



Meeting: **POLICY REVIEW COMMITTEE**  
Date: **TUESDAY 14 JULY 2015**  
Time: **5.00PM**  
Venue: **COMMITTEE ROOM**  
To: **Councillors J Deans (Chair), M Hobson (Vice Chair),  
K Arthur, K Ellis, D Hutchinson, R Packham and Mrs J  
Shaw-Wright.**

## Agenda

### 1. Apologies for absence

### 2. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at [www.selby.gov.uk](http://www.selby.gov.uk).

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

### 3. Minutes

To confirm as a correct record the minutes of the meeting of the Policy Review Committee held on 16 June 2015 (pages 1 - 4 attached).

### 4. Chair's Address to the Policy Review Committee

### 5. National Non-Domestic Rates Transitional Relief Scheme

To receive a report from the Executive Director (S151).  
(pages 5 - 15 attached).

## **6. National Non-Domestic Rates Discretionary Reliefs**

To receive a report from the Executive Director (s151)  
(pages 16 - 46 attached).

## **7. Review of the Licensing Policy**

To note the proposals for the review of the Licensing Policy and to provide comments on the scope of the review and consultation.  
(pages 47 - 145 attached).

## **8. Welfare Reform – Six Month Update**

To receive an update from the Lead Officer (Benefits & Taxation) (pages 146 - 152 attached).

## **9. Work Programme 2015/16**

To consider the Committee's Work Programme for 2015/16  
(pages 153 - 155 attached).

**Jonathan Lund**  
**Deputy Chief Executive**

Enquiries relating to this agenda, please contact Janine Jenkinson on:  
Tel: 01757 292268 or email: [jjenkinson@selby.gov.uk](mailto:jjenkinson@selby.gov.uk)

### **Recording at Council Meetings**

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# Minutes

## Policy Review Committee

Venue: Committee Room

Date: 16 June 2015

Present: Councillors J Deans (Chair), M Hobson (Vice Chair),  
K Arthur, K Ellis, R Packham and Mrs J Shaw-Wright.

Apologies for Absence: Councillor D Hutchinson

Also Present: Councillor J Mackman

Officers Present: Jonathan Lund, Deputy Chief Executive; Keith Dawson,  
Director, Daniel Maguire, Democratic Services Officer and  
Janine Jenkinson, Democratic Services Officer.

### **2. DISCLOSURES OF INTEREST**

There were no declarations of interest.

### **3. MINUTES**

**RESOLVED: To receive and approve the minutes of the Policy Review Committee held on 24 March 2015 for signature by the Chair.**

### **4. CHAIR'S ADDRESS**

The Chair welcomed Councillors and Officers to the first meeting of the municipal year.

### **5. PR/15/1 – TIMING OF MEETINGS 2015/16**

**RESOLVED: That Committee agreed to commence meetings at 5.00 p.m. for the 2015/16 municipal year.**

## 6. PR/15/2 – PLAN SELBY: RESPONSES TO INITIAL CONSULTATION

Executive Councillor Mackman and Keith Dawson, Director presented a final report on the results of the Initial Consultation.

Councillors were informed of the key issues arising from the first round of public participation and were asked to provide comments and recommendations on the scope and content of PLAN Selby, which could then be considered by the Local Plan Programme Board and the Executive.

Public participation on the Initial Consultation had provided a wide range of responses. The responses would be used to inform the future work on plan preparation, the scope of on-going evidence based work, discussions at the programmed focussed engagement and to assist in developing options to be tested in the plan making process.

The Committee received a presentation that highlighted the following key issues that had been raised in response to the initial public consultation:

- Providing Homes
- Promoting Prosperity
- Green Belt
- Safeguarded Land
- Development Limits
- Strategic Countryside Gaps
- Infrastructure Needs
- Climate Change and Renewable Energy
- The Environment

Keith Dawson outlined the Council's response to each of the key issues.

In relation to a query regarding 1.15 of the report, in particular – Sherburn in Elmet's growth and workshops during June and July, Keith Dawson advised that the workshops would be an opportunity to comment on the work in progress and review the methodology that had been used.

It was highlighted that a large number of responses had been received in relation to Climate Change and Renewable Energy. The majority of respondents had objected to identifying suitable areas for Renewable Energy, although a few responses had been supportive.

Keith Dawson, advised that there had been wide spread support for the use of separation thresholds and the need for further policy or guidance on cumulative impacts and other design issues, such as noise from turbines. In light of the comments received and the latest Government policy guidance and case law, the Council would be making decisions about the need for, and scope of, any policy framework required in PLAN Selby in addition to that already contained in the Core Strategy.

The Chair highlighted that many comments had been received regarding the need to ensure that new development was accompanied by associated infrastructure due to existing capacity issues. He said S106 agreements would be used to ensure that suitable infrastructure was provided alongside development.

Keith Dawson reported that in preparing PLAN Selby and during the focussed engagement, the Council would meet with those bodies that supported infrastructure delivery to discuss the representations that had been made.

Councillors were advised that the issues raised during the Initial Consultation on PLAN Selby would be used to inform further discussions with communities, stakeholders and to inform planning policy and option development.

The Council's response to the issues arising from representations throughout the plan process would be published in its Consultation Statement as part of the Council's supporting documentation when PLAN Selby was submitted to the Secretary of State.

The preparation of PLAN Selby would continue throughout the year on three main areas of work:

- Focussed Engagement (Summer 2015)
- Evidence gathering to inform and support the plan.
- Generation and Appraisal of Options (June – December 2015)

Keith Dawson suggested the Committee received an update report at the meeting scheduled for 15 September 2015.

The Chair thanked Councillor J Mackman and Keith Dawson for the report and presentation.

**RESOLVED:**

- (i) To note the content of the report.**
- (ii) To endorse the scope and content of PLAN Selby, and the comments raised at the meeting, as detailed above, be passed on to the Local Plan Programme Board and Executive for consideration.**
- (iii) To present a PLAN Selby update report to the Committee on 15 September 2015.**

**7. PR/15/3 – WORK PROGRAMME 2015/16**

The Chair presented the Work Programme for consideration.

In relation to the Budget and Policy Framework - The State of Area Address, scheduled for 14 July 2015 meeting, the Committee was advised that this item

was no longer likely to be delivered and could be deleted from the Work Programme.

Councillor R Packham asked Councillors to consider a report published by The Children's Society, *The Wolf at the Door: How council tax debt collection is harming children*. He requested that a report, outlining the Council's approach to debt collection in the District be presented to the Committee. It was suggested that this issue could be incorporated into the Welfare Reform report scheduled to be presented at the meeting on 14 July 2015.

The Committee suggested that a Licensing Policy report and an Enforcement Policy report be added to the Work Programme. It was proposed that one of the reports be presented to the meeting on 14 July and the other be presented to the meeting on 15 September 2015.

**RESOLVED:**

- (i) To incorporate information in relation to the Council's approach to debt collection into the Welfare Reform report due to be presented at the meeting on 14 July 2015.**
- (ii) To present an update report on PLAN Selby to the Committee on 15 September 2015.**
- (iii) To include reports on Licensing Policy and Enforcement Policy on the Work Programme for either 14 July or 15 September 2015 meetings, subject to consultation with the relevant Officers.**
- (iv) To include the Work Programme on the agenda of each meeting as a standing item for review.**

The meeting closed at 5.50pm.

**Report Reference Number (PR/15/3)**

**Agenda Item No:5**

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**To:** Policy Review Committee  
**Date:** 14 July 2015  
**Author:** Ralph Gill – Lead Officer Benefits and Taxation  
**Lead Officer:** Karen Iveson – Executive Director (and s151)

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**Title:** National Non-Domestic Rates Transitional Relief Scheme

**Summary:** Transitional Relief dampens the effect of revaluation every 5 years. However the Government extended the life of the Ratings List that was due to end in March of this year to March 2017. They have asked Billing Authorities to introduce their own Transitional Relief Scheme for 2015/16 and 2016/17. The report sets out the Council's proposed scheme which is based on DCLG Guidance.

**Recommendations:**

**Subject to any comments, to recommend to the Executive that the Scheme be approved.**

**Reasons for recommendation**

To allow applications for Transitional Relief for National Non-Domestic Rates (NNDR) to be assessed in accordance with Government guidance

**Introduction and background**

- 1.1 National Non-Domestic Rates (NNDR) is the form of property rating that applies to any property which is not a domestic dwelling. This could be anything from an advertising hoarding to a power station.
- 1.2 Business properties are generally re-valued every five years and given a new Rateable Value (RV) in a revised ratings list. As revaluation may lead to large increases or decreases for some businesses, the Government introduces, at the start of a list, a transitional relief scheme that limits the amount by which a business's rates can be increased or decreased. Typically RVs increase at

each revaluation and a system of Transitional Relief (TR) provides tapered support for those that experience increases.

