. Temporary Event Notices are subject to various conditions and limitations which concern the following:
- (a) the duration is limited for a period up to 96 hours;**
 - (b) they cannot involve the presence of more than 499 people at any one time;**
 - (c) the same premises can be used for up to 12 occasions in a calendar year but the aggregate number of days must not exceed 15;**
 - (d) a Personal Licence holder is limited to 50 per year**
 - (e) a person not holding a Personal Licence is limited to 5 per year.**
- 18.3** If the above conditions are not fulfilled, an event at which licensable activities are to take place would require a Personal Licence.
- 18.4** The law states that 10 working days notice must be given to the Police and the Council prior to the date of the event, the less time that is given may increase the likelihood of the Police objecting. The Council would recommend that at least 28 days notice be given to hold such events to allow consideration of the application or full guidance to be given to organisers to run their event in a proper manner. The Council would also expect applicants to adequately inform local residents of such intended events.
- 18.5** In the event of a representation from the Police, the Council will hold a hearing not less than 24 hours before the event is due to take place.
- 18.6** It should be noted that for events concerning more than 499 people a Premises Licence will be required for a limited period and where the sale of alcohol is involved there must be a Designated Premises Supervisor specified on the application who must be a Personal Licence holder.
- 18.7** Much larger crowds may attend large scale temporary events and the risk to public safety, nuisance, crime and disorder is therefore increased. **The Council should be given early notice of such major events to discuss Operating Schedules with the organiser prior to a formal application**

being submitted. It will be required that public safety, nuisance, crime and disorder be taken into account and for that reason organisers should refer to the following documents:

- **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 15804;**
- **Five Steps to Risk Assessment – case studies (HSE 1998) ISBN 07176 15804;**
- **The Guide to Safety at Sports Grounds (The Stationary 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.**

18.8 In general Temporary Event Notices do not require the Council’s permission. However, the Police may object on the grounds of disorder at the event. The Council would normally only intervene if the limit on the number of Notices that may be given in various circumstances would be exceeded or the event does not conform to the requirements of the Act.

18.9 Many premises users giving temporary event notices will not have commercial backgrounds or ready access to legal advice. **The Council will ensure that guidance about temporary permitted activities is clear and understandable and will strive to keep arrangements manageable and user-friendly for these groups.**

18.10 In giving notification of a Temporary Event the following information must be available to the Council and the Police:

- (a) Location of the event;**
- (b) the licensable activities to take place at the event;**
- (c) the period during which it is proposed to use the premises for licensable activities;**
- (d) the times of the event the premises user proposes that the licensable activities shall take place;**
- (e) the maximum number of persons it is proposed be allowed on the premises;**
- (f) where the licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on or off the premises;**

(g) any other matters that may be prescribed in pursuance of the licensing objectives.

18.11 The Council will not seek to attach any restrictions on such events other than those set down in the legislation. **However, the Council will provide advice about respecting the concerns of residents; other legislation requirements regarding health and safety, noise pollution and the building of temporary structures; or other necessary permissions or considerations. The Council will also remind notice givers of relevant offences under licensing law.**

18.12 The purpose of the notification is to enable the Council to check that all the limitations set down in the Act are being observed and to intervene if they are not. **Where the application is not within the parameters described above the Council will issue a counter notice to the person giving notice. Where the notice is in order, the fee paid, the event falls within the Act and there has been no Police intervention, the Council will record the notice in its register and send an acknowledgement to the premises user.**

19. PROVISIONAL STATEMENT

19.1 If premises are being constructed for the purpose of being used for one or more of the licensable activities or are being extended or otherwise altered for that purpose a person may apply for a **Provisional Statement** if that person is interested in the premises and provided that an individual is aged over 18 or over. Regulations can be made regarding advertising of the application.

19.2 **Any application for a Provisional Statement must be accompanied by a schedule of works. This will include details of the licensable activities, a plan of the premises and other information as may be prescribed.**

19.3 If an application is made for a Provisional Statement **and the Council is satisfied that the applicant has complied with all necessary requirements and no relevant representation have been received then the Council will issue a Provisional Statement.**

19.4 Where relevant representations are made and not withdrawn **the Council must arrange a hearing. After listening to the representations at this hearing the Council can decide to grant the Provisional Statement subject to conditions or exclude from the scope of the provisional grant any of the licensable activities mentioned in the application, or refuse to specify a person on the Licence as the Designated Premises Supervisor or reject the application.**

19.5 If a Provisional Statement has been issued and the person subsequently applies for a Premises Licence in respect of the premises, a part of them or premises that are substantially the same as the relevant premises; and the application for the Provisional Statement; and the work described in the schedule of works accompanying the application for

that statement has been satisfactorily completed; then any representations shall not be taken into account if:

- (a) given the information in the application for the Provisional Statement the person objecting could have made the same or substantially the same representation about the application but failed to do so without reasonable excuse; and
- (b) there has been no material changes in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

20. CONSULTATION

20.1 This section of the policy outlines the licensing consultation process. The aim of consultation is to provide the opportunity for all parts of the community to be involved in the licensing process. The consultation process shall apply in respect of all applications for new consents and variations to Premises Licences and Club Premises Certificates.

20.2 Applicants will be required by regulations to:

- **advertise the application within a prescribed period in a prescribed form and in a manner which will be prescribed and that is likely to bring it to the attention of interested parties;**
- **give notice of the application to each responsible Authority and such other persons as may be prescribed within the prescribed period;**
- **regulations will prescribe the period during which interested parties and responsible authorities may make representatives to the licensing authority about the application.**

20.3 If relevant representations are made and not withdrawn the Council will hold a hearing and at that hearing the **Council may:**

- (a) **modify the conditions of the licence/certificate; or**
- (b) **reject the whole or part of the application**

20.4 The licence/certificate will not be varied so as to:

- (a) **extend the period for which the licence has effect; or**
- (b) **to vary substantially the premises to which it relates.**

20.5 The Council may vary a Premises Licence/Certificate so that it has effect subject to different conditions in respect of;

- (a) **different parts of the premises concerned; and**

(b) different licensable activities.

- 20.6 Interim Authority Notices.** Generally a licence will remain in force for as long as the licensee continues to operate the business. However, if the holder or a Premises Licence dies, becomes mentally incapable or becomes insolvent then the Premises Licence will lapse.
- 20.7** If, within a seven day period a person who had an interest in the premises concerned or is connected to the person who held the Premises Licence immediately before it lapsed gives the Council an 'Interim Authority Notice', the licence will be reinstated for a two month period.
- 20.8** At the end of the two months it will lapse unless an application for a transfer of the licence is received.
- 20.9** A person is connected to the former holder of a Premises Licence if, and only if:
- (a)** the person is the personal representative in the event of the holder's death;
 - (b)** in respect of someone who has become mentally incapable the person is acting under Section 6 of the Power of Attorney Act 1985; or
 - (c)** in the event of insolvency the person is acting as an Insolvency Practitioner.
- 20.10** Interim Authority Notices must also be served on the Police. If the Police consider that the grant of an Interim Authority Notice would undermine the prevention of the crime objective, the Council will arrange a hearing to consider the Notice.
- 20.11 Transfer of Premises Licences.** The following persons may apply for the transfer to them of a Premises Licence;
- (a)** any person who conducts a business which involves the use of a premises for licensable for activities, authorised by the Premises Licence;
 - (b)** any person who makes the application in pursuance of one or more of its statutory functions which relate to those licensable activities;
 - (c)** a relevant Club within the meaning of the Act;
 - (d)** a charity;
 - (e)** an educational institution;
 - (f)** a hospital;

(g) any person of such other description as may be prescribed.

20.12 Notice of the application must be given to the Police.

20.13 If the Police consider the granting of the application would undermine the crime prevention objective they must give notice within 14 days to the Council giving reasons for that decision. In such circumstances, unless the objection is withdrawn, **the Council must arrange a hearing and must reject the application if they consider it necessary for the promotion of the crime prevention objective to do so.**

20.14 An application for a transfer of a licence can contain a request that the transfer has immediate effect. Such a request can only be made with the consent of the holder of the Premises Licence unless the applicant has taken all reasonable steps to obtain that consent and would be in a position to use the premises whilst the application is pending for the licensable activities authorised by the Premises Licence.

20.15 A full transfer of the Licence can only be made with the consent of the Premises Licence holder unless identical circumstances apply.

In the event of a death, incapacity or insolvency of a Premises Licence holder and where no Interim Authority Notice has been given, provided that an application is made within 7 days after the licence lapsed, a person can make an application for the transfer of the licence.

20.16 Review of Premises Licences. Reviews of Premises Licences represent a key protection for the community where problems associated with disorder, public safety or disturbance are occurring.

If relevant representations are made about a current licence, the Council will hold a hearing to consider them unless the Council, the applicant and everyone who has made representations agreed that the hearing is not necessary.

20.17 A licence review will normally follow any action by the Police to close down the premises for up to 24 hours on grounds of disorder or public nuisance.

APPEALS

20.18 Entitlement to appeal for parties aggrieved by the decisions of the Council are set out in Schedule 5 of the Act.

20.19 Other than in the case of Personal Licences, **an appeal against a decision by the Council has to be made to the Magistrates Court.**

20.20 In cases of Personal Licences **the appeal must be made to the Magistrates Court in the area in which the Personal Licence was issued.**

20.21 Where an applicant is aggrieved by a condition, decision or relevant representation from a responsible authority or relevant person, there is

a right to appeal. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Council of the decision and must be made to the Magistrates Court.

20.22 In determining an appeal the Court may:

- (a) dismiss the appeal;
- (b) substitute for the decision appealed against any other decision, which could have been made by the Council;
- (c) remit the case to the Council to dispose of it in accordance with the discretion of the Court.

20.23 Upon notification of the Court's decision the Council will seek to action that determination without undue delay, unless ordered by a higher Court to suspend such action. The Act provides for no further appeal against the determination of the Magistrates Court.

20.24 The Court may make such orders as to costs as it thinks fit.

20.25 The Council will maintain comprehensive records recording the reasons for the decisions.

20.26 The Council will also address the extent to which the decision has been made with regard to its statement of licensing policy and its associated Guidance.

21. COMPLAINTS AGAINST LICENSED PREMISES.

21.1 Complaints relating to the activities carried out at licensed premises of any description will be referred to the Council's Licensing Section. **In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned.**

21.2 The Council where practicable will seek to facilitate mediation between applicants, relevant statutory agencies and occupiers of nearby premises, local residents groups, communities or interested groups where significant issues have arisen relating to a licence application. The Council, where possible will facilitate mediation through:

- identification of potential issues for other relevant statutory agencies particularly regarding the safety and amenity of residents;
- negotiation of potential conditions to reflect resolutions of mediation forums.

21.3 This process will not override the right of any interested party to ask that the Council consider their valid objections or for any licence holder to decline to participate in a mediation meeting.

21.4 The Council will disregard any representations which are irrelevant, frivolous or vexatious.

21.5 A senior Police Officer may under the Act close premises in the interest of public safety for up to 24 hours on the grounds of likely or imminent disorder on or in the vicinity of the premises.

21.6 Additionally a review of the licence will take place within 28 days of any action by the Police to close down the premises for up to 24 hours or longer if so granted by the Magistrates Court on the grounds of disorder or public nuisance.

22. ENFORCEMENT

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

22.2 The Council will have regard to the principles recommended by the 'Better Regulation Task Force' for good enforcement and in particular to:

Targeting. This will focus upon the activities that give rise to the most serious risks. Risk rating of premises will be based on the LACORS document for assessing inspection frequency for premises falling within the provisions of the Act.

Consistency. Each situation within the district will be met with a consistent approach.

Transparency. This will involve assisting duty holders to understand what is expected both by the Council and the Act.

Proportionality. Any action taken will be proportionate to the challenge posed.

22.3 The Council understands that the effectiveness of its licensing policy will be determined by the enforcement action it undertakes. As a consequence it will undertake routine monitoring of licence conditions on a risk based programme.

UNDERAGE DRINKING

22.4 Selby District Council is anxious to reduce alcohol induced problems within the district and in particular where it concerns persons under 18 years of age. As a consequence it commends the Portman group code of practice on the naming, packaging and promotion of alcoholic drinks and will support the enforcement of underage purchase of alcohol. To this end the Council will work closely with our partner agencies.

23. ADMINISTRATION, EXERCISE AND DELEGATION

23.1 The Council has established a Licensing Committee of 10 members to administer licensing issues. This Committee in turn can create Licensing Sub-Committee's

23.2 Many of the decisions and functions are largely administrative in nature and where no representations have been made it is anticipated these functions will be delegated to appropriate Council Officers.

23.3 Applications where there are relevant representations will be dealt with by the Licensing Sub-Committee unless there are prescribed reasons for not doing so.

23.4 Unless there are compelling reasons to the contrary, the Council will require the Licensing Committee or its Sub-Committee to meet in public. However, this will not prejudice members meeting in private session to consider their decision.