- 1.3 The previous TR scheme was introduced in 2010 to help those NNDR ratepayers who were faced with higher bills following revaluation from the 2005 Ratings List. The 2010 Ratings List was originally established for a five year period up to 31 March 2015. The original intention was that a new Ratings List would be introduced from 1 April 2015 and that new valuations would have been applied from then. Those qualifying for TR would then have qualified under the new statutory scheme.
- 1.4 The Government announced in 2012 that they would delay revaluation until April 2017. The mandatory TR scheme, established following the 2010 revaluation, ended on 31 March 2015 and, as a result, a small number of ratepayers potentially faced a jump to their full rates bill from 1 April 2015.
- 1.5 The Chancellor announced in the autumn statement on 3rd December 2014 that this was not the intention of the Government and, as a result, it would extend TR for small and medium size businesses with a rateable value of up to £50,000 for 2015-16 and 2016-17 but this would be through local schemes adopted by individual billing authorities. Legislation states that properties with a RV in excess of £50,000 cannot access the scheme.
- 1.6 A new Ratings List will be introduced by central government in April 2017 at which point it is expected that a mandatory relief scheme will come into force.

## **2. The Report**

- 2.1 The proposed scheme is attached at Appendix A. It follows guidance issued by the Department for Communities and Local Government. Properties with a RV below £50,000 which would have received TR under the old scheme can be assessed for TR under the local scheme. This new scheme differs from the previous scheme in that under the statutory scheme TR was assessed on the gross liability before all other reliefs were awarded. Because the new scheme operates under the Localism Act TR is assessed after all other reliefs are awarded. The policy provides the methodology under which awards are assessed.

### **Impacts**

- 3.1 It is anticipated that the impact of this will be low because it excludes properties with a RV in excess of £50,000.
- 3.2 To date the Council has had one enquiry following the end of the mandatory scheme in March. Although the property did previously receive relief, as the property concerned has a RV in excess of £50,000, it cannot qualify under the new local scheme.



3.3 It is estimated that around 20 properties may qualify under this scheme with total relief awarded being around £11k.

#### **4. Legal/Financial Controls and Other Policy Matters**

##### **4.1 Legal Issues**

4.1.1 As a result of the temporary nature of this scheme the government has not changed the NNDR legislation. Instead, this scheme operates as a discretionary relief under Section 47 of the Local Government Finance Act 1988, as amended by the Localism Act 2011.

4.1.2 It is for individual billing authorities to adopt a local scheme and decide in each individual case when to grant relief under Section 47.

4.1.3 The scheme directly follows DCLG guidance but the scope of its operation is narrowly defined by S47 of the LGFA 1988 (as amended by the Localism Act).

##### **4.2 Financial Issues**

4.2.1 Central Government will fully reimburse local authorities for the local share of the discretionary relief using a Section 31 grant. In view of the fact that such expenditure will be reimbursed it is expected that billing authorities will grant discretionary relief to eligible ratepayers.

4.2.2 The Council will award the relief as outlined and will then claim the loss of income back from central government via a grant claim later in the financial year. There will be cash flow implications but the amounts involved are not significant.

4.2.2 Each of the Local authorities that benefit from Rates Retention (SDC, NYCC, NYFRA) will each receive a S31 grant for their share to compensate them for reduced income.

Relief Given	Govt 50%	SDC 40%	NYCC 9%	NYFRA 1%
100%		S31 Grant	S31 Grant	S31 Grant
£11,028.60	£5,514.30	£4,411.44	£992.57	£110.29

#### **5. Background Documents**

None

#### **6. Appendices**

Appendix A – Transitional Relief Scheme



## **Selby District Council**

### **National Non Domestic Rates (NNDR)**

### **Transitional Relief Policy**

**April 2015**

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## 1. Background

The transitional relief scheme was introduced in 2010 to help those ratepayers who were faced with higher bills following revaluation from the 2005 List.

The scheme ended on 31 March 2015 and as a result a small number of ratepayers faced a jump to their full rates bill from 1 April 2015.

The Government announced in the Autumn Statement on 3 December 2014 that it would extend to March 2017 the transitional relief scheme for properties with a rateable value up to and including £50,000.

## 2. Legislation

As this is a measure for 2015-16 and 2016-17 only, the government has not changed the legislation around transitional relief.

Instead the government will, in line with the eligibility criteria set out in this policy, reimburse local authorities that use their discretionary relief powers, under Section 47 of the Local Government Finance Act 1988, as amended by the Localism Act 2011, to grant relief.

Under the existing statutory transition scheme which ended on 31 March 2015, transitional relief is measured **before** all other reliefs. But because the extension of transitional relief into 2015/16 and 2016/17 will be delivered via Section 47 of the Local Government Finance Act 1988 (as amended by the Localism Act) transitional relief will be measured **after** other reliefs (including other Localism Act delivered reliefs such as retail relief).

It is for individual local billing authorities to adopt a local scheme and decide in each individual case when to grant relief under Section 47.

Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under Section 31 of the Local Government Act 2003).

In view of the fact that such expenditure can be reimbursed, the government expects local government to grant discretionary relief to qualifying ratepayers and local authorities are therefore encouraged to inform the ratepayers affected that relief is available.

The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) require authorities to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect.

Such a revocation or variation of a decision can only take effect at the end of a financial year.

But within these regulations, local authorities may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

### 3. Which properties will benefit from the relief?

Properties that will benefit are those with a rateable value up to and including £50,000 who would have received transitional relief in 2015/16 or 2016/17 had the existing transitional relief scheme continued in its current format.

In line with the existing thresholds in the transitional relief scheme, the £50,000 rateable value threshold should be based on the rateable value shown for 1/4/10 or the substituted day in the cases of splits and mergers.

This policy applies to transitional relief only (i.e. those moving to higher bills).

As the grant of the relief is discretionary, the authority may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the authority's wider objectives for the local area.

### 4. How much relief will be available?

The Government will fund Localism Act discounts to ensure eligible properties receive the same level of protection they would have received had the transitional relief scheme extended into 2015/16 and 2016/17. The transitional relief scheme should be assumed to remain<sup>1</sup> except that:

- a) the cap on increases for small properties (with a rateable value of less than £18,000) in both 2015/16 & 2016/17 should be assumed to be 15% (before the increase for the change in the multiplier)<sup>2</sup>, and
- b) the cap on increases for other properties (up to and including £50,000 rateable value) in both 2015/16 and 2016/17 should be assumed to be 25% (before the increase for the change in the multiplier)<sup>3</sup>.

As explained above, the scheme applies only to properties up to and including £50,000 rateable value based on the value shown for 1/4/10 or the substituted day in the cases of splits and mergers. Changes in rateable value which take effect from a later date should be calculated using the normal rules in the transitional relief scheme<sup>4</sup>.

<sup>1</sup> As prescribed in the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009 No. 3343

<sup>2</sup> Specifically, X in regulation 8(3) for the years commencing 1 April 2015 and 1 April 2016 should be assumed to be 115. Q should be assumed to be 1.019.

<sup>3</sup> Specifically X in regulation 8(2) for years commencing 1 April 2015 and 2016 should be assumed to be 125. Q should be assumed to be 1.019.

<sup>4</sup> i.e. "N over J" for reductions or "N minus J" for increases

For the avoidance of doubt, properties whose rateable value is £50,000 or less on 1 April 2010 (or the day of merger) but increase above £50,000 from a later date will still be eligible for the relief. Where necessary the Valuation Office Agency will continue to issue certificates for the value at 31 March 2010<sup>5</sup> or 1 April 2010<sup>6</sup>. The relief should be calculated on a daily basis.

A detailed explanation and illustration of how the relief (and the associated Section 31 grant) should be calculated is at 7 below.

## 5. Recalculations of relief

As with the current transitional relief scheme, the amount of relief awarded should be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) require authorities to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect.

Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, local authorities may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

## 6. State Aid

State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However the extension of transitional relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013).

The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year

<sup>5</sup> Regulations 15 or 16, SI 2009 No. 3342

<sup>6</sup> Regulation 14 SI 2009 No.3343

and the two previous financial years). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)10) and the requirement to convert the aid into Euros.

To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid (€100,000 for road transport concerns).

Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation).

## 7. Calculation for the extension of transitional relief

Under the existing statutory transition scheme which ended on 31 March 2015, transitional relief is measured **before** all other reliefs. But because the extension of transitional relief into 2015/16 and 2016/17 will be delivered via Section 47 of the Local Government Finance Act 1988 (as amended by the Localism Act) transitional relief will be measured **after** other reliefs (including other Localism Act delivered reliefs such as retail relief).

Therefore, for the purposes of awarding relief and claiming Section 31 grant, we have to measure the extension of transitional relief after all other reliefs.

Therefore the following steps must be followed:

1. Identify those eligible properties which would have qualified for transitional relief in 2015/16,
2. Calculate the actual rates bill for those properties in 2015/16 after all other reliefs assuming transitional relief has ended,
3. Calculate the rates bill for those properties in 2015/16 after all other reliefs assuming transitional relief continued (in line with the assumptions in this guidance), and
4. Calculate the difference between stage 2 and 3 and award a Localism Act discount to that value.

Authorities will be asked to report the cost of extending the transitional relief scheme using this methodology from which the associated Section 31 grant will be calculated (using the appropriate local share).

## Examples

### 1. No other reliefs

If a ratepayer would have been eligible for transitional relief of 25% caps in 2015/16 then their bill is calculated as follows (ignoring inflation):

	Step 1 2014/15	Step 2 2015/16	Step 3 2015/16	Step 4 2015/16
Bill before any reliefs	£10,000	£10,000	£10,000	£10,000
Transitional relief (had the original scheme continued)	-£4,000	£0	-£2,500	£0
Net bill before Localism Act discount	£6,000	£10,000	£7,500	£10,000
Localism Act Transitional Relief	£0	£0	£0	-£2,500
Net Rates Bill	£6,000	£10,000	£7,500	£7,500

*For illustration we have assumed the multiplier does not change between years.*

This is the simple case. The value of the transitional relief had the scheme continued is £2,500. In practice extending transitional relief will be achieved by awarding a Localism Act discount which is calculated at the end of the bill. But because there are no other reliefs the value of the discount to ensure in practice transitional relief continues is also £2,500.

### 2. Other reliefs

If, for example, the same ratepayer would otherwise have fallen out of transitional relief in 2015/16 also receives 80% charitable mandatory relief then their bill is calculated as follows (ignoring inflation):

	Step 1 2014/15	Step 2 2015/16	Step 3 2015/16	Step 4 2015/16
Bill before any reliefs	£10,000	£10,000	£10,000	£10,000
Transitional relief (had the original scheme continued)	-£4,000	£0	-£2,500	£0
Net bill before other reliefs	£6,000	£10,000	£7,500	£10,000
Charitable Relief	-£4,800	-£8,000	-£6,000	-£8,000
Localism Act Transitional Relief	£0	£0	£0	-£500
Net Rates Bill	£1,200	£2,000	£1,500	£1,500

*For illustration we have assumed the multiplier does not change between years.*



## **8. Notifying the decision**

The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) require authorities to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect.

Such a revocation or variation of a decision can only take effect at the end of a financial year.

But within these regulations, local authorities may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

Accordingly all properties benefiting from an award of transitional relief must be sent a notice stating that the award is to the end of the relevant financial year only.

## **9. Right of Appeal**

There is no formal right of appeal against this decision.

However we will check the calculation to make sure it has been done correctly in line with this policy.

We will write to advise the applicant of the outcome of our reconsideration and if we are not changing the decision, we will explain why.

## **10. Publicity**

The Council will include information about transitional relief from with Non-Domestic Rate section of the Council's website.

## **11. Review**

This policy shall only have effect for NNDR liabilities up to 31 March 2016.

As such there is no requirement for this policy to be reviewed.

**To:** Policy Review Committee  
**Date:** 14 July 2015  
**Author:** Ralph Gill – Lead Officer Benefits and Taxation  
**Lead Officer:** Karen Iveson – Executive Director (and s151)

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**Title:** National Non-Domestic Rates Discretionary Reliefs

**Summary:** To update the current Discretionary Rate Relief policy.

**Recommendations:**

**It is recommended that, subject to any comments from the Policy Review Committee, the following proposed changes to the Council's Discretionary Rate Relief Policy be approved:**

- i. S44a relief (part occupation of premises) be added to the policy;**
- ii. The award cap relating to rateable values be removed.**

**Reasons for recommendation**

To ensure a robust policy framework is in place so that decisions regarding the award of discretionary rate relief are taken in a fair, consistent and transparent manner giving due consideration to the interests of local tax payers.

**1. Introduction and background**

- 1.1 NNDR is the form of property rating that applies to any property which is not a domestic dwelling. This could be anything from an advertising hoarding to a power station.
- 1.2 Local Authorities have the power to grant Discretionary Rate Relief to organisations that meet certain criteria. The amount of relief granted is used to reduce the amount the organisation owes. A Discretionary Relief Policy sets what reliefs are available to businesses, the qualifying criteria and how awards are determined.

- 1.3 The current policy was approved in June 2013 and covers awards of rate relief for charities, non-profit making organisations and businesses located in small rural settlements.
- 1.4 The Council has the ability to grant discretionary rate relief, either to 'top up' mandatory rate relief (80% in the case of charitable bodies; non-profit making organisations and community amateur sports clubs; 50% for rural), or to give discretionary relief alone for certain non-profit making organisations (up to 80%) or rural properties (up to 80%) where mandatory relief does not apply.
- 1.5 Other reliefs such as localism, hardship and S44a part-occupation are also available to commercial properties as a whole.
- 1.6 The objective of discretionary rate relief is to give assistance to organisations that may for example have difficulty in paying their rates and are of benefit to the local community.
- 1.7 The current scheme has been in operation for over two years and this report considers proposed improvements to the current policy and makes recommendations for changes.

## **2. The Report**

- 2.1 Overall the Discretionary Rate Relief Policy has worked well and those organisations entitled to relief have continued to benefit. However two years into the new policy, experience has shown that there are some changes that would improve the administration and transparency of the reliefs. A revised policy is attached at Appendix A.

### **S44a Relief for Partly Occupied Premises**

- 2.2 The first proposed change relates to S44a relief for partly occupied premises. This is a discretionary relief, however it is not specifically in the current policy as subject to consideration by the Valuation Office Agency although award is at the discretion of the Council. It is recommended that this be added to the Council's policy in order to emphasise that awards are subject to State Aid limits and to define time limits for making an application. Time limits for application are required to enable officers to verify the part-occupation of premises.

### **Rateable Value Cap**

- 2.3 Secondly, the current policy saw the introduction of caps based on Rateable Value (RV) removing entitlement to discretionary relief for properties where the RV exceeded a prescribed value.
- 2.4 The caps were introduced alongside Business Rates Retention in order to guard against the cost of reliefs increasing significantly and becoming a financial burden to the Council. However this has not happened.

- 2.5 Until recently there has only been one property (Tadcaster Swimming Pool, operated by a charitable trust), that has been impacted by the cap. However, because of the benefit of this property to the community the Council has provided a separate grant to the trust to cover the shortfall.
- 2.6 The new Selby Leisure Centre is also impacted by the cap and the cost of business rates is included within the operator's contract sum and ultimately borne by the Council.
- 2.7 Given that the two properties impacted by the cap continue to be supported through public funds it is proposed that the cap be removed.

### **Localism Relief**

- 2.8 The current policy introduced a general Localism Relief to allow the Council the discretion to award rate relief to all types of businesses where it was felt that doing so would be of benefit to the community. It was anticipated that this would include:
- Businesses relocating to or expanding their activities in the district thereby increasing their NNDR liability whilst creating employment for residents (who had been unemployed for a minimum of 6 months and receiving Jobseeker's Allowance or Employment & Support Allowance);
  - Organisations providing facilities to certain priority groups such as the elderly, disabled, minority or disadvantaged within the district;
  - Businesses or organisations providing residents of the district with services, opportunities or facilities that cannot be obtained locally or are not provided by another organisation.
- 2.9 To date there has only been one application for relief under this provision, which was awarded for one financial year on the basis that it created employment opportunities for residents. No other application or enquiry has been received. The policy is available on the Council's web-site and although it is not actively promoted, businesses are advised of the policy when they contact the Council seeking support for their rates.
- 2.10 Where Welfare Reform changes mean that any group who could claim Jobseeker's Allowance (JSA) or Employment & Support Allowance (ESA) at the time the policy was introduced (such as young people) and are no longer able to do so, they shall continue to be treated as long-term unemployed for the purposes of this general Localism Relief whilst they meet the original JSA/ESA criteria.
- 2.11 We will continue to monitor and review the effectiveness of this policy and may suggest further changes in the future.

### **3. Impacts**

- 3.1 The inclusion of S44a reliefs does not change the way in which these properties are currently being dealt with.

3.2 The removal of the RV cap against various discretionary reliefs will allow a greater amount of relief to be given to the rate payer.

#### **4. Legal/Financial Controls and Other Policy Matters**

##### **4.1 Legal Issues**

4.1.1 The decision to award S44a relief is at the discretion of Selby District Council as the Billing Authority. However, the Council's discretion ends as soon as it applies to the Valuation Office Agency for valuations of the occupied and unoccupied split of the hereditament. The Council has no say over the values that are set by the VOA. Therefore, the operation of de minimis State Aid limits is based on the Council's estimation of the value of relief.

4.1.2 Under current legislation the authority has to give 12 months' notice to a rate payer before changing the operation of any relief and changes can only be implemented from the start of a financial year. As such the removal of the caps may only be introduced from April 2017.