23.5 "Relevant representations" are defined by the Act as those representations which are:

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

23.6 An 'Interested Party' means any of the following:

- (a) a person living in the vicinity of the premises;**
- (b) a body representing persons who live in that vicinity;**
- (c) a person involved in a business in that vicinity;**
- (d) a body representing persons involved in such business.**

23.7 Schedule of Delegated Functions

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for Premises Licence/Club Premises Certificate		If a relevant representation is made	If a relevant representation is made
Application for Provisional Statement		If a relevant representation is made	If a relevant representation is made

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation is made	If a relevant representation is made
Application to vary Designated Personal Licence Holder		If a relevant representation is made	If a relevant representation is made
Request to be removed as Designated Personal Licence Holder		If a Police objection	All cases
Application for transfer of Premises Licence			All other cases
Application for Interim Authorities		If a Police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		If a Police objection	
Decision of 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 representative to a Temporary Event Notice		All cases	

24. TRANSITIONAL MATTERS

24.1 During the Transitional period applications for grants of liquor licences, variations to existing licences or occasional licences that are to take effect before the end of the transitional period will continue to be made through the Licensing Justices at Selby. Similarly, applications for public entertainment licences or variations to such, theatre licences and cinema licences will need to be made to Selby District Council.

24.2 The first appointed date is 7th February 2005 but the second appointed date has yet to be announced. Between the two dates applications can be made to the Council for Personal Licences, Premises Licences and Club Premises Certificates, which will be granted 'grandfather rights' provided they are not varied from the original Justice's Licence. Other applications may be granted unless there are Police objections in which case a hearing will be held by the Licensing Sub-Committee provided the applicant and the Police agree such a hearing to be unnecessary.

26. POLICY CONSULTATION REVIEW

26.1 The policy will come into effect on 7th February 2005 and will remain in force for 3 years. During this period the policy will be subject to periodic review and further consultation.

26.2 In developing this policy the Council has consulted widely to ascertain an appropriate licensing framework for its area. The bodies consulted have included those bodies specified under the Act and include:

The Police

The Fire Authority

Current Licence holders

Representatives of the local licensing trade

Representatives of local businesses and residents.

25.3 In addition the Council has consulted:

Representatives of the local strategic partnerships

The health care trust

Solicitors

Schools and Colleges

CAMRA

APPENDICES

Appendix A	(Pool of Model Conditions)
Appendix B	(Mandatory Conditions)
Appendix C	(Definitions)
Appendix D	Premises Licences/Club Premises Certificates (Factors for Consideration)

APPENDIX A

POOL OF MODEL CONDITIONS RELATING TO:

Annex A Part I	Prevention of Crime and Disorder
Annex A Part II	Public Safety
Annex A Part III	Prevention of Public Nuisance
Annex A Part IV	Protection of Children from Harm

Annex A Part I [Conditions relating to the prevention of crime and disorder]

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

- **knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk**
- **knowingly to allow disorderly conduct on licensed premises**
- **for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported**
- **to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol**

Conditions enforcing these arrangements are therefore unnecessary

General

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

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

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

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

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

Text/Radio pagers

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

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

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

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

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

Door supervisors

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

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

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority,

conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety (see Annex A Part II).

Bottle bans

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

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

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

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

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

Plastic containers and toughened glass

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

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Annex A Part II).

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not

just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

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

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (egg glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises

Restrictions on drinking areas

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

Capacity limits

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

Proof of age cards

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

It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought.

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

Crime prevention notices

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

Drinks promotions

Standardised conditions should not be attached to premises licences or club premises certificates, which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address irresponsible drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgments may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the licensing authority to consider whether the imposition of a new condition prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place. Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

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

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

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

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

Annex A Part II [Conditions relating to public safety including fire safety]

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

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications

following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in this Annex. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

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

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

In addition, to considering the points made in this Annex, 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/pages/publications**
- **The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 1**

The following British Standards should also be considered:

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

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

Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the

licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

Disabled people

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

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

Escape routes

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

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

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

Safety checks

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

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

Curtains, hangings, decorations and upholstery

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

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

Accommodation limits

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

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

Fire action notices

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

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

Outbreaks of fire

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

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

Loss of water

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

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

Access for emergency vehicles

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

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

First aid

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

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

Lighting

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

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

Temporary electrical installations

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

- **temporary electrical wiring and distribution systems are not provided without [notification to the licensing authority at least ten days before commencement of the work] [prior inspection by a suitable qualified electrician];**
- **temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and**

- **where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.**

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

Indoor sports entertainments

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

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

Alterations to the premises

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

Special effects

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

Specials effects which should be considered include:

- **dry ice machines and cryogenic fog;**

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

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

Theatres, cinemas, concert halls and similar places (promotion of public safety)

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

Premises used for closely seated audiences

Attendants

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

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 - 100	One
101 - 250	Two
251 - 500	Three
501 - 750	Four
751 - 1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

- (b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- (c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- (d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

- (e) No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
- (f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

Standing and sitting in gangways etc

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

Drinks

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

Balcony Fronts

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

Special effects

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

Special effects include:

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

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

Scenery

Any scenery should be maintained flame-retardant

Safety curtain

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

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

Ceilings

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

Seating

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

Premises used for film exhibitions

Attendants-premises without a staff alerting system

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

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 of an emergency
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)

Flammable films

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

Annex A Part III [Conditions relating to the prevention of public nuisance]

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted

activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance

General

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

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

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

Hours

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

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

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

Noise and vibration

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

- **noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;**

- prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse – such as bottles - into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Noxious smells

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

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

Light pollution

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

- **flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places**

Annex A Part IV [Conditions relating to the protection of children from harm]

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

Access for children to licensed premises - in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary

to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- **for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:**
 - **explain their reasons; and**
 - **outline in detail the steps that they intend to take to protect children from harm on such premises.**
 - **for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:**
 - **explain their reasons; and**
 - **outline in detail the steps that they intend to take to protect children from harm on such premises.**
 - **in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.**

Age Restrictions – specific

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

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity in respect of which no age restrictions may be needed, for example;
 - family entertainment; or
 - non-alcohol events for young age groups, such as under 18s dances,
- similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
 - during “Happy Hours” or on drinks promotion nights;
 - during activities outlined in paragraph 1 above.

Age restrictions – cinemas

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

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

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

–

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

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

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

Theatres

The admission of children to theatres, as with other licensed premises, is not normally expected to 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 normally expected to 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 (See Annex A Part II)

Performances especially for children

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

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

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

Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part

of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- **Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

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

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

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

Proof of Age Cards

Proof of age cards are discussed under Annex A Part I in connection with the prevention of crime and disorder. However; where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is

made could be attached to any premises or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

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

APPENDIX B

MANDATORY CONDITIONS THAT WILL BE ATTACHED TO LICENCES

MANDATORY CONDITIONS THAT MUST BE ATTACHED TO LICENCES

WHERE A PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL (Section 19 Licensing Act 2003)

1. That no supply of alcohol may be made under the Premises Licence:
 - (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. That every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.

EXHIBITION OF FILMS (Section 20 Licensing Act 2003)

1. Where a Premises Licence or Club Premise Certificate authorises the exhibition of films, the licence or certificate must include a condition requiring the admission of children to the exhibition at any film to be restricted in accordance with these paragraphs.
2. Where a film classification body is specified in the licence or certificate, unless paragraph 3 (b) below applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where:
 - (a) the film classification body is not specified in the Licence or Certificate; or
 - (b) the Licensing Authority has notified the holder of the Licence or the Club which holds the Certificate that this paragraph applies to the film in question, admission of children must be restricted in accordance with any recommendation made by the Licensing Authority.
4. In these paragraphs "children" means persons aged under 18 and "film classification body" means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984 (authority to determine suitability of video works for classification).

DOOR SUPERVISION (Section 21 Licensing Act 2003)

1. Where a Premises Licence includes a condition that at specified times one or more individuals must be at the premises to carry out security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

APPENDIX C

DEFINITIONS

In this Policy the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. 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, the reader must refer to the Licensing Act 2003.

APPOINTED DAYS

The dates when different provisions of the Act come into force. On the First Appointed Day (7 February 2005), applications can be made to local authorities for new licences. On the Second Appointed Day (still to be announced) the old law will cease to have effect, all the new licences will come into force and the responsibilities of the existing magistrates court licensing committees will end.

APPEALS

Appeals against decisions of the licensing authority are made to the magistrate's court for the area in which the premises are situated. The appeal must be lodged within 21 days of being notified of The Licensing Authority's decision. On appeal a magistrate's court may dismiss the appeal, substitute its own decision; remit the case to the licensing authority with directions; and make an order for costs.

AUTHORISED PERSONS

"Authorised Persons" are specified people who have statutory duties in relation to the inspection of premises e.g. licensing officers, fire, health and safety and environmental health officers.

CLOSURE ORDER

New powers for the police and courts to close premises. The 2003 Act significantly extends the existing powers of the police, 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 of clubs which comply with specific conditions e.g. membership rules, run by club committee, 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 for the Certificate but it may be withdrawn, surrendered or suspended.

CONDITIONS

A Premises Licence/Club Premises Certificate may be granted subject to 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. Secretary of States guidance provides, apart from mandatory conditions (Appendix B), the only conditions, which should be imposed on a Premises Licence or Club Premises

Certificate are those which are necessary for the promotion of the licensing objectives. Accordingly, if the existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the Premises Licence holder. Conditions must be proportional and tailored to the size, style, character and activities taking place at the premises concerned.

DESIGNATED PREMISES SUPERVISOR

The person in the case of a premise selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder themselves. They must also be a Personal Licence holder. Any premises licence where alcohol is supplied as a licensable activity **must have a Designated Premises Supervisor.**

FACTORS FOR CONSIDERATION

These are a further list of conditions that The Licensing Authority will/may attach to specific types of licensable activities in order to promote the licensing objectives. They are to be read in conjunction with Appendix A (Pool of model conditions relating to the 4 licensing objectives). The Licensing Authority expects all applicants to take notice of and have regard to the list of factors for consideration when preparing their Operating Schedules.

GRANDFATHER RIGHTS

The term used to describe the transitional provisions contained in the 2003 Act by which applicants for Premises and Personal Licences who are already licensed are entitled to be granted new licences authorising the same activities and with the same restrictions and conditions as they have already.

INTERESTED PARTIES

Interested Parties are persons living in the vicinity of the premises; a body representing such person; a person involved in business in the vicinity; or a body representing businesses in the vicinity.

INTERIM AUTHORITY NOTICES

Where a Premises Licence lapses due to death, incapacity or insolvency etc. of the holder, specified persons can within 7 days serve an interim authority notice on the licensing authority. This revives the licence, subject to police objection for a period of up to 2 months so that 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 and/or drink to members of the public (whether for consumption on or off the premise) between the hours of 11.00 pm and 5.00 am (see Appendix D).

LICENSABLE ACTIVITIES

These are:

- **the sale by retail of alcohol;**
- **the supply of alcohol by or on behalf of a club, or to the order of a member of the club;**
- **the provision of Regulated Entertainment;**
- **the provision of Late Night Refreshment.**

LICENSING AUTHORITY

Is Selby District Council

LICENSING OBJECTIVES

The objectives of the Licensing Act are:

- **prevention of crime and disorder;**
- **public safety;**
- **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 the licensing objectives.

LICENSED PREMISES

Includes club premises and events unless the context otherwise requires.

MANDATORY CONDITIONS

Conditions that the Act requires are imposed on a Premises Licence and Club Premises Certificate (see Appendix B).

OBJECTION NOTICE

A procedure whereby the police can object to the grant of a Personal Licence on the grounds that where having regard to the conviction of the applicant for relevant offences (see Appendix E), the grant would undermine the crime prevention objective.

OPERATING SCHEDULE

A document containing a statement of the following matters (and any others that may be prescribed):-

- **steps taken by the licence holder to tackle the four Licensing Objectives;**
- **the times during which the licensable activities are to take place and any other times when premises are open to the public;**
- **the licensable activities to be conducted on the premises;**
- **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.**

PERSONAL LICENCE

A licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a Premises Licence. 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 supply alcohol as one of its licensable activities. A Personal Licence holder is also not required for the supply of alcohol in a club which holds a Club Premises Certificate. Only the police can object to the grant of a Personal Licence (there is no equivalent to relevant representations as for Premises Licences).

PREMISES LICENCE

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on the death, insolvency etc. of the holder. Applications are dealt with by the Local Authority Licensing Department in the area where the premises are situated.

PROVISIONAL STATEMENTS

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 are completed.

QUALIFYING CLUB

Club Premises Certificates will be issued to **QUALIFYING CLUBS** formerly Registered Members Clubs. To be eligible for a Club Premises Certificate the club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of an organisation for supply to members and their guests. Qualifying conditions are specified in Section 61 of the Act and The Licensing Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in 'good faith' (this involves consideration of details such as club finances).

REGULATED ENTERTAINMENT

This includes:

- **a performance of a play;**
- **an exhibition of a film;**
- **an indoor sporting event;**
- **a boxing or wrestling event;**
- **a performance of live music;**
- **any playing of recorded music;**
- **a performance of dance;**
- **entertainment of a similar description to that falling within the performances of live music, the playing of recorded music and the performance of dance.**

Where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

RELEVANT REPRESENTATIONS

The 2003 Act does not use the term "objections". Instead interested parties and responsible authorities may be able to make relevant representations about an application for a review of a licence. Relevant representations are representations:

- (a) about the effect of the Premises Licence on the promotion of the licensing objectives;
- (b) one made by an interested party or a responsible authority (see above and below), have not been withdrawn and, in the case of representations made by an interested party are not in The Licensing Authority's opinion frivolous or vexatious. When considering an application, the local authority need only consider relevant representations. The making of relevant representations engages the licensing authorities discretion to take "steps" consistent with the licensing objectives when considering the application.

RESPONSIBLE AUTHORITIES

These are:

- **the chief officer of police in the area where the premises are situated;**
- **the fire authority in the area where the premises are situated;**
- **the enforcing authority for health and safety at work.**

- the local planning authority;
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health;
- the body representing matters relating to the protection of children from harm;
- in relation to a vessel a navigation authority, the Environment Agency or the British Waterways Board.

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. Before determining an application for a review, The Licensing Authority must hold a hearing to consider the relevant representations (see above). If a relevant representation is made, having held a hearing The Licensing Authority can take such steps, if any, as it considers necessary for the promotion of the licensing objectives. The steps could be modification of conditions, exclusion of licensable activities, removal of premises supervisor, suspension of the licence for up to three months or the revocation of the licence.

However, The Licensing Authority can reject any grounds for review of a licence if it is satisfied:

- that the ground is not relevant to one or any of the licensing objectives; or
- in the case of an application for review made by a person other than a responsible authority that the ground is frivolous or vexatious or the ground is a repetition. (See Sections 51, 52 and 53 of the 2003 Act).

STATEMENT OF LICENSING POLICY

Each licensing authority must every three years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review.

TEMPORARY EVENT NOTICE

A permitted temporary activity involving one or more licensable activities subject to the following various conditions and limitations:

- **duration** - they are limited to events lasting for up to 96 hours;
- **scale** - they cannot involve the presence of more than 499 people at any one time;
- **use of the same premises** - the same premises cannot be used more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used.

- **the number of notices given by one individual within a given period to time - a Personal Licence holder is limited to 50 notices in one year and any other person to 5 notices in a similar period;**
- **if these conditions are not fulfilled, the Temporary Event would require a Premises Licence if it were currently unlicensed for the activity involved.**

TRANSFER

A procedure where an application can be made to transfer the Premises Licence into a new name e.g. if a Premises Licence holder sells his premises an application may be made to transfer the Premises Licence to the new owner.

APPENDIX D

PREMISES LICENCES/CLUB PREMISES CERTIFICATES - FACTORS FOR CONSIDERATION

- 1. General licensing or premises for sale/supply of alcohol**
- 2. Premises selling alcohol**
- 3. Premises selling alcohol for consumption 'off' the premises**
- 4. Premises selling alcohol for consumption on the premises**
- 5. Premises providing regulated entertainment:**
 - (a) music, singing and dancing;**
 - (b) night clubs and similar venues;**
 - (c) adult nature (striptease, lap dancing etc.);**
 - (d) sporting entertainment;**
 - (e) hypnotism.**
- 6. Authorised access to licensed premises**
- 7. Premise providing late night entertainment**

PREMISE LICENCES/CLUB PREMISES CERTIFICATES

FACTORS FOR CONSIDERATION

INTRODUCTION

In determining applications for Premises Licences The Licensing Authority expects all applicants to consider and identify in their Operating Schedules how licensees will ensure the four licensing objectives of the Act are to be achieved.

Whilst the Council (acting as the Licensing Authority) will not seek to impose standard licensing conditions, it will, where appropriate, impose conditions on a licence necessary to promote the licensing objectives. In attaching such conditions to a licence The Licensing Authority may attach one or more of those conditions referred to within this document. (Pool of Conditions contained in Appendix A) or other conditions specifically tailored to the circumstances that The Licensing Authority feels are appropriate.

The Council expects all applicants to take notice of and have regard to the list of factors for consideration when preparing their Operating Schedules and expects all applicants to undertake a thorough risk assessment of their premises to ensure public safety.

GENERAL

1. In general terms it is unlawful to sell or supply alcohol to children under the age of 18 years. The Licensing Authority expects licensees to prevent the sale or supply of alcohol to persons under 18 years of age. Licensees should put in place measures intended to control and prevent the sale or supply of alcohol to under age persons and encourage the use of the various methods of proof of age available e.g. proof of age cards, Portman Group prove it, passports etc.
2. Where it is proposed to hold age related entertainment on licensed premises, The Licensing Authority expects licensees to protect children from harm by controlling and preventing access to that entertainment by under aged persons through the use of one or more of the methods listed above.
3. At premises where persons wait in queues for admission, The Licensing Authority expects the licensee to take all reasonable steps to ensure that such persons do not obstruct exits, passageways, stairways and ramps leading to the outside of the premises, or footpaths and other parts of the highway adjacent to those premises. Also where queues of people exist, the likelihood is for increased noise (nuisance) and unruly behaviour (may lead to crime and disorder), the use of licensed door supervisors may be an option in such circumstances.

PREMISES SELLING ALCOHOL

1. There will be a presumption against the grant of a licence authorising the supply of alcohol on licensed premises:

- (a) at any time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or that licence is suspended.
2. Every supply of alcohol made under the Premises Licence must be made or authorised by a person who holds a Personal Licence.
 3. The Licensing Authority also recognises that there will be occasions where licensed premises are run by a person or persons (i.e. small family run pubs and convenience shops etc) who are the only holder(s) of Personal Licences associated with that premises and that there will be times when it is necessary for business purposes for those licence holders to be away from the premises at a time when it would normally be open for the sale or supply alcohol. The Licensing Authority also recognises that such persons must be able to establish a correct work/life balance by having periods of time for rest and recreation away from their establishment.
 4. The Licensing Authority expects all sales or supply of alcohol to be made or authorised by a Personal Licence holder present on the premises at the time such sale or supply is made. In particular the Licensing Authority will expect that, other than in unforeseen and unavoidable circumstances, a holder of a Personal Licence will be on the licensed premises when the premises are open for the sale of alcohol.

PREMISES SELLING ALCOHOL FOR CONSUMPTION OFF THE PREMISES

1. Shops, stores and supermarkets selling alcohol will normally be permitted to match their normal trading hours with the hours during which other sales take place unless there are exceptional reasons relating to disorder or anti-social behaviour.
2. In general terms it is unlawful to sell or supply alcohol to children under the age of 18 years. The Licensing Authority expects licensees selling alcohol for consumption off premises to promote the licensing objective by preventing the sale of alcohol to persons under 18 years of age and supporting the control and prevention of off sales to under age persons through encouraging the use of the various methods of proof of age available e.g. passport, photo-driving licences, proof of age cards etc.

PREMISES SELLING ALCOHOL FOR CONSUMPTION ON THE PREMISES

1. Customers who are drunk should not be served further alcohol.
2. The Licensing Authority will scrutinise particularly closely any applications which appear to be for premises operated in such a manner as to encourage excessive and/or binge drinking e.g. those offering 'as much as you can drink' deals, inappropriate 'happy hours' promotions and 'vertical drinking' establishments which provide no seating.

3. The Licensing Authority will also look closely at any evidence of involvement in sale of alcohol either directly to minors or indirectly, via adult intermediaries, in cases where the vendor could reasonably have been expected to predict the outcome but failed to take appropriate actions.
4. The Licensing Authority will be particularly concerned to prevent the exposure of children to drunkenness, whether on the part of their own parents or carers or of others. This will depend in particular on the times at which children are to be admitted to licensed premises, in combination with the overall style or ethos of the establishment.
5. The Licensing Authority recognises the problems that fixed and artificially early closing times can promote and would encourage the holders of Premises Licences to stagger their closing times.

PREMISES PROVIDING REGULATED ENTERTAINMENT

1. Music, singing and dancing

- (a) Where appropriate The Licensing Authority expects the applicant to prepare a written drugs policy to be implemented at the licensed premises with the objective of securing, as far as reasonably practicable, the safety of patrons and others attending the premises.
- (b) When appropriate The Licensing Authority expects the applicant to maintain a drugs register in accordance with any guidelines laid down by North Yorkshire Police.
- (c) The Licensing Authority expects the applicant to maintain a register of all staff, including door supervisors, who are working at the premises during each public performance.
- (d) The Licensing Authority expects that the applicant will to the best of his/her ability, maintain and keep good order and decent behaviour on the said premises during the time of the public entertainment and notwithstanding the generality of the foregoing the licensee shall:
 - i. provide an acceptable system of:
 - **controlling entry;**
 - **identifying the numbers of persons present on the premises at any given moment in time;**
 - ii. produce on demand by any authorised officer of The Licensing Authority, the Police or Fire Brigade, evidence of the number of persons present at any given moment of time.

2. **Night club and similar venues**

The Licensing Authority expects that applicants will in addition give the foregoing factors consideration and in regard to those premises licensed for regulated entertainment and sale of alcohol beyond 23.00 hours will:

- (a) provide and maintain on licensed premises a secure drug deposit box of a type approved by North Yorkshire Police (where such approval type is published) for the safe storage and containment of any drugs found or seized on the premises;
- (b) use licensed door supervisors (numbers to be determined by North Yorkshire Police);
- (c) provide and maintain an area, suitably separate from the main dance area provided with:
 - **adequate seating;**
 - **suitable means of providing cool air (either by air conditioning or ventilation to the external air; and**
 - **so far as practicable, respite from high levels of noise.;**
- (d) the licensee shall make provision for at least one person qualified in first aid to be present on the premises during the whole time the premises are made available for public entertainment;
- (e) provide CCTV to cover both inside and outside the premises in positions agreed with both The Licensing Authority and Police. All cameras will be set to continually record when the premises are open to the public and the tapes produced will be logged in an auditable manner and retained for a minimum of 30 days.

3. **ADULT NATURE (I.E. STRIPTEASE, LAP DANCING ETC)**

- (a) The Licensing Authority expects applicants to promote the licensing objectives by agreeing to the following conditions which shall apply in relation to any consent given for a performance of striptease, lap dancing or similar entertainment and there shall be agreed in writing with The Licensing Authority:
 - i. activities that may take place;
 - ii. designated areas where these activities may take place; and
 - iii. arrangements for restricted access to the dressing room, which shall be maintained at all times whilst the agreed activities are taking place and until such times as all performers using the dressing room have vacated it.;

- (b) The agreed activities may only take place between such hours and be in such a position where the performance cannot be seen from the street as may be agreed in writing with The Licensing Authority.
- (c) The agreed activities shall only be given by the performers and no audience participation shall be permitted.
- (d) Performers shall be aged not less than 18 years and be accompanied and monitored by a member of security staff licensed by the Security Industry Authority to protect the performer from harm.
- (e) Performers shall only perform on the stage area, to seated and segregated customers or in such other areas of the licensed premises as may be agreed in writing with The Licensing Authority.
- (f) Whilst the agreed activities are taking place, no person under the age of 18 shall be allowed on to that part of the premises or any other part of the premises that gives any view of or direct access to that part of the premises. Clear notices(s) shall be displayed at each entrance to the premises in a prominent position that can be easily read by persons entering the premises in the following terms:

"NO PERSON UNDER 18 YEARS WILL BE ADMITTED"

- (g) The licensee shall not permit the display outside of the premises of photographs or other images that indicate or suggest that striptease or similar entertainment takes place on the premises and which may be offensive.
- (h) The Licensing Authority may not grant licences where Operating Schedule involve entertainment of an adult nature near to schools, youth clubs or other premises where significant numbers of children are likely to congregate.

4. SPORTING ENTERTAINMENT

- (a) The layout of the premises, including all seating and standing areas for spectators, shall be to the satisfaction of The Licensing Authority and shall be such as to minimise any risk of injury to persons present on the premises.
- (b) Where The Licensing Authority specifies the number of participants for a particular sports entertainment, that limit shall not be exceeded.
- (c) As regards any structure to be used in connection with the sports entertainment, the licensee or nominated person shall ensure that it is:
 - i. installed in a position approved in writing by The Licensing Authority;
 - ii. constructed to the satisfaction of The Licensing Authority;
 - iii. constructed of non-inflammable materials;

- iv. sufficiently stable; and
 - v. positioned so that no member of the public occupies any seat within 2.5 metres of it.
- (d) If barriers are required by The Licensing Authority, they shall be erected in such positions and be of such construction as specified in writing by The Licensing Authority.
- (e) Dressing room accommodation and washing facilities for participants shall be provided to the satisfaction of The Licensing Authority.
- (f) No glasses, crockery or cutlery shall be in the auditorium whilst any sports entertainment is taking place.
- (g) As regards any water sports entertainment, members of staff adequately trained in rescue and life safety procedures shall be stationed and remain within the vicinity of the water whilst the premises are open to the public.