##### **4.2 Financial Issues**

4.2.1 There are no financial issues with regards to the changes to S44a reliefs.

4.2.2 Removal of caps will allow additional relief to be awarded although currently this only impacts on the larger leisure facilities operated by charitable trusts in the district. In respect of Tadcaster Swimming Pool and Selby Leisure Centre the Council is already funding 100% of the NNDR not covered by rate relief through a top-up grant and the operating contract, respectively. Removal of the cap will allow inclusion of these sums within the rate relief policy which in turn will give greater transparency for taxpayers.

4.2.3 Under Rates Retention the Council bears 40% of the cost of all relief given. The remainder of the cost is split between the government (50%); County (9%) and the Fire & Rescue Authority (1%).

4.2.4 However where any organisations claim discretionary relief in the future for a high value property that would have been refused relief because of the caps, the Council will additionally bear 40% of the cost incurred over the previous cap limit.

#### **5. Background Documents**

None.

#### **6. Appendices**

Appendix A – Discretionary Rate Relief Policy



## **Selby District Council**

### **National Non Domestic Rates (NNDR)**

### **Discretionary Rate Relief Policy**

**June 2015**

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## **1. Background**

Local Authorities have the power to grant Discretionary Rate Relief to organisations that meet certain criteria. The amount of relief granted is used to reduce the amount the organisation owes in Non Domestic Rates.

## **2. Legislation**

The law governing the granting of Discretionary Rate Relief is found in Section 47 of the Local Government Finance Act 1988 and subsequent amending legislation and Section 69 of the Localism Act 2011.

## **3. Purpose of the Policy**

The purpose of this Policy is to specify how the Council will operate its discretionary powers under the Local Government Finance Act 1988 and to indicate the factors it will consider when deciding if relief can be awarded.

Through this policy, Selby District Council is providing a mechanism to reduce, or remove the business rate liability from such charities, non - profit making organisations, certain rural businesses and other businesses that are providing valuable facilities and services to communities within Selby District.

The policy is intended to provide a simple transparent process that aligns awards of discretionary rate relief with the council's corporate priorities.

## **4. Types of Relief Awarded**

The Council will consider awarding Discretionary Rate Relief to all organisations that meet the qualifying criteria as specified in this Policy. The amount of any award is at the discretion of the Council.

Discretionary Rate Relief will be awarded after taking in to consideration all other reliefs an organisation may qualify for.

It will consider each individual application against set criteria. This process ensures that all applications are considered on a fair and transparent basis.

In the first instance organisations that meet the qualifying criteria for Small Business Rates Relief will be considered for this type of relief.

## **4.1 Charitable Bodies**

Mandatory relief is given to institutions, organisations or trusts established for charitable purposes in respect of property used wholly or mainly for charitable purposes. Mandatory relief is 80% of the rates chargeable.

Charitable bodies can be awarded 20% discretionary relief 'top up', but only where there is significant evidence that the charitable activities provide a significant benefit to local residents.

**Appendix 1: Explanatory Notes - Mandatory and Discretionary Rate Relief for Charitable Bodies** outlines the conditions that apply.

## **4.2 Non-Profit Making Organisations**

Non-profit making bodies (ineligible for mandatory relief) can be awarded up to 80%.

**Appendix 2: Explanatory Notes - Rate Relief for Non Profit Making Organisations** outlines the conditions that apply.

## **4.3 Community Amateur Sports Clubs (CASC)**

Both mandatory and discretionary relief are available to registered Community Amateur Sports Clubs (CASC). They can receive 80% mandatory rate relief and up to 20% discretionary relief. Thus, up to 100% relief may be achieved.

**Appendix 1: Explanatory Notes - Rate Relief for Non Profit Making Organisations and Community Amateur Sports Clubs (CASC)** outlines the conditions that apply

## 4.4 Rural Rate Relief

Both mandatory and discretionary relief are available for businesses in rural areas. They can receive 50% mandatory rural relief and up to 30% discretionary rural relief. Thus, up to 80% relief may be achieved.

**Appendix 3: Explanatory Notes - Rural Rate Relief** outlines the conditions that apply.

## 4.5 Localism Relief

Section 69 of the Localism Act 2011 amends the Local Government Finance Act 1988 to allow local authorities the discretion to award rate relief to all types of businesses.

Selby District Council has the discretion to award relief where it is in the Council Tax payer's interests to do so.

Ratepayers submitting an application shall set out, as part of the application; the benefits that the ratepayer considers will accrue to the District Council Taxpayers as a result of the award.

Relief will be considered on the individual merits of each case.

**Appendix 4: Explanatory Notes – Localism Relief** outlines the factors which will be considered when assessing applications

## 4.6 Hardship Relief

Where the business is suffering hardship that has been caused through exceptional circumstances the Council can grant discretionary relief. When considering an application the Council will require some form of financial statement. Audited accounts are preferred, but if these aren't available, other documents such as bank statements or cash books etc may be accepted. In the case of an individual, the Council may also require a statement of means.

To back up an application the Council will also need to know what exceptional circumstances have led to a particular situation and why, in the applicant's view, the Council should reduce their liability.

Each application shall be determined upon its own merits.

**Appendix 5: National Non-Domestic Rates - Hardship Relief** provides further information.

## 4.7 S44a Part-Occupation

A ratepayer is liable for the full National Non-Domestic Rate charge whether the property is fully or only partly used.

Where the premises are both occupied and unoccupied the ratepayer has two options:

1. If it is likely to be a long period of time they may apply to the Valuation Office Agency (VOA) for the hereditament (property) to be split, or
2. If it is likely to be for a short time only they may apply to the Council for relief under S44a Local Government Finance Act 1988

It is then at the Council's discretion whether or not it makes an application to the VOA to issue a certificate temporarily dividing the RV between the occupied and unoccupied parts.

Section 44(a) and can only be awarded for a maximum of 3 months, or 6 months in the case of industrial properties.

Examples where Billing Authority may exercise its discretion under S44a:

- Where there are problems in occupying a property
- To assist with phased occupations or vacations
- To avoid raising proposals

Where a property is partly occupied for a short time, in certain circumstances, the Council can apply to the Valuation Office Agency to award a temporary reduction for the part that is not in use.

The Council as Billing Authority may at its discretion request the VOA to apportion the RV of the hereditament between occupied & unoccupied parts & provide certificate.

Once a certificate is requested from VOA the Council must give effect to the apportionment. The Council's discretion ends once a certificate has been applied for.

Applications will only be considered if made within 28 days of the property becoming temporarily vacant and a visit will be required to verify the request.

As S44a reliefs are subject to the discretion of the Local Authority they are subject to the legislation regarding State Aid.

## 5. Claiming Discretionary Rate Relief

### 5.1 State Aid and Reliefs

European Union competition rules generally prohibit Government subsidies to businesses.

Relief from taxes, including non-domestic rates, can constitute state aid. We need to bear this in mind when granting discretionary rate reliefs.

Any form of discretionary relief can constitute state aid, and this needs to be taken into account with any other state aid that the organisation is receiving.

Rate relief shall not be awarded in any circumstances where it appears that an award will result in the ratepayer receiving state aid that is above the current de minimis level of €200,000 aid in a three year period (consisting of the current financial year and the two previous financial years). For a road transport concern the limit is €100,000.

Any assistance you have received or are due to receive from a public body may be a de minimis aid. This could be any aid, grant or support from central, regional, devolved governments or agencies or a local council.

When looking at a business that is part of a larger chain or group it is the chain or group as a whole that the declaration needs to be made for, not just that part of the business directly operating the premises in question.

### 5.2 Claim Forms

A claim must be made on an application form approved and issued without charge by the Council. Applications forms can be downloaded from the Council website.

We will issue application forms on request or in circumstances where we consider an organisation may be entitled to relief.

The form must be completed by the ratepayer or a person authorised to sign on behalf of the ratepayer.

A person authorised to sign on behalf of the ratepayer is:

- a partnership - a partner of the partnership;
- a trust - a trustee of that trust;
- a body corporate – a director of that body, and  
in any other case a person duly authorised to sign on behalf of the ratepayer.

### **5.3 Information required**

The information required will depend upon the type of relief being applied for. Where an organisation is required to provide information, this should be submitted with the application. No applications will be considered without the appropriate supporting information. Evidence required may include:

- The rules of the organisation or its Memorandum and Articles of Association.
- The last two years' audited accounts (If the organisation is a new organisation and audited accounts are not available, the organisation should provide a statement on their finances, showing the income and expenditure)

We may, in some cases, verify the information given by the organisation applying by contacting third parties and other organisations.

We may request any reasonable evidence in support of the application.

All information supplied will be dealt with in the strictest confidence.

### **5.4 Deadline for applications**

The deadline for submission of applications for discretionary rate relief is 01 January, except in the case of applications for general relief and hardship relief.