5. **HYPNOTISM**

The following conditions shall apply to any consent given for an exhibition, demonstration or performance (hereafter "performance") of hypnotism:

(a) **Publicity**

- i. no poster, advertisement or programme for the performance that is likely to cause public offence shall be displayed, sold or supplied by or on behalf of the licensee either at the premises or elsewhere;
- ii. every poster, advertisement or programme for the performance, which is displayed, sold or supplied shall include, clearly and legibly, the following statement:

"VOLUNTEERS, WHO MUST BE AGED 18 OR OVER, CAN REFUSE AT ANY POINT TO CONTINUE TAKING PART IN THE PERFORMANCE"

(b) **Insurance**

- i. The performance shall be covered by public liability insurance to a level of at least £2,000,000. The hypnotist must provide evidence of this to the local authority if requested and it must be available for inspection at the performance.

(c) **Physical Arrangements**

- i. The means of access between the auditorium and the stage for participants shall be properly lit and free from obstruction;
- ii. A continuous white or yellow line shall be provided on the floor of any raised stage at a safe distance from the edge. The line shall run

parallel with the edge of the stage for its whole width. The hypnotist shall inform all subjects that they must not cross the line while under hypnosis, unless specifically told to do so as part of the performance.

(d) **Treatment of Audience and Subjects**

- i. Before starting the performance the hypnotist shall make a statement to the audience, in a serious manner, identifying those groups of people who should not volunteer to participate in it, explaining what volunteers might be asked to perform; informing the audience of the possible risk from embarrassment or anxiety; and emphasising that subjects may cease to participate at any time they wish. The following is a suggested statement, which might be amended as necessary to suit individual styles as long as the overall message remains the same:

"I shall be looking for volunteers aged over 18 who are willing to be hypnotised and participate in the show. Anyone who comes forward should be prepared to take part in a range of entertaining hypnotic suggestions but can be assured that they will not be asked to do anything which is indecent, offensive or harmful. Volunteers need to be in normal physical and mental health and I must ask that no-one volunteers if they have a history of mental illness and under the influence of alcohol or other drugs or are pregnant".

- ii. No form of coercion shall be used to persuade members of the audience to participate in the performance. In particular, hypnotists shall not use selection technique that seek to identify and coerce onto the stage the most suggestible members of the audience without their prior knowledge of what is intended. Any use of such selection techniques (e.g. asking members of the audience to clasp their hands together and asking those who cannot free them again to come onto stage) shall only be used when the audience is fully aware of what is intended and that participation is entirely voluntary at every stage.
- iii. If volunteers are to remain hypnotised during an interval in the performance, a reasonable number of attendants as agreed with the licensing authority shall remain in attendance throughout to ensure their safety.

(e) **Prohibited Actions**

- i. The performance shall be so conducted as not to be likely to cause offence to any person in the audience or any hypnotised subject.
- ii. The performance shall be so conducted as not to be likely to cause harm, anxiety or distress to any person in the audience or any hypnotised subject. In particular, the performance shall not include:

- any suggestion involving the age regression of a subject (i.e. asking the subject to revert to an earlier age in their life; this does not prohibit the hypnotist from asking subjects to act as if they were a child etc.);
- any suggestion that the subject has lost something (e.g. a body part) which, if it really occurred, could cause considerable distress;
- any demonstration in which the subject is suspended between two supports (so called "catalepsy");
- the consumption of any harmful or noxious substance;
- any demonstration of power of hypnosis to block pain (e.g. pushing a needle through the skin);
- the performance shall not include the giving of hypnotherapy or any other form of treatment

(f) **Completion**

- i. All hypnotised subjects shall remain in the presence of the hypnotist and in the room where the performance takes place until all hypnotic suggestions are removed.
- ii. All hypnotic or post-hypnotic suggestions shall be completely removed from the minds of the subject and the audience before the performance ends. All hypnotised subjects shall have the suggestions removed both individually and collectively and the hypnotist shall confirm with each of them that they feel relaxed and well (the restriction on post hypnotic suggestions does not prevent the hypnotist telling subjects that they will feel well and relaxed after the suggestions are removed).
- iii. The hypnotist shall remain available for at least 30 minutes after the show to help deal with any problems that might arise. (Such help may take the form of reassurance in the event of headaches or giddiness but this condition does not imply that the hypnotist is an appropriate person to treat anyone who is unwell).

6. AUTHORISED ACCESS TO LICENSED PREMISES

Where a constable or an authorised officer of the licensing authority or the Fire Authority has reason to believe that a performance is being, or is about to be given he may enter the venue with a view to seeing whether the conditions on which approval for the performance was granted are being complied with.

7. PREMISES PROVIDING LATE NIGHT REFRESHMENT

- (a) Custom for late night refreshment will not be sought by means of personal solicitation outside or in the vicinity of the premise.

- (b) Litter is a source of public nuisance often associated with 'take-away' food establishments caused by careless attitudes and anti-social behaviour when patrons casually discard packaging and partly consumed food products. When food or drink for consumption 'off' the premises is sold between the hours of 11.00 pm and 5.00 am The Licensing Authority will expect the premises operator to provide adequate additional waste receptacles if required in the immediate vicinity of the premises for use by patrons.
- (c) The applicant should agree the construction, siting and positioning of the waste receptacles with The Licensing Authority.
- (d) The maintenance of and responsibility of emptying and arranging for the proper disposal of the collected waste from such additional waste receptacles will remain with the licence holder.

Should the applicant consider that they could promote the Act's Licensing Objectives by choosing other methods than those included within this and associated documents when making an application for a licence, then full details should be given as to how those alternative methods will meet and enhance the Licensing Objectives.

SELBY DISTRICT COUNCIL

LICENSING POLICY

July 2007



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PREFACE

The new Licensing Act 2003 is designed to simplify the current complex regulatory framework covering the sale of alcohol, the provision of entertainment and the sale of hot food at night.

It is the first substantial change to the licensing laws in 90 years. It will affect pubs and nightclubs, cinemas, theatres, off-licences, restaurants, hotels, guest houses and shops selling alcohol and businesses selling hot food and/or drink between 11.00 p.m. and 5.00 a.m.

The Act has four fundamental objectives: **the prevention of crime and disorder; public safety; prevention of public nuisance and the protection of children from harm.**

Responsibility for licensing premises and individuals will move from magistrates to the council. The council will review its licensing policy every three years to meet the changing needs of the district.

1. PROFILE OF SELBY DISTRICT

- 1.1** Selby District Council covers an area of 227 square miles situated to the south of York. It is the most southerly District Council in North Yorkshire and it is primarily rural in character and aspect with a dispersed settlement pattern.
- 1.2** The District's population is approximately 76,500 and the principal towns are Selby, Sherburn and Tadcaster. There are 59 Parish Councils as well as various Parish and Community Meetings. Selby in particular is of historical importance built as it is around Selby Abbey. As a consequence tourism and leisure are important industries.
- 1.3** There is a diverse residential population which we have a duty to protect in line with the aims and objectives of the Licensing Act 2003. It is an aim of Selby District Council to secure the safety and amenity of the residential communities, whilst facilitating sustained entertainment for the benefit for the benefit of the residents of the district.
- 1.4** There are presently approximately 400 licences issued in respect of licensed premises and these cover a wide spectrum including public houses, licensed clubs, night clubs, restaurants and late night food establishments.
- 1.5** The Council welcomes the modernisation of licensing legislation and believes a balanced application of the Act 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, nuisance and anti-social behaviour;
 - improving the quality of life by bringing greater choice to residents, consumers, tourists and businesses about how they spend their leisure time;
 - encouraging more family friendly premises where younger children can be free to go with the family;
 - further developing a rich culture of live music, dancing and theatre in the area.

2 INTRODUCTION

- 2.1** Selby District Council is responsible under the Licensing Act 2003 for the licensing of 'licensable activities within its area. The licensable activities required to be licensed under the act are as follows:
- the sale by retail of alcohol (including via the internet or mail order);
 - the wholesale of alcohol to members of the public;
 - the supply of alcohol to members of qualifying clubs;

- the provision of regulated entertainment in the presence of an audience including the performance of a play, film exhibitions, indoor sporting events, boxing or wrestling events, performance of live music and playing of recorded music (except incidental music), dance performances and entertainment of similar descriptions;
- the provision of late night refreshment including the supply of hot food or hot drinks between 11pm and 5am;
- the permitting of licensable activities on an occasional basis to be known as Temporary Event Notices;
- the licensing of individuals for the retail sale of alcohol (Personal Licences see Appendix C);
- authorising of Premises Supervisors in premises supplying alcohol (Designated Premises Supervisors must also hold a Personal Licence).

2.2 The Licensing Act 2003 imposes a duty on the council to produce, develop and review a Statement of Licensing Policy that sets out what the council will generally apply in considering its responsibilities in promoting the licensing objectives when making decisions under the Act. The Council will actively seek to promote the four statutory licensing objectives that are set out in Section 5 of the Licensing Act 2003 which are as follows:

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

Each objective is of equal importance and the Council's policy relating to each of them is given in the Licensing Policy. The Council will where it believes necessary, consider attaching conditions to licences to promote these objectives.

2.3 This Licensing Policy has been prepared in accordance with provisions of the licensing Act 2003 and the Guidance issued by the Secretary of State under Section 182 of the Act. **The Policy will take effect on 7th February 2005** and will remain in force not more than 3 years. The statement of Licensing Policy is a live document subject to continuous review to meet the changing needs of the community and legislation. A formal review of the Policy will be made in January 2008. Any amendments to the Policy will be made with those parties shown in paragraph 2.4.

2.4 There are a number of groups who have an interest in the licensing of premises under the Act, including the trade, customers, residents and enforcement agencies. These parties each have views that require

consideration. Before publishing the Licensing Policy the Council will have full consultation with the following statutory consultees;

- (a) the Chief Officer of Police for the area (North Yorkshire);
- (b) the Fire Authority for the area (North Yorkshire);
- (c) persons/bodies representative of local holders of premises licences;
- (d) persons/bodies representative of local holders of club premises certificates;
- (e) persons/bodies representative of local holders of personal licences;
- (f) persons/bodies representative of business and residents in the area.

In addition, the Council may also consult with other agencies as appropriate. The views of all those listed will be given appropriate weight when Policy is determined.

2.5 The aim of the Policy is to strike a balances between:

- **securing the safety and amenity of residential communities, members of the public living, working or engaged in normal activity in and around the district;**
- **encouraging a sustainable entertainment and cultural industry.**

2.6 Licensing is about control of licensed premises, qualifying clubs and temporary events within the terms of the Act. The terms and conditions will be focussed therefore on matters within the control of the licensees and others granted relevant permissions. Accordingly these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.

2.7 When considering conditions the Council will focus on the direct impact that activities planned or taking place at licensed premises, qualifying clubs and temporary events may have on members of the public attending, living, working or engaged in normal activity in and around the area concerned.

2.8 The Council accepts that licensing law is not legislation controlling anti-social behaviour when it is divorced from licensed premises or individuals. This is the province of the Police. However, the Council expects licence and certificate holders to be responsible for minimising the impact of anti-social behaviour by their patrons within the immediate vicinity of their premises.

2.9 The Policy is intended to ensure that the provision of additional opportunities for licensable activities are matched by appropriate and proportional measures enabling the police and licensing authorities to act promptly to maintain public order and safety.

2.10 The Policy sets out a general approach to making licensing decisions that underpins the provisions of the Act and its associated guidance. It

is not intended to undermine the rights of any individual to apply for various permissions and each case will be considered upon its own merits.

- 2.11 The Policy does not override the right of an individual to make representations on an application or seek a review of a licence or certificate, where provision has been made for them to do so under the Act. However, frivolous, vexatious or repetitive representations will be disregarded. All appropriate representations will be weighted accordingly.
- 2.12 The Council will avoid duplication of existing legislation that already places obligations upon employers and operators. Conditions in respect of public safety will only be attached to licences for the promotion of licensing objectives.
- 2.13 In considering applications the Council will apply all definitions imposed not merely by the Act but by associated guidance and secondary regulations.
- 2.14 In pursuance of the Act the Council intends to work in partnership with statutory bodies and agencies located in Selby District to ensure a consistent approach is taken on licensing matters having regard also to individual community needs.
- 2.15 The Council will not require that access to licensed premises is given to children all times or limit such access unless it is necessary for promotion of the licensing objectives particularly in relation to preventing harm to children, for example:
- where entertainment of an adult or sexual nature are commonly provided;
 - where there have been convictions of members of staff for under age alcohol sales;
 - where the premises has a known reputation for under age drinking;
 - where premises have a known association with the use of illegal drugs;
 - where there is strong element of gambling on the premises. However, this would not include the presence of small numbers of cash prize gaming machines;

where the supply of alcohol for consumption on the premises is the exclusive purpose of that premises.

- 2.16** The Council expects to balance the needs of the wider and local communities, businesses against the needs of those who may be adversely affected by the applicant's activities.
- 2.17** Should the Council require to depart from the guidance provided a clear and sound reason for doing so will be published.
- 2.18** The Council may establish a Licensing forum made up of representatives from licensed premises, personal licensees, businesses, residents and other interested parties to meet periodically to discuss matters relating to the Policy.
- 2.19** The Licensing Committee will receive reports from those service departments and committees with responsibility for transport, tourism, the District's economy, cultural strategy and local employment at recognised intervals to ensure that issues can receive appropriate consideration.
- 2.20** The Licensing Committee may provide reports to the Planning Committee regarding Licensed Premises within the District. Such reports may include numbers and types of licensed applications received per ward.
- 2.21** The Licensing Committee will seek to impose only those conditions appropriate when licensing cultural events in order to promote the objectives of the Act.
- 2.22** The Council will monitor the impact of licensing on both regulated entertainment and the sale and supply of alcohol within the community and react accordingly.

GAMING MACHINES

- 2.23** Permits under Section 34 of the Gaming Act 1968, currently granted by the Licensing Justices for Amusements With Prizes Machines (AWPs) in premises that provide alcohol are now within the remit of the Licensing Act 2003 and therefore the Licensing Committee.
- 2.24** Despite the Gaming Act requiring that all machines be sited within view of the bar, this condition cannot be applied by the Council. The Licensing Committee can merely limit the number of machines. The Council will grant permits authorising up to two machines but any increase will necessitate the applicant attending a hearing.
- 2.25** This hearing will consider the size and layout of the premises and evidence of usage and further demand.

HUMAN RIGHTS

- 2.26 The Human Rights Act 1998 makes it unlawful for a Council to act in a way that is incompatible with a convention right.
- 2.27 **In conducting its business as the Licensing Authority for Selby District, the Council will have regard to the following provisions of the First Protocol of the European Convention on Human Rights:**
- **Article 1**
Every person is entitled to the peaceful enjoyment of his or her possessions
 - **Article 6**
In the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
 - **Article 8**
Everyone has a right of respect for his/her home and private life.

LICENSING POLICY OBJECTIVES

3. PREVENTION OF CRIME AND DISORDER

- 3.1 Licensed premises, particularly those offering late night entertainment, alcohol and refreshment, can sometimes become the source of public nuisance or crime and disorder problems. **The Council expect licensees to develop Operating Schedules that satisfactorily address those issues from the design of the premises through to the daily operation of the business.**
- 3.2 **In developing Operating Schedules applicants should take notice of this Policy and should seek advice where appropriate from the Council's Licensing Officer or the North Yorkshire Police Licensing Officer based at Selby Police Office.**
- 3.3 Quite separate from the Licensing Act the Council has a duty under Section 17 of the Crime and Disorder Act 1998 to prevent crime and disorder in the district. **The Council expects applicants to consider what action they can take in the management of their premises that will contribute to the reduction of crime and disorder.**
- 3.4 When considering all licence applications the Council will take into account the measures proposed to deal with the prevention of crime and disorder. **Applicants should include how they intend to address these issues within their Operating Schedule. The Council would normally expect that other than in unforeseen and avoidable circumstances a holder of a Personal Licence will be on the licensed premises when the premises are open for the sale of alcohol.** The Council will consider the actions the applicant has taken or intends to take in respect of the following:

- (a) The ability of the person in day to day charge to monitor the premises at all times it is open. The Council wish that the Designated Premises Supervisor would be in attendance at the premises at all times when the premises is open to licensing activities after 11pm and prior to closing;
- (b) The training given to staff regarding the prevention of crime (this would relate to public safety, conflict management, alcohol and drug issues);
- (c) Where necessary the use of CCTV;
- (d) Any appropriate security features relating to the storage of alcohol and the location of cash registers etc;
- (e) The measures employed to prevent the illegal use of drugs and offensive weapons;
- (f) That in the case of door staff being required the number be determined by the Designated Premises Supervisor having regard to the Licensing objectives;
- (g) Any other measure that may be appropriate in supporting the aim of the Act. (for example membership of pubwatch or shopwatch);where entry to premises is subject to age restriction that a recognised procedure is in place to conduct age verification checks. The Council would expect this to include the production of a Driving Licence or Passport;
- (h) The Operating Schedule shall specify how long customers are expected to finish their drinks, once the sale of alcohol has ceased. This is known as 'drinking up time' and **the Council recommend this time not to exceed 30 minutes;**
- (i) **Shops and supermarkets wishing to sell alcohol by retail will normally be expected to match their permitted hours to their normal trading hours unless there are compelling reasons relating to the prevention of crime and disorder to restrict these hours.**

3.5 Applicants wishing to apply for a premises licence involving the provision of entertainment and the sale of alcohol late at night may also have to show that they comply with the Home Office guidance on '**safer clubbing**'. In addition they should agree a protocol with the Council and the Police on the handling of illegal drugs.

3.6 The Council will review orders made under the Police and Criminal Justice Act 2001 regarding the consumption of alcohol in designated areas.

3.7 The Council will consider where necessary though not as a standard procedure to impose one or more conditions to licences and club certificates to prevent crime and disorder. These conditions are detailed in Appendix A.

DOOR SUPERVISORS

3.8 Door supervisors are important to ensure that premises are secure from disorder. Illegal access, occupation or damage. **From the 13th December 2004 all staff acting or Door Supervisors on licensed premises will be required to be licensed by the Security Industry Authority.**

4. CUMULATIVE EFFECT OF LICENCES ON THE AMENITY OF PARTICULAR AREAS

4.1 The Council will not take 'need' into account when considering applications. This is a matter for planning control in conjunction with normal market forces. However, the Council understands the cumulative impact of the number, type and density of licensed premises in areas, such as Selby, Tadcaster and Sherburn, may lead to problems of nuisance and disorder.

4.2 Representations may be received from any responsible authority or interested party that an area has become saturated with premises making it a focal point for individuals to gather and therefore create the conditions likely to promote disorder and crime.

4.3 In these circumstances, the Council may consider the imposition of conditions as unlikely to rectify matters and therefore may consider the adoption of a special policy of refusing new premises licences or club premises certificates on the grounds of saturation and therefore undermining the licensing objectives.

4.4 The Council will take the following steps when considering whether to adopt a special saturation policy:

- **the identification of serious and chronic concern from a responsible authority or representative of residents about nuisance and disorder;**
- **where it is demonstrated that disorder and nuisance is arising as a result of customers from licensed premises, identifying the area from which problems are arising and the boundaries of that area;**
- **assessing the cause;**
- **adopting a policy about further licence applications from that area.**

4.5 The Council will consider representations based on the impact on the promotion of the licensing objectives in the district.

4.6 The onus, however, will be upon the objectors to provide evidence to support that addition of new premises would create a cumulative effect.

4.7 The Council will review any special saturation policies every three years.

4.8 The Council will not use policies solely;

- as the grounds for removing a licence when representations are received about problems with existing licensed premises;
- to refuse modifications to a licence, except where the modification is directly relevant to the policy.

4.9 The Council recognises that the diversity of premises providing alcohol, food and entertainment covers a wide range of contrasting styles and will have full regard to those differences and their impact upon local communities.

5. PUBLIC SAFETY

5.1 Each of the type of premises covered by the Act present a mixture of risk to public safety. Some may be of a general nature whilst others may be premises or location specific.

5.2 It is essential that premises are operated in order that occupants are kept safe. The premises will also need to have obtained the relevant planning permission. A key issue will be safe occupancy levels, particularly where a current fire certificate does not take into account the licensable activity. **Safe occupancy levels will be imposed where considered necessary.**

5.3 The Council will expect Operating Schedules to satisfactorily address the relevant fire and health and safety legislation issues and applicants are advised to seek advice from the Council's Licensing Officer and North Yorkshire Fire and Rescue Service.

5.4 Where an inspection is required for premises, the Council's Licensing Officer will promote consistency by co-ordinating inspections with the fire authority, police, building control and environmental health officers as appropriate.

5.5 The purpose of imposing occupancy levels is to ensure the safety of occupants. These levels will normally be set in conjunction with North Yorkshire Fire and Rescue Service and the Council's appropriate officers. In accordance with the Secretary of State's guidance it should be noted that where a fire certificate has been issued under the Fire Protection Act 1971, premises will not have an occupancy level imposed under the Act unless the fire authority recommends a change.

5.6 Licence applications should normally be accompanied by:

- a scaled plan of the premises, denoting the areas to be licensed including beer gardens where appropriate and all existing and proposed fire safety features, including seating arrangements;
- a plan detailing how the premises will be managed and maintained to ensure public safety;
- maximum occupancy levels.

5.7 The Council will consider attaching conditions to licences and certificates to promote public safety. Any conditions will be premises specific and not imposed as standard procedure.

6. PREVENTION OF NUISANCE

6.1 Licensed premises by their very nature can sometimes create a range of nuisance which impacts negatively upon local communities.

6.2 The Council understands the importance of the licensing trade to the local economy and the leisure and cultural aspirations of the district. It will therefore work together with all interested parties, statutory agencies and licensed businesses to ensure mutual co-existence.

6.3 In considering all licence applications **the Council will take into account the adequacy of measures proposed to deal with the potential for nuisance in the premises Operating Schedule. As a consequence the Council will consider the action taken by the applicant with regard to the following:**

- (a) Preventing inappropriate noise and vibration escaping from the premises including music, noise from ventilation equipment and human voices;
- (b) Preventing disturbance by customers arriving at or leaving premises;
- (c) Ensuring that in the event of queuing that the queues are managed to prevent disturbance and obstruction;
- (d) Ensuring that the arrival and departure of patrons and staff are managed in a manner not likely to disturb residents;
- (e) Consideration of CCTV where appropriate;
- (f) Preventing the illegal possession and supply of drugs;
- (g) Preventing nuisance caused by refuse, vomit, urine or litter;
- (h) Any other measures that will contribute to reducing likelihood of nuisance by use of communication (use of pubwatch, shopwatch, radios etc).

6.4 The Council will consider imposing conditions to licences and permissions to prevent public nuisance but these will be premises specific and not to be attached as a standard procedure.

6.5 The Council is aware that there are a number of instruments available to combat unruly behaviour that occurs away from licensed premises:

- planning control
- powers to designate parts of the district as no alcohol areas
- police and the Council enforcement of the law with regard to anti-social behaviour

- the power of authorised and interested parties to request a review of a licence
- enforcement action against those selling alcohol to persons who are drunk.

7. PROTECTION OF CHILDREN FROM HARM

7.1 The Council understands that there are a range of activities and premises for which licences may be sought where children can be expected to visit for food or entertainment either alone or in company with adults. The Licensing Act 2003 does not prohibit the free access of children to any licensed premises. The Council accepts that limitations may have to be considered where it is necessary to protect children from harm. The following are examples of premises that may raise concerns:

- where there have been convictions for serving alcohol to minors, or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is provided;
- where there is a presumption that children under 18 should not be allowed.

7.2 **The Council expects Personal Licence holders to contribute by not serving alcohol to children under the age of 18. The Council recommends that the preferred way to verify a person's age is with reference to the following;**

- **A passport;**
- **A photocard driving licence;**
- **Proof of Age Standards Scheme (PASS) card or a Citizen Card supported by the Home Office;**

7.3 When deciding whether to limit the access of children to premises **the Council will judge each application on its own merits before deciding whether or not to impose conditions limiting the access of children to individual premises.** To assist in the process the Council will consult with North Yorkshire Police, the body responsible for child protection within North Yorkshire County Council and any other agencies as appropriate. Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted. The options available would include:

- **limitations on the hours when children can be present;**

- **age limitations for persons under 18**
- **limitations or exclusion when certain activities are taking place;**
- **full exclusion of persons under 18 when certain licensable activities are taking place;**
- **limitations of access to certain parts of the premises for persons under 18;**
- **a requirement for an accompanying adult to be present.**

This list is not meant to be exhaustive but gives applicants examples of the conditions the Council may seek to impose in meeting its obligations towards the protection of children from harm.

7.4 The Council will impose no conditions requiring that children be admitted to any premises and where no limitation is imposed this will be left to the discretion of the individual licensee.

7.5 The Act provides a number of offences designed to protect children in licensed premises and the Council will work closely with the police to ensure the appropriate enforcement of the law.

ACCESS TO CINEMAS

7.6 Films cover a vast range of subjects some of which deal with adult themes unsuitable for children. **In order to prevent children from seeing such films the Council will impose conditions requiring licensees restrict access only to those individuals who meet the required age limit in line with any certificate granted by the British Board of Film Classification.**

7.7 The Council expects licensees to ensure that age restrictions for film exhibitions are properly complied with and when considering applications, the Council will take into account any evidence that age restrictions for film exhibitions are not being properly observed.

CHILDREN AND PUBLIC ENTERTAINMENT

7.8 Many children both view and take part in entertainment arranged specifically for them. As a consequence it is essential they are kept safe throughout such performances.