The start date of the relief will normally be determined as follows:-

Applications submitted by 01 January will receive awards from 01<sup>st</sup> April of the year the application is made.

Applications received after 01 January will receive awards from 01<sup>st</sup> April of the start of the following financial year.

This timescale has been introduced in order that the budget available for awarding rate relief can be fairly and consistently shared amongst applicants. Therefore, where the total relief assessed exceeds the available budget the Council will reduce all awards proportionally.

Applications for general relief in respect of a new liability may be submitted from the date the liability commences. Where relief is awarded, it will commence from the date of valid application or the first date of occupation, whichever is the later date.

Awards of discretionary relief cannot be backdated.

## **5.5 Period of Award**

All awards will be made for a set period only.

The Council will decide the period that Discretionary Rate Relief will be awarded for, dependent on the circumstances of the application.

In general the period of award may be up to 36 months for charitable organisations and 24 months for all others (this may be subject to change at any time during the period of the award), after which it will be again subject to review. Continuation of relief will be subject to reapplication. Organisations who do not reapply will not be granted relief and a non domestic rate bill for the full amount will be issued.

Each amount of rate relief awarded under general rate relief policy shall only apply for twelve months.

An award of Discretionary Rate Relief at any time does not guarantee that a further award will be made at a later date even if the circumstances of the organisation have not changed.

## **5.6 Changes in Liability**

The Council may review the award in line with any increase or decrease in liability.

## **6. Payment of Awards**

All relief awarded will be paid to help with the Non Domestic Rate liability. We will credit the relief direct to the organisation's Non Domestic Rate account.

## **7. Notifications**

The Council will inform the organisation applying in writing of the outcome of their application for Discretionary Rate Relief.

Where the application is not successful, the notification will provide full reasons why we have decided not to award Discretionary Rate Relief and details of the applicant's right to ask us to look at the decision again.

Where the application is successful, the notification will include the following information:-

- The period of the award
- The percentage of the rate liability awarded for that period.
- The amount of Rate Relief to be awarded for the period.
- An amended Non Domestic Rate Demand.
- The right to ask us to look again at the decision.

## **8. Overpayments**

The Council will recover all overpayments of Discretionary Rate Relief through the organisation's Non Domestic Rate account.

## **9. Right of Appeal**

Whilst there is no formal right of appeal, an applicant may write and tell us why they consider the decision is wrong, i.e. if they consider we have not taken all relevant information into account. We will check Discretionary Rate Relief applications thoroughly and take account of any information provided by the applicant. This is called 'reconsidering' the decision.

We will write to advise the applicant of the outcome of our reconsideration and if we are not changing the decision, we will explain why.



## **10. Fraud**

The Council is committed to the fight against fraud in all its forms. An organisation who tries to fraudulently apply for Discretionary Rate Relief by falsely declaring their circumstances or providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968. Where we suspect that such an offence may have occurred, the matter will be investigated in line with the Council's Enforcement Policy. This may lead to criminal proceedings being instigated.

## **11. Publicity**

The Council will include information about Discretionary Rate Relief with Non Domestic Rate Demands and within the Non Domestic Rate Section of the Council's website.

## **12. Review**

This policy will be reviewed periodically, taking into account Council policies and priorities and any changes in legislation.

## Explanatory Notes

### Mandatory and Discretionary Rate Relief for Charitable Bodies and Community Amateur Sports Clubs (CASC)

Mandatory and Discretionary Rate Relief may be granted under **Sections 43, 45, 47 and 48 of the Local Government Finance Act 1988.**

#### Mandatory Rate Relief

##### Occupied Rates

Mandatory Relief of 80% may be granted to a **Charity** under **Section 43 (occupied rates)**, provided that the property concerned is wholly or mainly used for charitable purposes.

##### Unoccupied Rates

If the property is unoccupied such relief may also be granted to a **Charity** under **Section 45 (unoccupied rates)** if it appears that when **next in use** the property will be wholly or mainly used for charitable purposes.

##### Definition of a Charity

Firstly we have to establish if the organisation is a **Charity**. The definition of a **Charity** comes under **Section 67 of the Local Government Finance Act 1988** as *“an institution or other organisation established for charitable purposes only, or a person administering a trust established for charitable purposes only”*. Registration with the Charity Commission under the **Charities Act 1960** is proof of Charity status.

Absence from the Register does not mean that an organisation has not been established for charitable purposes, as certain organisations are exempt from registration. These include Church Commissioners, Boy Scouts or Girl Guides, any registered society within the meaning of the **Friendly Societies Acts 1896-1974** and voluntary schools within the meaning of **the Education Act 1944 – 1980**.

##### Established for Charitable Purposes

If none of the above are applicable, and in the absence of any other information, the following will be considered:

Are the main objectives of the organisation:

- the relief of poverty; or
- the advancement of religion; or
- the advancement of education; or
- other purposes that is beneficial to the local community

### Wholly or Mainly Used for Charitable Purposes

Secondly we have to consider if the property concerned is used wholly or mainly for charitable purposes. The use must be charitable, i.e. in meeting the objectives of the Charity. "Wholly or mainly" covers either: use of over half the property all of the time; use of the property for over half of the time; or a combination of both amounting to more than 50%.

Relief can only be granted, therefore, if **either** more than 50% of the property is used for charitable purposes **or** the property is used for more than 50% of the time for charitable purposes **or** there is a combination of both amounting to more than 50%.

### Charity Shops

In addition **Section 64 of the Local Government Finance Act 1988** provides that **Charity Shops** are only entitled to 80% Mandatory Relief if they use the premises:

- Wholly or mainly for the sale of goods **DONATED** to the Charity; and
- The net proceeds of the sale of goods are applied to the purpose of the Charity.

## **Community Amateur Sports Clubs (CASCs)**

### **Mandatory Relief for CASCs**

Registered CASCs can receive 80% mandatory rate relief. To qualify as a CASC, a sports club must be open to the whole community, be run as an amateur club, be a non profit making organisation and aim to provide facilities for, and encourage people to take part in, eligible sport. For further details please see <http://www.inlandrevenue.gov.uk/casc/index.htm> or call the Inland Revenue Sports Club Unit on 0131 777 4147.

### Appeals Against Refusal to Grant Relief

Please direct any appeal to the Executive Director, Selby District Council, Doncaster Road, Selby, North Yorkshire YO8 9FT

## Discretionary Rate Relief Top Up

Discretionary Rate Relief may be granted in addition to Mandatory Rate Relief, i.e. a “top up” of up to the remaining 20%. This may be granted under **Section 47** for occupied properties and **Section 48** for unoccupied properties. If you wish to apply for this relief please provide details of the main objectives of the organisation and any other purposes for which the property is used.

### Charitable Bodies

A 20% ‘top up’ of discretionary relief may be applied to charities but will normally only be awarded if the charity is a local one, not a national one (a local charity is defined to be one who operates in the particular Council area or whose charitable objects benefit residents of the district or who are part of a national charity but whose charitable objects benefit the district to a greater extent than other parts of the country). If the premises are operated by a national charity that does not exist to wholly or mainly benefit the residents of the local area, then discretionary relief will not normally be awarded to ‘top up’ the 80% mandatory award.

### Community Amateur Sports Clubs

If there is any commercial activity the amount of the award may be limited by up to 50%.

### Appeal Against Refusal to Grant Discretionary Relief

Please direct any appeal to the Executive Director Selby District Council,  
Doncaster Road, Selby, North Yorkshire YO8 9FT

**If you require any further information, please contact a member of the Local Taxation Section on**

**(01757) 292161/292181 (6 lines)**

**or by email on**

**[localtaxation@selby.gov.uk](mailto:localtaxation@selby.gov.uk)**

**ALL INFORMATION SUPPLIED WILL BE DEALT WITH IN THE STRICTEST CONFIDENCE**

## Explanatory Notes

### Rate Relief for Non Profit Making Organisations

Discretionary Rate Relief may be granted under **Sections 43, 45, 47 and 48 of the Local Government Finance Act 1988.**

#### Discretionary Relief for other Non Profit Making Organisations Occupied Properties

Discretionary Relief of up to 80% may be granted for occupied properties under **Section 47** if the following criteria are met:

a) Where the property is not an **excepted** property (see below) and all or part is occupied by one or more institutions or organisations which are:

- Not established or conducted for profit, and
- Whose aims are charitable or otherwise philanthropic, religious or concerned with the promotion of social welfare, education, science, literature or the fine arts.

**OR**

b) Where the property is not an **excepted** property (see below) and is wholly or mainly used for:

- The purpose of recreation, and
- All or part of the property is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

#### Excepted Properties

An excepted property is one occupied by a Billing or Precepting Authority, e.g. Selby District Council, North Yorkshire County Council, the Police Authority, Parish Councils.

#### Unoccupied Properties

Discretionary Relief of up to 80% may also be granted for unoccupied properties under **Section 48** if it appears that when **next in use** the property will be used as detailed in a) and b) above.

### Points System

A Points System has been introduced to ensure that all applications have been treated fairly and in accordance with Council Policy. Please find below details of the points system.

<b>Restriction of Membership</b>	<b>Points ( 0 - 3 )</b>
Major Restrictions	0
Average Restrictions	1
Very Limited Restrictions	2
No restrictions	3

<b>Membership Charges</b>	<b>Points ( 1 - 5 )</b>
Above Average	1
Below Average	3
Average	5

<b>Concessions</b>	<b>Points ( 5 )</b>
Reduced rate fees/subscriptions for all or any of the following - elderly, disabled, unemployed and children	5

<b>Local Membership Level</b>	<b>Points ( 0 - 5 )</b>
Not over 25%	0
25% to 50%	1
50% to 75%	3
Over 75%	5

<b>Finances General</b> (Fund Balance as % of Yearly Expenditure) %	<b>Points ( 0 - 10 )</b>
Over 200	0
181 – 200	1
161 - 180	2
141 - 160	3
121 – 140	4
101 - 120	5
81 - 100	6
61 - 80	7
41 – 60	8
21 - 40	9
0 - 20	10

<b>Net Income from Gaming Machines</b> (Income as % of Yearly Expenditure) %	<b>Points ( 0 - 10 )</b>
Over 15	0
11 – 15	3
6 - 10	5
1 - 5	7
NIL	10

<b>Gross Income from Bar</b> £	<b>Points (-) 25 - 10</b>
Over 36,000	-25
30,001 - 36,000	-20
24,001 - 30,000	-15
22,801 - 24,000	-10
21,601 - 22,800	-9
20,401 - 21,600	-8
19,201 - 20,400	-7

18,001 - 19,200	-6
16,801 - 18,000	-5
15,601 - 16,800	-4
14,401 - 15,600	-3
13,201 - 14,400	-2
12,001 - 13,200	-1
10,801 - 12,000	0
9,601 - 10,800	1
8,401 - 9,600	2
7,201 - 8,400	3
6,001 - 7,200	4
4,801 - 6,000	5
3,601 - 4,800	6
2,401 - 3,600	7
1,201 - 2,400	8
1 - 1,200	9
NIL	10

The total points relate directly to the amount of relief as follows:

Range	% Relief	Range	% Relief
43 to 48	80	19 to 24	40
37 to 42	70	13 to 18	30
31 to 36	60	7 to 12	20
25 to 30	50	1 to 6	10



Appeal Against Refusal to Grant Discretionary Relief

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## Explanatory Notes

### Rural Rate Relief

There are currently two types of relief available for businesses in rural areas. These are **Mandatory Rural Rate Relief** and **Discretionary Rural Rate Relief** and an outline of the conditions that apply are listed below.

#### Mandatory Rural Rate Relief (Granted at 50%)

##### Village Rate Relief

- The property must be located in a **rural settlement** with a population of less than 3,000. A Rural Settlement List for Selby's area is available at the Customer Contact Centre (Access Selby) in Selby.
- The property concerned is the **sole** general store or **sole** post office in the settlement and the rateable value does not exceed **£8,500 or**
- The property concerned is the **sole** public house or **sole** petrol filling station in the settlement and the rateable value does not exceed **£12,500 , or**
- The property concerned is **any** food shop in the settlement and the rateable value does not exceed **£8,500**.

A food shop is defined as wholly or mainly selling food on a retail basis for human consumption. The supply of confectionery and of food in the course of catering is **excluded**. Catering is defined as the supply of food for consumption on the premises or of hot food that is eaten off the premises. Therefore such establishments as restaurants, cafes, tea-rooms and fast food shops are **excluded** – but not food shops that sell only small amounts of such items.

A general store is defined as one in which there is carried on a trade or business consisting wholly or mainly of the sale by retail of **both** food for human consumption (excluding confectionery) **and** general household goods.

#### **NB**

Relief can be granted to a post office, which is not a general store, and a separate general store in the same settlement. Where a post office also trades as a general store then a second general store in the settlement will not qualify for this relief.

## Discretionary Rural Rate Relief

This relief may be granted as a “**top up**” to **Mandatory Rural Rate Relief** or in its own right. The amount of any award is at the discretion of the Council and may be any amount up to 80% of the rates due (50% mandatory and 30% discretionary).

The cost of any award of this relief falls in part on the Council Taxpayers of the District as a whole.

The **criteria** that must be met before an award can be considered are as follows:

- The **property** concerned must be located **in a rural settlement** with a population of less than 3,000;
- The **property** concerned has a **rateable value** of not more than **£16,500**
- The property concerned is used for **purposes** which are of **benefit to the local community** and that the cost to the Council Taxpayer is justified.

Please find below details of the points system for Discretionary Rural Rate Relief.

	Percentage Applicable
Starting Point	50
Is there a similar facility or business within the settlement? If so	-50
OR	
Does the business primarily provide an important service to the local community and is it in the interests of local council tax payers to support it? If not,	-100
Employment of Local Residents	+5
Does the business provide a free delivery service to any of the local community?	+5
Proximity to nearest similar business. if 2 miles or more	+15
Poor availability of public transport (buses not available at regular intervals each day, i.e. only geared to school/work hours). (Where relevant the nature of the business)	+15
Opening Hours (if the business is open 7 days for long hours)	+5
Provision of additional services (unconnected to the nature of	+5

the business and provided to assist the local community)

**If you require any further information, please contact a member of the  
Local Taxation Section on**

**(01757) 292181**

**or by email on**

**[localtaxation@selby.gov.uk](mailto:localtaxation@selby.gov.uk)**

**All information supplied will be dealt with in the strictest confidence**

## Explanatory Notes

### Localism Relief Criteria

**Section 69 of the Localism Act 2011** has amended **Section 47 of the Local Government Finance Act 1988** so that any organisation can apply for discretionary rate relief.

Any ratepayer applying for discretionary rate relief who does not meet the criteria for relief under the specifically named categories mentioned in this policy, may apply for general rate relief. Relief will be considered on the individual merits of each case, having due regard to:

The ratepayer must not be entitled to mandatory rate relief (Charity or Rural Rate Relief)

The ratepayer must not be an organisation that could receive relief as a non profit making organisation or as Community Amateur Sports Club.

The ratepayer must occupy the premises - no relief will be granted for unoccupied properties

If the ratepayer is a new business coming into the District

If the ratepayer creates new employment opportunities for a minimum period of twelve months for individuals:

- who reside in the Selby District and
- who have been unemployed\* for a period of six months (continuous)

The premises and the organisation must be of significant benefit to the residents of the District

If the ratepayer provides:

- Facilities to certain priority groups such as elderly, disabled, minority or disadvantaged groups
- Significant employment or employment opportunities to residents of the District
- Residents of the District with such services, opportunities or facilities that cannot be obtained locally or are not provided by another organisation

If the ratepayer complies with all legislative requirements and operates in an ethical, sustainable and environmentally friendly manner at all times

The impact and best interests of the Council Tax payers of the District

The financial status of the applicant

\* Unemployed refers to those in receipt of Job Seekers Allowance or Employment Support Allowance.

Applications in respect of a new liability may be submitted from the date the liability commences and for existing liability can be submitted at anytime throughout the year.

Each amount of rate relief awarded under this policy shall only apply for **twelve months**.

**If you require any further information, please contact a member of the Local Taxation Section on**

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**or by email on**

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## **NATIONAL NON-DOMESTIC RATES - HARDSHIP RELIEF**

### General Information

Section 49 of the Local Government Finance Act 1988 gives Selby District Council as a billing authority, discretion to reduce or remit payment of rates where it is satisfied that the ratepayer would sustain hardship if it did not do so, and where it is reasonable for the Authority to do so having regard to the interest of its Council Tax Payers.

In making decisions on whether to grant relief, the Authority follows guidance issued by the Office of the Deputy Prime Minister (ODPM). The ODPM has said that whilst it is for each billing authority to decide on the facts of each case whether to exercise its powers under Section 49 – and to judge the extent of those powers – authorities may wish to bear the following guidance in mind:

1. Although authorities may adopt rules for the consideration of hardship cases, they should not adopt a blanket policy either to give or not to give relief, each case should be considered on its own merits.
2. Reduction or remission of rates on grounds of hardship should be the exception rather than the rule.
3. The test of 'hardship' need not be confined strictly to financial hardship; all relevant factors affecting the ability of a business to meet its liability for rates should be taken into account.
4. The 'interests' of Council Tax Payers in an area may go wider than direct financial interests. For example, where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the loss of the only shop in a village.
5. Where the granting of relief would have an adverse effect on the financial interest of Council Tax Payers, the case for a reduction or remission of rates payable may still on balance outweigh the cost to them.

### How to apply for Hardship Relief

Please complete the attached application form. If you have any difficulties completing the form, please contact the Local Taxation Section on 01757 292181.