7.9 Conditions will be imposed requiring that responsible adult staff are available to control the access and egress of children to ensure their safety. **The Council expects the premises to provide one member of staff for every fifty children present to ensure their safety and to control their access and egress at premises.**

7.10 The Council understands that licensees may wish to hold functions targeted specifically towards children. **The Council expects the Operating Schedule to address issues relating to preventing harm to children.**

7.11 The Council will consider imposing conditions to licences and permissions to prevent harm to children but these will be premises specific and not to be attached as standard procedure.

8. LINKS TO PLANNING OTHER LEGISLATION, POLICIES AND STRATEGIES

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

8.2 In general, all premises to which an application is subject must have authorised planning permission and comply with all conditions of any planning permission, or be deemed permitted development. The Council may not consider a new licence application or variation of conditions if the activity authorised by the licence would constitute unlawful planning use or the hours of operation sought exceed those authorised by any planning permission. Additionally, when considering applications and applications for provisional statement reference will be made to Selby District Council's Local Development Plan.

8.3 If an applicant wishes the Council 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.

8.4 The Policy shall avoid unnecessary duplication or inefficiencies by properly separating the planning and licensing regimes in operation. **Licensing decisions will take into account any relevant planning decision either by the Planning Committee or following appeals against decisions taken by that Committee and will not normally cut across such decisions.**

8.5 There are several key differences between licensing and planning control, the most significant of which is that planning is concerned with how land is used, whereas licensing is concerned with ensuring that public safety in its widest sense is protected.

8.6 When planning permission is attached to the premises, a new occupier is not required to obtain new permission when taking over premises (unless they are planning to alter the premises). They are however, required to apply to transfer the premises licence.

8.7 Licensing is concerned with the fitness of the operator and detailed issues concerning the operator and management of the premises that are not addressed through planning concerns. For example it is not the function of the planning authority to impose occupancy levels or to require CCTV to be installed in premises whereas this may be imposed by way of licence conditions where it is reasonable to do so.

8.8 Planning permissions for existing premises do not generally expire. However, licensed premises can be inspected on a regular basis to ensure that licence conditions are being maintained. This process allows the Council to look afresh at the terms and conditions of the licence depending on the nature and history of the operation. In extreme cases where an application has been made for a licence to be reviewed, this may lead to the licence conditions being amended or, at worst, the licence being revoked.

8.9 Partnership working and integration with other relevant legislation and strategies is a key part of this policy. **The Council will aim to ensure that it will integrate its various strategies to achieve the licensing objectives in the interests of clarity for applicants and effective determination. Regard will be given to the obligations and objectives of other legislation and incentives:**

- **Section 17 of the Crime and Disorder Act 1998 requires a Local Authority to do all that is reasonably practicable to prevent crime and disorder. The Council will take in to account matters contained in the Selby Community Safety Strategy relating to the four main licensing objectives;**
- **European Convention on Human Rights and specifically Articles 1, 6 and 8;**
- **Planning Acts and Local Plan;**
- **Enforcement Concordat;**
- **Section 17 of the Criminal Justice and Police Act 2001 (in relation to Police powers to close without notice for up to 24 hours licensed premises that are disorderly, likely to become disorderly or excessively noisy);**
- **Selby District Council's Community Strategy. The Local Government Act of 2002 requires all Local Authorities to produce a Community Strategy within the frame work of the UK Sustainable Development Strategy "A Better Quality of Life" and relevant regional strategies. Local strategic partnerships, typically involving Police, Local Authorities, Primary Health Care Trusts, representative from business and the voluntary sector organisations are responsible for the achievement of locally set objectives;**
- **The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people. For service providers such as Licensees the following should be noted:**
 - (a) **It is unlawful to treat disabled people less favourably than other people for reasons related to their disability;**
- **Enforcement Concordat;**

- (b) Licensees must make reasonable adjustments for disabled people such as providing extra help or making changes to the way they provide their services
 - (c) Licensees will now have to make reasonable adjustments to the physical features of their premises to overcome physical barriers to access.
- The Council will have regard to the likely impact of licensing on disability discrimination when considering the operation and management of all proposed licence applications, renewals and variations of conditions;
 - Race Relations and Equalities. Licences for any form of regulated entertainment will be subject to conditions to prohibit entertainment which are likely to lead to disorder, or stir up hatred or incite violence towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender;
 - Health and Safety at Work Legislation. This imposes duties on employers and persons in control of premises to prevent where possible or minimise the risk of injury or ill health to people affected by work activities or the condition of the premises. Councils are the enforcing authority for the majority of premises on which licensable activities are carried on, in other cases the Health and Safety Executive is responsible;
 - Licensing objectives overlap with health and safety requirements in so far as foreseeable risk is concerned. However, these general duties, for example risk assessment under the Management of Health and Safety at Work regulations, may not adequately cover specific issues, which arise from licensable activities. In these cases it may be more prudent to use conditions to ensure that an appropriate degree of control exists at all times during the operation of the licensable activities;
 - Building Control. Building regulations govern a variety of issues which will directly contribute to the licensing objectives, including means of escape, structural integrity, accessibility and public safety. "Approved Inspectors" offer a private sector alternative to local authority 'Building Control Services'. Building regulation approval and completion certificates will be required prior to the use of premises for licensable activities;
 - Environmental Protection Legislation. This places a duty on the Council to investigate complaints of nuisance which includes noise and take enforcement action where a statutory nuisance exists. The Licensing Act provides the power for the police to close licensed premises to prevent nuisance to the public as a result of noise coming from the premises. Joint working procedures or protocols

between environmental health officers, police and licensing staff will ensure that these control measures are properly used to protect the local environment;

- **Fire Precautions.** Where a fire certificate is in force and deals with or could have dealt with matters relating to fire safety and the fire certificate was issued for the use of the premises for licensable activities, the Council need not attach conditions to any licence or certificate. However, where the activities carried out on premises have changed to include those covered by the licensing regime it may be necessary to attach conditions relating to fire safety. Close cooperation between licensing and fire authorities will be required to ensure that the public is properly protected.

9. LICENSING HOURS

- 9.1 The Act introduces flexible hours for premises with the potential for 24 hour opening, seven days a week. As a result of this change the Council understands that operators of licensed premises might wish to seek variations to their present permissions so as to extend their current licensing hours.
- 9.2 The Council understands the variety of premises for which licences will be sought and that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance when people leave licensed premises. **When dealing with licensing hours, each application will be dealt with on its own merits.**
- 9.3 The Act provides opportunities for applicants to increase the potential of their business by applying for licensing activities or extending operating hours that they do not realistically propose to provide as part of their current operation. **Understanding that the Act allows operators to apply at any time to the licensing authority for a variation in their licensing activity and hours of operation the Council encourages and expects all applicants to take a responsible view of these opportunities and only make applications for those licensable activities and operating hours that they intend to provide as part of their intended normal business operation.**
- 9.4 **The Council will consider licensing shops and supermarkets to sell alcohol for consumption off the premises during the hours they are open for shopping purposes. However, there may be occasions where it is considered that there are good reasons for restricting those hours.**
- 9.5 **The Council will have a flexible approach to opening hours and will deal with the issue of licensing hours having regard to the individual merits of each application, taking into account requests for terminal hours in the light of the following:**
- environmental quality;
 - residential amenity;

- character or function of a particular area;
- nature of the proposed activities to be provided at the premises.

9.6 Consideration may be given to imposing stricter controls on noise and disturbance from licensed premises particularly those located in mainly residential areas or served by common thoroughfares.

9.7 The Council will not normally set fixed trading hours within a designated area as this could lead to significant movements of people across boundaries at particular times with the attendant concentration of disturbance and noise. This would treat residents less favourably than those in another. **Stricter conditions with regard to noise control may be required in areas that have denser residential accommodation, but this will not normally be considered as a reason to limit opening hours without regard to the individual merits of any application.**

9.8 Subject to representations the Licensing Committee will have regard to the closing times of other premises in the area when considering the terminal hour of premises. The operation of such premises should not attract persons into an otherwise quiet area if it has a potential to cause disturbance to residents.

10. PROMOTION OF EQUALITY

10.1 The Council recognises that the Race Relations legislation places an obligation on public authorities to have regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations.

10.2 In seeking support a community in which diversity is encouraged **the Council will expect applicants where appropriate to take steps that ensure no person is treated differently on the grounds of race, colour, religion, ethnic or national origins, age, sex, sexual orientation or disability and that the management and operating practices of licensed premises within the district comply with all race relations, equal opportunities and anti-discrimination legislation.**

10.3 Disabled people have the right to access services and there are now legal responsibilities under the Disability Discrimination Act requiring all service providers to make reasonable adjustments to enable disabled people due access.

10.4 The Council will have regard to disability discrimination when considering licence applications, renewals and variations and expect that there should be reasonable facilities and access for people with disabilities. The Council therefore expects the needs of disabled people to be addressed in the operating Schedule.

10.5 The Council will expect all Operating Schedules to include physical and managerial methods for the safe evacuation of disabled people.

11. CULTURAL STRATEGIES

- 11.1** In its role of implementing Local Authority cultural strategies, the Council understands the need to encourage and promote live music, dance and theatre for the wider benefits of the community, especially children. The Council accepts that licensed premises in the district are a major contributor to the promotion of these activities, which attract tourists and visitors and contribute to the local economy.
- 11.2** When considering applications for such events and the imposition of conditions on licences and certificates **the Council will balance the cultural needs with the necessity of promoting the licensing objectives.**

12. DETERMINATIONS

- 12.1** When determining applications **the Council will work within the framework of this policy which has been prepared having regard to guidance issued by the Department of Culture, Media and Sport.**
- 12.2** **The provisions for the determination of Club Premises Certificates will be the same as those used for a Premises Licence.**
- 12.3** **The policy shall apply to all new consents, renewals, transfers and variations to the following:**
- Premises Licences**
 - Club Premises Certificates**
 - Personal Licences**
 - Temporary Event Notices**
- 12.4** **Premises must be constructed or adapted so as to be safe and appropriate to the nature of the activities to be licensed. In the course of construction, alteration, extension a Premises can be granted a provisional statement, pending completion to the required standard and compliance with all other requirements.**
- 12.5** **Applicants will be expected to undertake a thorough and appropriate risk assessment of their business having regard to the licensing objectives.**
- 12.6** **Applicants should be aware of any local crime reduction; tourism and cultural strategies adopted by the Council and where appropriate to take account of these when formulating their Operating Schedules.**
- 12.7** **In considering all licence applications the Council will take account of the measures proposed to promote the four licensing objectives. The Council will expect the Operating Schedule to address these issues from the design through to the daily operation of the business. Particular attention will be paid to the following:**

- Internal safety arrangements
 - All means of escape
 - Steps the applicant has taken to prevent public nuisance both in and around the premises
 - Measures to prevent disorder and secure public safety in and around the premises
 - Measures to prevent the illegal use of drugs
 - Measures to prevent age-related offences in and around premises
- 12.8 If the police object to any application on the grounds of crime prevention the applicant is entitled to a hearing before the Licensing Committee according to the scheme of delegation.
- 12.9 Each application will be considered on its individual merits and decisions made in relation to licensing applications will be made entirely separately from any decision in relation to planning.
- 12.10 If there is a language difficulty with either the applicant or any objector the services of an interpreter will be necessary. Relatives of applicants or objectors will be regarded as independent. The Council will be prepared to organise an interpretation service but the applicant or objector will be responsible for any fees.

13. CONDITIONS

- 13.1 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary licences and the people who hold Personal Licences within the terms of the Act. Where relevant representations are made **the Council will seek to make judgements as to whether conditions needs to be attached to a licence, certificate or permission to secure the achievement of the licensing objectives.**
- 13.2 Conditions attached to licences and certificates **will be tailored to the specific style and character of the premises and events concerned. They will relate to matters within the control of the licensee, the premises themselves and the immediate vicinity in order to meet the licensing objectives.**
- 13.3 Upon grant of the licence the Act sets out mandatory conditions, which will be attached in certain circumstances. In addition to these, special conditions may also be attached. These conditions will be appropriate to the nature of the activities specified in the Operating Schedule and shall reflect the four licensing objectives. Any special conditions will be drawn from the pool of conditions set out in Appendix A.

- 13.4** A suitable individual who is also a Personal Licence holder must be nominated as a Designated Premises Supervisor responsible for the day to day management of the premises at any time when it is open for the sale of alcohol.
- 13.5** The Council may set maximum occupancy levels in consultation with North Yorkshire Fire and Rescue Service for licensed premises. Premises where a fire certificate has been issued which imposes an occupancy level will not have an occupancy level imposed under the Premises Licence, unless the Fire Authority recommends a change.
- 13.6** Whenever any persons are employed at licensed premises to carry out door security such persons must be licensed with the Security Industry Authority and this requirement will be imposed as a condition. The Council may also consider that certain premises require stricter control for the purposes of promoting the reduction of crime and disorder. In such cases the Council may impose a condition that licensed door supervisors must be present at the premises either at all times or at such times as certain licensable activities are being carried out.
- 13.7** Licensees will be expected to keep a record clearly identifying all door security personnel employed at the premises together with an incident book. Both registers shall be available for inspection by an authorised officer of the council or a Police Officer.

14. FILMS

- 14.1** No film shall be exhibited at licensed premises which is likely to lead to disorder. If the Council believes that a particular film falls into this category it will not be shown.
- 14.2** In connection with a film exhibition, conditions will specify that immediately before each showing a film passed by the British Board of 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 a certificate of the Board, or as regards a trailer advertising a film, a statement approved by the Board indicating the category of the film.
- 14.3** No film shall be available to the public without being classified. If it is unclassified it must be made available to the Council 28 days prior to screening.
- 14.4** Where videos are shown on licensed premises they should be suitable for children where the entry of children is permitted within the Operating Schedule.
- 14.5** The admission of children to any film shall be restricted in accordance with the recommendations given to films by the above Board or the Council.

- 14.6 If the Council do not agree with the category in which the films have been passed by the Board they shall be at liberty to alter such category and, on notice of such alteration being given to the licensee, the film shall be treated as having been placed in the altered category and conditions appertaining to the altered classification shall be complied with.
- 14.7 The licensee shall maintain good order and decent behaviour in such licensed premises. In addition the licensee shall immediately inform North Yorkshire Police in the event of any indecent conduct occurring on the premises.
- 14.8 The nature of any certificate received in respect of a film shall be clearly indicated by the letters U, PG, 12, 12A, 15 or 18.
- 14.9 No advertisement, displayed at the premises relating to a film to be exhibited at the premises, shall depict a scene that is not included in that film as certified by the British Board of Classification or the Council.
- 14.10 Where the Council have given notice in writing to the licensee of the premises objecting to any advertisement on the grounds that, if displayed it would offend against good taste or decency or be likely to encourage crime or lead to disorder, that advertisement shall not be displayed without the written consent of the Council and any conditions of such permissions shall be complied with.
- 14.11 If the Council request that the licensee show them a film, this will be shown at a reasonable time as directed by the Council in writing.
- 14.12 For the purposes of this licence "film exhibition" means any exhibition of moving pictures other than the simultaneous exhibition of television programmes, programmes included in a cable programming service, or programmes received via a satellite or similar receiver.

15. PREMISES LICENCE

- 15.1 The application of a Premises Licence is open to any person aged over 18 years, any business or partnership. The application must be accompanied by the following:
- Application form
 - Required fee
 - Operating Schedule
 - A scale plan of the premises to which the application relates in the prescribed form

- If the premises involve the supply of alcohol, a form of consent from the individual who is to be specified as the Designated Premises Supervisor
- Application to be advertised in the prescribed manner

15.2 The Operating Schedule should include information to enable the Council, responsible authorities or any interested parties to assess the steps taken by the applicant to promote the licensing objectives. For the premises where alcohol is to be sold for consumption on the premises, it would be valuable to know the extent of seating, the type of activities available and whether licensable under the Licensing Act 2003 or not. If there is to be dancing on the premises the Schedule should describe the type of dancing, if striptease or lap dancing is involved and the circumstances of this form of entertainment.

Other examples of information required in the Operating Schedule are as follows:

- relevant licensable activities to be conducted on the premises;
- times/days including holiday periods or different times of the year the activities will take place;
- any other times the premises will be open to the public;
- where the licence is required for a limited period the period indicated
- if the activities include the supply of alcohol, the name and address of the Designated Premises Supervisor;
- if the alcohol is to be supplied, whether it is to be consumed on or off the premises;
- the steps the applicant proposes to promote the licensing objectives;
- the applicant will be expected to undertake a thorough risk assessment with regard to the licensing objectives when preparing the application.

15.3 Small Venues Providing Dancing and Amplified or Non Amplified Music. These include the following:

- a Premises Licence or Club Premises Certificate which authorises the supply of alcohol for consumption on the premises and the provision of music entertainment;
- the relevant premises are used primarily for the consumption of alcohol on the premises;

- the premises have a capacity for up to 200 persons.

Any condition relating to the provision of music entertainment imposed on the licence by the Council other than those set out by the licence or Certificate which are consistent with Operating Schedule, will be suspended except where they are imposed as being necessary for public safety or the prevention of crime and disorder.

In addition where:

- a Premises Licence or Club Premises Certificate authorises the provision of musical entertainment;
- the premises have a capacity limit of 200.

then during the hours between 8am and midnight, if the premises are being used for unamplified music or the facilities to enable people to take part in such entertainment but no other description of regulated entertainment, then no conditions except those included in the licensee to comply with the operating schedule will apply. The provisions of this section can be dis-applied in the event of a review of the licence.

15.4 Wholesale of alcohol. The wholesale of alcohol to the public is now a licensable activity under the Act. There will therefore be the need for a Premises Licence and a Designated Premises Supervisor.

15.5 Internet and mail order sales. A Premises Licence will be required for the warehouse storage of the alcohol.

15.6 Regulated entertainment. This will require a Premises Licence.

15.7 Late night entertainment. The provision of hot food and hot drink for consumption either on or off premises between 11.00 p.m. and 5.00 a.m. is licensable under the Act. The exception to this requirement includes:

- Clubs, serving to their members only
- Hotels or comparable premises serving to customers
- Premises serving to their own employees
- Premises serving to guests of any individuals falling into any of the above categories.

15.8 Restaurants and cafes. These will require a premises licence in respect of hot food. For the sale of alcohol both a Premises Licence and Personal Licence will be required.

15.9 Casinos and Bingo Clubs. Where activities are licensable under the Act the conditions imposed will apply alongside those imposed under the Gaming Act.

- 15.10 **Garages.** Normally the sale of alcohol from a garage is prohibited, but each case will be judged upon its own merits considering the main function of the premises.
- 15.11 **Vehicles.** The sale of alcohol or the provision of other licensable activity from vehicles or other moveable structures may only be carried out from a premises or site holding a Premises Licence. It should be noted that performances taking place when the vehicle is in motion is exempt.
- 15.12 **Vessels and ships.** These are licensable where they are moored.
- 15.13 **Sports grounds.** Premises subject to the Safety of Sports Grounds Act shall have safety taking precedence over conditions imposed or activities authorised by the Licensing Act 2003 during the time the Safety Certificate applies.
- 15.14 **Vending machines.** Premises selling hot food or drink between 11pm and 5am will need to apply for a Premises Licence unless exempted. See 14.7 above.
- 15.15 **Amusement with Prize Machines.** Please refer to paragraphs 1.23, 1.24 and 1.25.

16. CLUB PREMISES CERTIFICATE

- 16.1 A **Club Premises Certificate** is required in order that qualifying clubs can supply alcohol or provide other licensable activities on Club premises. However such premises do not require either a Personal Licence or a Designated Premises Supervisor.
- 16.2 Club Premises Certificates will be issued to Clubs formerly known as Registered Members Clubs. To be eligible for a Club Premises Certificate the club the members must have joined together for a particular social, sporting or political purpose and then have combined to purchase the alcohol in bulk for supply to members and guests. Qualifying conditions are specified in Section 61 of the Act and the Council must be satisfied that these conditions have been met. In particular the Club must be non-profit making and there must be a 48 hour delay between application and acceptance of new members.
- 16.3 The Club must be established and conducted in 'good faith'.
- 16.4 Any member of a club can apply for a Club Premises Certificate provided they are over 18 years of age. However, an application is required to be accompanied by the following:
- the required fee;
 - the operating schedule;
 - a scale plan of the premises in the prescribed form;

- a copy of the Club rules;
- a copy of the notice to be advertised in the prescribed form.

16.5 Operating Schedule The Council will require the Club to produce an Operating schedule which should include the following detail:

The qualifying club activities to which the application relates;

- The proposed hours of those activities and any other times during which it is proposed that the premises are to be open to the public;
- Where the relevant qualifying club's activities include the supply of alcohol, whether the supplies are for consumption on or off the premises;
- Information to enable either the Council, other responsible authority or interested party to assess the steps taken by the applicant to promote the licensing objectives.

16.6 Where a club intends to admit the general public to Regulated Entertainment then a Premises Licence or a Temporary Event Notice is required. Where alcohol is sold and there is a Premises Licence then there will also be a requirement to obtain a Personal Licence.

16.7 If an applicant wishes to vary a Club Premises Certificate, the Council require the application to be processed in the same manner as a Premises Licence.

16.8 The Council will require the club secretary's contact details to be readily available.

17. PERSONAL LICENCES

17.1 The Council will grant Personal Licence applications providing the following criteria are met:

- (a) the applicant is over 18;
- (b) contains the required fee;
- (c) the applicant possesses a relevant licensing qualification;
- (d) the applicant has not forfeited a Personal Licence in the previous five years from the day the application is made;
- (e) the applicant has not been convicted of any relevant offence which is defined in the Act;
- (f) the Police have not given an objection notice about the grant of a Personal Licence following notification of any unspent relevant offences;

(g) the application has been submitted correctly.

- 17.2 Applicants will be required to produce a current Criminal Record Bureau Certificate which should be copied to the Police along with the application. The Council will consult with the Police regarding any relevant offences.**
- 17.3 Applications will generally be granted unless there are good reasons for not doing so. For an applicant who has relevant convictions the refusal of the application will be the normal course unless there are in the opinion of the Council exceptional and compelling circumstances that justify granting the application.**
- 17.4 If a representation is made by the Police to an application the matter will be referred to the Licensing Committee.**
- 17.5 Where an applicant for a Personal Licence has an unspent criminal conviction for a relevant offence, the Police and Council may interview the applicant should the Police decide to object to the grant of the Licence.**
- 17.6 The Personal Licence holder has a duty to inform the Council of any new relevant convictions.**
- 17.7 The Council will require one of the Personal Licence holders to be a Designated Premises Supervisor who is in charge of the day to day running of the business.**
- 17.8 Where the Designated Premises Supervisor is not available at the premises the Council will expect an individual to be nominated as a point of contact who will have details where the Designated Supervisor can be contacted.**
- 17.9 The Premises Licence will specify the name of the Designated Premises Supervisor. It is the responsible of the Premises Licence holder to notify the Council immediately of any change of Designated Premises Supervisor.**
- 17.10 Where a Personal Licence holder is convicted of a relevant offence, the Court will advise the Council accordingly. On receipt of such notification, the Council will contact the holder within 14 days requesting return of the licence so that the necessary action can be taken. Licensees are advised to let the Council know of any relevant convictions.**

18 TEMPORARY EVENT NOTICES

- 18.1 The Act provides for certain occasions when regulated entertainment at small scale events (events for not more than 499 people at a time and lasting for no more than 96 hours) do not need a licence but do need to provide advance notice to the Police and Council. The Police can only object to a Temporary Event Notice if the event is likely to undermine the crime prevention objective.**

- 18.2** Where a Premises Licence would normally be required for a short period of time a Temporary Event Notice may be a better and easier alternative. Temporary Event Notices are subject to various conditions and limitations which concern the following:
- (a) the duration is limited for a period up to 96 hours;**
 - (b) they cannot involve the presence of more than 499 people at any one time;**
 - (c) the same premises can be used for up to 12 occasions in a calendar year but the aggregate number of days must not exceed 15;**
 - (d) a Personal Licence holder is limited to 50 per year**
 - (e) a person not holding a Personal Licence is limited to 5 per year.**
- 18.3** If the above conditions are not fulfilled, an event at which licensable activities are to take place would require a Personal Licence.
- 18.4** The law states that 10 working days notice must be given to the Police and the Council prior to the date of the event, the less time that is given may increase the likelihood of the Police objecting. The Council would recommend that at least 28 days notice be given to hold such events to allow consideration of the application or full guidance to be given to organisers to run their event in a proper manner. The Council would also expect applicants to adequately inform local residents of such intended events.
- 18.5** In the event of a representation from the Police, the Council will hold a hearing not less than 24 hours before the event is due to take place.
- 18.6** It should be noted that for events concerning more than 499 people a Premises Licence will be required for a limited period and where the sale of alcohol is involved there must be a Designated Premises Supervisor specified on the application who must be a Personal Licence holder.
- 18.7** Much larger crowds may attend large scale temporary events and the risk to public safety, nuisance, crime and disorder is therefore increased. **The Council should be given early notice of such major events to discuss Operating Schedules with the organiser prior to a formal application being submitted. It will be required that public safety, nuisance, crime and disorder be taken into account and for that reason organisers should refer to the following documents:**
- 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 15804;**

- **Five Steps to Risk Assessment – case studies (HSE 1998) ISBN 07176 15804;**
- **The Guide to Safety at Sports Grounds (The Stationary 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.**

18.8 In general Temporary Event Notices do not require the Council’s permission. However, the Police may object on the grounds of disorder at the event. The Council would normally only intervene if the limit on the number of Notices that may be given in various circumstances would be exceeded or the event does not conform to the requirements of the Act.