All applications for hardship relief are submitted to the Authorities appeals panel for consideration. When we receive your application form we will acknowledge receipt and let you know when a decision will be made. If we require any further information to progress your application we will contact you. Once the appeals panel has made a decision on whether or not to grant relief, we will write to you to let you know the decision and the reasons for that decision. Please note that the decision of the appeals panel is final.

Once completed, this form should be returned to:

Local Taxation Section  
Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT





## Public Session

Report Reference Number (PR/15/5)

Agenda Item No: 7

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**To:** Policy Review Committee

**Date:** 14 July 2015

**Author:** Gillian Marshall Solicitor to the Council

**Lead Officer:** Keith Dawson Director of Community Services

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### **Title: Review of the Licensing Policy**

#### **Summary:**

The current Licensing policy is due for review in Autumn 2015. This report sets out the scope and timetable for the review as well as details of the consultation and approval process.

#### **Recommendations:**

- i. To note the proposals for the review of the Licensing Policy and to provide any comments or recommendations on the scope of the review and proposed consultation**

#### **Reasons for recommendation**

To comply with statutory requirements to review the policy every 5 years and to update the policy in the light of significant changes to the legislative framework.

#### **1. Introduction and background**

- 1.1 Selby District Council is designated under the Licensing Act 2003 (the Act) as the licensing authority for Selby District and has responsibility under the Act to issue licences for the sale and supply of alcohol, regulated entertainment and the supply of hot food between 11 pm and 5 am.
- 1.2 Section 5 of the Act requires all Licensing Authorities to prepare and publish a statement of Licensing Policy that they propose to apply in exercising their functions under the Act. Section 7 of the Act provides that functions in relation to the five year Licensing Policy cannot be delegated but must be approved

by full Council. The consideration of licensing applications cannot proceed without a reviewed Licensing Policy being in place.

- 1.3 The Act also sets a framework for a statutory consultation on the policy involving the designated 'responsible authorities', businesses and those representing them and the public.
- 1.4 The previous Licensing Policy was approved in October 2010 to come into force in 2011 and therefore must be reviewed before January 2016. In addition there have been significant changes to the legislative framework which requires a major update to the policy.

## **2 The Report**

- 2.1 A statement of licensing policy sets out how the Council, as the Licensing Authority, will exercise its licensing functions. The overriding aim of the Licensing Policy is to promote the four licensing objectives:
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm

The Licensing Policy sets out the issues that the Licensing Committee will take into account when determining licences throughout the District. The Council must keep its Licensing Policy under review (at least once every 5 years) and make revisions to it as and when it considers appropriate.

- 2.2 There have been a number of changes made to the Licensing Act 2003 as a result of the Police Reform & Social Responsibility Act 2011, the Live Music Act 2012 together with the deregulation of regulated entertainment as defined under the Licensing Act 2003
- 2.3 Officers therefore intend to take the opportunity of scrutinising and amending the policy in its entirety. The new policy is likely to include sections on;
  - Early Morning Restriction Orders and the Late Night Levy
  - The revised definition of those who can make representations
  - Introduction of the Licensing Authority and Health as responsible authorities
  - Explanation of the implications of the Live Music Act 2012
  - Revisions to reflect the new definitions of regulated entertainment
  - Changes to the temporary event notice regime
  - A more concise outline of what is suggested in operating schedules
  - Suspension as a result of non-payment of licence fees
  - New appendix outlining the various delegated functions including the recommended separation of functions between the officers acting on behalf of the Licensing Authority and those responsible for undertaking the Responsible Authority functions.

- 2.4 The general aims of the policy, seeking a balance between the benefits that licensed businesses bring and the protection of the public is considered generally sound. Therefore the proposed approach to the review is to undertake an internal officer review of the policy to identify what changes are required by legislation or the statutory Guidance issued by the Secretary of State. Following that review a revised draft will be issued to and discussed with the Responsible Authorities who are designated by the Act and who act as the main sources of advice to the Authority on the promotion of the licensing objectives.
- 2.5 A further revised draft will be prepared following the discussions with Responsible Authorities. This draft will be presented to the Licensing Committee at their meeting on 7 September 2015 for comments before being approved for public consultation under delegated powers.
- 2.6 As part of the public consultation the Council will write to licence holders and to representatives of retailers such as the Selby Town Enterprise Partnership, the Chamber of Commerce and trade bodies, all District Councillors and all town and parish councils
- 2.7 The draft policy will be advertised on and available to download from the Council's website for a 6 week period between 14 September and 26 October.
- 2.8 The policy is scheduled to be approved by full Council on 1 December and come into force on 1 January 2016.

### **3. Legal/Financial Controls and other Policy matters**

#### **3.1 Legal Issues**

Failure to formally review or consult on a Licensing Policy within the timetable required by the Act, Regulations and Guidance would mean the Council was not complying with its statutory duty and would also leave the Council open to legal challenge and any subsequent costs.

#### **3.2 Financial Issues**

None raised by this report

#### **3.3 Impact Assessment**

No other impacts have been identified but the revised policy will be impact screened before being submitted for approval.

### **4. Conclusion**

- 4.1 That Policy Review Committee should consider the proposals and provide comments and recommendations.

### **5. Background Documents**

None

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**Appendices:**

*Appendix A – current Licensing Policy*

# **SELBY DISTRICT COUNCIL**

## **LICENSING POLICY**

**JANUARY 2011**



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## **PART 1**

### **LICENSING POLICY STATEMENT**

- 1.1 The District of Selby is home to a number of popular restaurants, bars and entertainment venues. As a tourist centre there are competing demands between catering for visitors and ensuring that this does not impact upon residents in a negative way. Clearly the Licensing Authority would wish to see adequate facilities are provided which meet the demands of, as well as attract, visitors to the area. In addition, the needs and demands of residents need to be catered for. The traditional holiday season has extended beyond the summer months with more and more visitors coming for either a day or for a short break all year round. To meet these demands there has in recent years been an increase in the number of premises providing entertainment, alcohol and food especially later into the evening. However, the impact of increasing night-time activity, particularly noise from premises and people leaving premises in a loud and disruptive manner, has seriously concerned sections of the residential and business communities in the District who wish to see clear limits imposed to reduce public nuisance. The Licensing Authority recognises the need to find an acceptable balance between these potentially conflicting aims.
- 1.2 The aim of the Policy is to promote the four fundamental Licensing Objectives:
- Prevention of Crime and Disorder
  - Public Safety
  - Prevention of Public Nuisance
  - Protection of Children from Harm
- 1.3 The Licensing Authority is aware of the value to the community of a broad range of cultural entertainments, particularly live music. The Licensing Authority wishes to see these encouraged for the benefit of all. When drawing up this Policy the Licensing Authority has in mind a wide range of licensed premises covering premises such as hotels, pubs, members' clubs, social clubs restaurants, cafes, cinemas, theatres, village halls and late night takeaways.
- 1.4 The Council's Statement of Licensing Policy sets out the issues that the Licensing Authority will take into consideration when determining licences throughout Selby and encompasses practical experience gained in the implementation of the Act. The Policy intends to shape the future of licensing, entertainment and related social activities within the District and has been produced with regard to Guidance issued under Section 182 of the Licensing Act 2003 and after consultation with all Responsible Authorities, licensed trade representatives and a wide section of the general public incorporating businesses and residents within the District. Due consideration has been given to all responses in the production of the revised Policy.
- 1.5 The Licensing Authority will not take 'need' into account when considering an application, as this is a matter for planning control and the market. However it recognises that the cumulative impact of the number, type and density of



licensed premises in areas such as the town centres of the District, may lead to problems of nuisance and disorder outside and some distance from the premises. Representations may be received from a responsible authority (e.g. Police or other enforcement officers) or interested party (i.e. a person living, working in the vicinity of the premises) that an area has become saturated with licensed premises making it a focal point for groups of people to gather and circulate, creating problems of disorder and nuisance over and above the impact from any individual premises.

In such circumstances, the Licensing Authority may consider that the imposition of conditions is unlikely to address those problems and may consider the adoption of a special policy of refusing new Premises Licences or Club Premises Certificates because the area is saturated with licensed premises and the granting of any more would undermine one or more of the Licensing Objectives.

1.6 Currently the Licensing Authority has no saturation policy but will take the following steps when considering whether to adopt a special saturation policy:

- identification of concern about crime and disorder or public nuisance;
- consideration of whether it can be demonstrated that crime and disorder and public nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
- consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of the Licensing Policy;
- subject to that consultation, inclusion of a special policy about future Premises Licence or Club Premises Certificate application from that area within the terms of this guidance in the Statement of Licensing Policy;
- publication of the special policy as part of the Statement of the Licensing Policy required by the 2003 Act.

The onus would be on the applicant to provide evidence to back up any assertion that the addition of the premises in question would not produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics

The Licensing Authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these may have on the local community.