18.9 Many premises users giving temporary event notices will not have commercial backgrounds or ready access to legal advice. **The Council will ensure that guidance about temporary permitted activities is clear and understandable and will strive to keep arrangements manageable and user-friendly for these groups.**

18.10 In giving notification of a Temporary Event the following information must be available to the Council and the Police:

- (a) Location of the event;**
- (b) the licensable activities to take place at the event;**
- (c) the period during which it is proposed to use the premises for licensable activities;**
- (d) the times of the event the premises user proposes that the licensable activities shall take place;**
- (e) the maximum number of persons it is proposed be allowed on the premises;**
- (f) where the licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on or off the premises;**
- (g) any other matters that may be prescribed in pursuance of the licensing objectives.**

18.11 The Council will not seek to attach any restrictions on such events other than those set down in the legislation. **However, the Council will provide advice about respecting the concerns of residents; other legislation requirements regarding health and safety, noise pollution and the building of temporary structures; or other necessary permissions or considerations. The Council will also remind notice givers of relevant offences under licensing law.**

18.12 The purpose of the notification is to enable the Council to check that all the limitations set down in the Act are being observed and to intervene if they are not. **Where the application is not within the parameters described above the Council will issue a counter notice to the person giving notice. Where the notice is in order, the fee paid, the event falls within the Act and there has been no Police intervention, the Council will record the notice in its register and send an acknowledgement to the premises user.**

19. PROVISIONAL STATEMENT

19.1 If premises are being constructed for the purpose of being used for one or more of the licensable activities or are being extended or otherwise altered for that purpose a person may apply for a **Provisional Statement** if that person is interested in the premises and provided that an individual is aged over 18 or over. Regulations can be made regarding advertising of the application.

19.2 **Any application for a Provisional Statement must be accompanied by a schedule of works. This will include details of the licensable activities, a plan of the premises and other information as may be prescribed.**

19.3 If an application is made for a Provisional Statement **and the Council is satisfied that the applicant has complied with all necessary requirements and no relevant representation have been received then the Council will issue a Provisional Statement.**

19.4 Where relevant representations are made and not withdrawn **the Council must arrange a hearing. After listening to the representations at this hearing the Council can decide to grant the Provisional Statement subject to conditions or exclude from the scope of the provisional grant any of the licensable activities mentioned in the application, or refuse to specify a person on the Licence as the Designated Premises Supervisor or reject the application.**

19.5 If a Provisional Statement has been issued and the person subsequently applies for a Premises Licence in respect of the premises, a part of them or premises that are substantially the same as the relevant premises; and the application for the Provisional Statement; and the work described in the schedule of works accompanying the application for that statement has been satisfactorily completed; then any representations shall not be taken into account if:

- (a)** given the information in the application for the Provisional Statement the person objecting could have made the same or substantially the same representation about the application but failed to do so without reasonable excuse; and
- (b)** there has been no material changes in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

20. CONSULTATION

20.1 This section of the policy outlines the licensing consultation process. The aim of consultation is to provide the opportunity for all parts of the community to be involved in the licensing process. The consultation process shall apply in respect of all applications for new consents and variations to Premises Licences and Club Premises Certificates.

20.2 Applicants will be required by regulations to:

- **advertise the application within a prescribed period in a prescribed form and in a manner which will be prescribed and that is likely to bring it to the attention of interested parties;**
- **give notice of the application to each responsible Authority and such other persons as may be prescribed within the prescribed period;**
- **regulations will prescribe the period during which interested parties and responsible authorities may make representatives to the licensing authority about the application.**

20.3 If relevant representations are made and not withdrawn the Council will hold a hearing and at that hearing the **Council may:**

- (a) modify the conditions of the licence/certificate; or**
- (b) reject the whole or part of the application**

20.4 The licence/certificate will not be varied so as to:

- (a) extend the period for which the licence has effect; or**
- (b) to vary substantially the premises to which it relates.**

20.5 The Council may vary a Premises Licence/Certificate so that it has effect subject to different conditions in respect of;

- (a) different parts of the premises concerned; and**
- (b) different licensable activities.**

20.6 Interim Authority Notices. Generally a licence will remain in force for as long as the licensee continues to operate the business. However, if the holder or a Premises Licence dies, becomes mentally incapable or becomes insolvent then the Premises Licence will lapse.

20.7 If, within a seven day period a person who had an interest in the premises concerned or is connected to the person who held the Premises Licence immediately before it lapsed gives the Council an 'Interim Authority Notice', the licence will be reinstated for a two month period.

- 20.8** At the end of the two months it will lapse unless an application for a transfer of the licence is received.
- 20.9** A person is connected to the former holder of a Premises Licence if, and only if:
- (a)** the person is the personal representative in the event of the holder's death;
 - (b)** in respect of someone who has become mentally incapable the person is acting under Section 6 of the Power of Attorney Act 1985; or
 - (c)** in the event of insolvency the person is acting as an Insolvency Practitioner.
- 20.10** Interim Authority Notices must also be served on the Police. If the Police consider that the grant of an Interim Authority Notice would undermine the prevention of the crime objective, the Council will arrange a hearing to consider the Notice.
- 20.11** Transfer of Premises Licences. The following persons may apply for the transfer to them of a Premises Licence;
- (a)** any person who conducts a business which involves the use of a premises for licensable activities, authorised by the Premises Licence;
 - (b)** any person who makes the application in pursuance of one or more of its statutory functions which relate to those licensable activities;
 - (c)** a relevant Club within the meaning of the Act;
 - (d)** a charity;
 - (e)** an educational institution;
 - (f)** a hospital;
 - (g)** any person of such other description as may be prescribed.
- 20.12** Notice of the application must be given to the Police.
- 20.13** If the Police consider the granting of the application would undermine the crime prevention objective they must give notice within 14 days to the Council giving reasons for that decision. In such circumstances, unless the objection is withdrawn, **the Council must arrange a hearing and must reject the application if they consider it necessary for the promotion of the crime prevention objective to do so.**
- 20.14** An application for a transfer of a licence can contain a request that the transfer has immediate effect. Such a request can only be made with the

consent of the holder of the Premises Licence unless the applicant has taken all reasonable steps to obtain that consent and would be in a position to use the premises whilst the application is pending for the licensable activities authorised by the Premises Licence.

20.15 A full transfer of the Licence can only be made with the consent of the Premises Licence holder unless identical circumstances apply.

In the event of a death, incapacity or insolvency of a Premises Licence holder and where no Interim Authority Notice has been given, provided that an application is made within 7 days after the licence lapsed, a person can make an application for the transfer of the licence.

20.16 Review of Premises Licences. Reviews of Premises Licences represent a key protection for the community where problems associated with disorder, public safety or disturbance are occurring.

If relevant representations are made about a current licence, the Council will hold a hearing to consider them unless the Council, the applicant and everyone who has made representations agreed that the hearing is not necessary.

20.17 A licence review will normally follow any action by the Police to close down the premises for up to 24 hours on grounds of disorder or public nuisance.

APPEALS

20.18 Entitlement to appeal for parties aggrieved by the decisions of the Council are set out in Schedule 5 of the Act.

20.19 Other than in the case of Personal Licences, **an appeal against a decision by the Council has to be made to the Magistrates Court.**

20.20 In cases of Personal Licences **the appeal must be made to the Magistrates Court in the area in which the Personal Licence was issued.**

20.21 Where an applicant is aggrieved by a condition, decision or relevant representation from a responsible authority or relevant person, there is a right to appeal. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Council of the decision and must be made to the Magistrates Court.

20.22 In determining an appeal the Court may:

- (a) dismiss the appeal;
- (b) substitute for the decision appealed against any other decision, which could have been made by the Council;
- (c) remit the case to the Council to dispose of it in accordance with the discretion of the Court.

20.23 Upon notification of the Court's decision the Council will seek to action that determination without undue delay, unless ordered by a higher Court to suspend such action. The Act provides for no further appeal against the determination of the Magistrates Court.

20.24 The Court may make such orders as to costs as it thinks fit.

20.25 The Council will maintain comprehensive records recording the reasons for the decisions.

20.26 The Council will also address the extent to which the decision has been made with regard to its statement of licensing policy and its associated Guidance.

21. COMPLAINTS AGAINST LICENSED PREMISES.

21.1 Complaints relating to the activities carried out at licensed premises of any description will be referred to the Council's Licensing Section. **In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned.**

21.2 The Council where practicable will seek to facilitate mediation between applicants, relevant statutory agencies and occupiers of nearby premises, local residents groups, communities or interested groups where significant issues have arisen relating to a licence application. The Council, where possible will facilitate mediation through:

- identification of potential issues for other relevant statutory agencies particularly regarding the safety and amenity of residents;
- negotiation of potential conditions to reflect resolutions of mediation forums.

21.3 This process will not override the right of any interested party to ask that the Council consider their valid objections or for any licence holder to decline to participate in a mediation meeting.

21.4 The Council will disregard any representations which are irrelevant, frivolous or vexatious.

21.5 A senior Police Officer may under the Act close premises in the interest of public safety for up to 24 hours on the grounds of likely or imminent disorder on or in the vicinity of the premises.

21.6 Additionally a review of the licence will take place within 28 days of any action by the Police to close down the premises for up to 24 hours or longer if so granted by the Magistrates Court on the grounds of disorder or public nuisance.

22. ENFORCEMENT

- 22.1** Where necessary, enforcement action will be taken in accordance with the principles of the Enforcement Concordat and the Licensing Authority's Enforcement Policy. Effective enforcement is necessary to meet the licensing objectives and to support local residents and businesses.
- 22.2** **The Council will have regard to the principles recommended by the 'Better Regulation Task Force' for good enforcement and in particular to:**
- Targeting.** This will focus upon the activities that give rise to the most serious risks. Risk rating of premises will be based on the LACORS document for assessing inspection frequency for premises falling within the provisions of the Act.
- Consistency.** Each situation within the district will be met with a consistent approach.
- Transparency.** This will involve assisting duty holders to understand what is expected both by the Council and the Act.
- Proportionality.** Any action taken will be proportionate to the challenge posed.
- 22.3** The Council understands that the effectiveness of its licensing policy will be determined by the enforcement action it undertakes. As a consequence it will undertake routine monitoring of licence conditions on a risk based programme.

UNDERAGE DRINKING

- 22.4** Selby District Council is anxious to reduce alcohol induced problems within the district and in particular where it concerns persons under 18 years of age. As a consequence it commends the Portman group code of practice on the naming, packaging and promotion of alcoholic drinks and will support the enforcement of underage purchase of alcohol. To this end the Council will work closely with our partner agencies.

23. ADMINISTRATION, EXERCISE AND DELEGATION

- 23.1** The Council has established a Licensing Committee of 10 members to administer licensing issues. This Committee in turn can create Licensing Sub-Committee's
- 23.2** Many of the decisions and functions are largely administrative in nature and where no representations have been made it is anticipated these functions will be delegated to appropriate Council Officers.
- 23.3** **Applications where there are relevant representations will be dealt with by the Licensing Sub-Committee unless there are prescribed reasons for not doing so.**

23.4 Unless there are compelling reasons to the contrary, the Council will require the Licensing Committee or its Sub-Committee to meet in public. However, this will not prejudice members meeting in private session to consider their decision.

23.5 “Relevant representations” are defined by the Act as those representations which are:

- (a) about the likely effect of the Premises Licence on the promotion of the Licensing objectives**
- (b) made by an interested party or a responsible authority, have not been withdrawn and, in the case of representations made by an interested party they are not in the Council’s opinion irrelevant, frivolous or vexatious.**

23.6 An ‘Interested Party’ means any of the following:

- (a) a person living in the vicinity of the premises;**
- (b) a body representing persons who live in that vicinity;**
- (c) a person involved in a business in that vicinity;**
- (d) a body representing persons involved in such business.**

23.7 Schedule of Delegated Functions

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for Premises Licence/Club Premises Certificate		If a relevant representation is made	If a relevant representation is made
Application for Provisional Statement		If a relevant representation is made	If a relevant representation is made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation is made	If a relevant representation is made
Application to vary Designated Personal Licence Holder		If a relevant representation is made	If a relevant representation is made
Request to be removed as Designated Personal Licence Holder		If a Police objection	All cases
Application for transfer of Premises Licence			All other cases
Application for Interim Authorities		If a Police objection	All other cases

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application to review Premises Licence/Club Premises Certificate		If a Police objection	
Decision of 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 representative to a Temporary Event Notice		All cases	

24. POLICY CONSULTATION REVIEW

24.1 The policy came into effect on 7th February 2005 and will remain in force for 3 years. During this period the policy will be subject to periodic review and further consultation.

24.2 In developing this policy the Council has consulted widely to ascertain an appropriate licensing framework for its area. The bodies consulted have included those bodies specified under the Act and include:

The Police

The Fire Authority

Current Licence holders

Representatives of the local licensing trade

Representatives of local businesses and residents.

25.3 In addition the Council has consulted:

Representatives of the local strategic partnerships

The health care trust

Solicitors

Schools and Colleges

CAMRA