1.7 In determining applications the Licensing Authority shall consider:

- The promotion of the four Licensing Objectives

- The representations and evidence presented by all parties, together with any relevant supporting documentation
  - Guidance issued by Government
  - The Licensing Authority's own Statement of Licensing Policy
- 1.8 Where relevant representations have been submitted, the Licensing Authority shall aim to facilitate negotiations/mediation between the applicant and Responsible Authorities/Interested Parties prior to a hearing. If negotiations/mediation proves unsuccessful, a hearing will take place at which all parties shall be invited to put their views before a Licensing Sub-Committee. The Sub-Committee will make a decision based on the information presented to them at the hearing and taking into account the four points mentioned in 1.7 above. However, this policy does not override the right of any person to make representation 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, except those representations that are deemed frivolous, vexatious or repetitious. All representations will be given appropriate weighting when being considered by the Licensing Authority.
- 1.9 The Licensing Authority will have a flexible approach to licensing hours and shall treat each application on its merit and each will be treated fairly and objectively in accordance with the four Licensing Objectives. The Licensing Authority considers all four Licensing Objectives of equal importance.
- 1.10 All written applications and relevant documentation must be submitted to the Licensing Authority in its entirety. The Licensing Authority will only accept original prescribed application forms, containing original signatures and consent forms in order to prevent the potential for fraudulent activity. When submitting variations or transfers, the Licensing Authority will only accept complete documentation with original Licences or relevant parts thereof, thus avoiding confusion over the circulation of duplicate licences. Where this is not practical, and in accordance with the Act, the applicant will provide a statement of the reasons for the failure to provide the licence (or relevant part). Failure to provide original documentation or a valid reason why this cannot be produced shall result in the incomplete application forms being returned to the applicant.
- 1.11 Application, notice or representations may also be received by electronic means (NB electronic applications to be made via the businesslink website). The text must be legible, capable of being accessed by the Licensing Authority and being read and reproduced in written form. However, on sending the text of the application, notice or representation by electronic means, the giving of such application, notice or representation will not be deemed valid until the fee, plan (where relevant) or other prescribed documentation has been received by the Licensing Authority.
- 1.12 Where possible, the Licensing Authority shall aim to assist the applicant in correcting any minor factual errors in their application, however, the Licensing Authority shall not consider potential breaches of Regulations, or errors which could result in changes to consultation dates, as a 'minor' error and the

interpretation of obvious and minor factual errors shall rest with the Licensing Authority.

- 1.13 Regulations require that applicants shall ensure a copy of the written application and plans are submitted to the Responsible Authorities. A list of Responsible Authorities will be provided in Guidance Notes available on the Council's web site. Failure to comply with these regulations will result in the application being rejected. The Licensing Authority recommends that the applicant seek advice from all Responsible Authorities prior to submitting the application form, thus reducing any potential representations.
- 1.14 The Licensing Authority will take a pragmatic approach when dealing with plans for premises that are either of a greater or smaller scale than 1:100, however, every effort should be made to ensure that the scale is 1:100. If the plan is acceptable and valid, the Licensing Authority will confirm this fact in writing to the applicant. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.
- 1.15 As the Regulations require advertising of all new and varied applications, the Licensing Authority recommends that the applicant contact them prior to displaying the pale blue notice or advertising the application in a local paper circulating in the vicinity of the premises. Thus, an accurate consultation date will be given which will avoid any errors and the potential of a breach of the regulations that would result in the application being rejected. With regard to applications to vary, notices should include a brief description of the proposed variation, e.g. details of additional hours, the additional licensable activities, etc.
- 1.16 With regard to variations, the Licensing Authority shall deem a variation to a Premises Licence as any variation that is not a change of the name or address of someone named in the licence, a change of the Designated Premises Supervisor, transfer the Licence from one premises to another or an extension of the period for which a licence has been time limited. Examples of variations would be extending the permitted hours or opening times, including an additional licensable activity or amending or removing any conditions attached to the Licence. This list is not exhaustive. However, where there is a variation that involves a structural alteration to the premises, thus altering the Premises Plan and Operating Schedule, or change of use of the building, then the Licensing Authority may deem this as a variation that requires a new premises application.
- 1.17 In the cases of applications for internet or mail order sales, notices should be conspicuously displayed at the premises where alcohol is appropriated to the contract in accordance with regulations.
- 1.18 With regard to the Protection of Children from Harm Licensing Objective, the Licensing Authority recognises The Director of Children and Young People's Service at North Yorkshire County Council as the Responsible Authority and applicants are advised to contact this authority to seek advice on this important Licensing Objective.

- 1.19 Where an applicant is a vessel, the Licensing Authority strongly recommends advice is sought from the Maritime & Coastguard Agency prior to submitting the application form. This Agency will offer advice on the safety of passengers aboard the vessel.
- 1.20 The Licensing Authority will ensure that planning, building control and licensing regimes shall be properly separated to avoid duplication and inefficiency. Although licensing applications shall not be a re-run of planning applications, the Licensing Authority shall expect premises licence applications and variations to have the appropriate planning/building control consents. However, the Licensing Authority recognise that there are circumstances where a planning condition has been set to determine a terminal hour. Where these hours are different to the licensing hours, the applicant will be expected to observe the earlier closing time and where premises are found to be in breach of their planning permission, they would be liable for prosecution under planning law.
- 1.21 The Licensing Authority shall work closely with all Responsible Authorities, particularly North Yorkshire Police, North Yorkshire Fire & Rescue Service and North Yorkshire Trading Standards to ensure the promotion of the Licensing Objectives. A Memorandum of Understanding between these agencies has been adopted and this protocol shall be kept under review. As the Licensing Authority considers the Protection of Children from Harm is vital, it shall continue to support North Yorkshire Trading Standards in testing under age sales.
- 1.22 The Licensing Authority will actively encourage licensees to promote anti-drink driving campaigns to encourage people not to drink and drive. Licensees may wish to consider participating in the Designated Driver Schemes. These schemes aims to encourage groups of drinkers to appoint a designated non-drinking driver when going out for the evening. In addition, the Licensing Authority recommends that posters are displayed in the premises warning of the dangers of drink driving.
- 1.23 As young people often look older than their actual age, the Licensing Authority shall encourage licensees to adopt a Challenge 21 Policy to challenge those people who appear to be under 21 in order to be certain that no sales of alcohol to under 18s take place. The Licensing Authority strongly recommend that each premises has a strict policy in force with regard to customers under the legal age to prevent any sales and that any attempts to purchase alcohol by an under aged person are recorded in the Premises Log book.
- 1.24 The Licensing Authority shall work in liaison with other agencies and support strategies where these are allied to the Licensing Objectives.
- 1.25 Partnership working and integration with other relevant legislation and strategies is a key part of this policy. The Licensing Authority will aim to 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 initiatives:

- 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 in its locality. Specifically it will take into account matters contained in the Selby Community Safety Strategy in relation to the four main Licensing Objectives;
- European Convention on Human Rights (places a duty on public authorities to protect the rights of individuals in a variety of circumstances) specifically Articles 1,6 and 8
- Planning Acts and The Local Plan/Local Development Framework;
- Section 17 of the Criminal Justice and Police Act 2001 (this relates to the police powers to close without notice for up to 24 hours certain licensed premises that are disorderly, likely to become disorderly or excessively noisy);
- Selby District Council's Community Strategy. The Local Government Act 2002 required all local authorities to produce a community strategy within the framework of the UK Sustainable Development Strategy "A Better Quality of Life" and relevant regional strategies. Selby District Council's document sets out the Community Strategy for this area which helps identify key areas, which may inform and shape policies now and for the next ten years. The document provides a crucial focal point for the identification of local issues and aspirations on social inclusion, environmental protection, employment and economic development. Local strategic partnerships, typically involving Police, local authorities, primary health care trusts and representatives from business and the voluntary sector organisations are responsible for the achievement of locally set objectives;
- Disability Discrimination. The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. For service providers such as licensees:-
  - (a) it is unlawful to treat disabled people less favourably than other people for reasons related to their disability.
  - (b) should make reasonable adjustments for disabled people such as providing extra help or making changes to the way they provide their services; and
  - (c) from 2004 they will have had to make reasonable adjustments to the physical features of their premises to overcome physical barriers to access.

The Licensing Authority 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 (including film exhibitions) 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 etc. Act 1974. This Act (and other relevant statutory provisions) imposes duties on employers, employees 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 conditions of the premises. Councils are the enforcing authority for the majority of premises in which licensable activities are carried out. In other cases the Health and Safety Executive is responsible.

Licensing Objectives overlap with health and safety requirements in so far as foreseeable risk to public safety would be covered by the duties imposed by health and safety legislation. However, these general duties for example, risk assessment under the Management of Health and Safety at Work Regulations 1992 may not adequately cover specific issues which arise from licensable activities i.e. aspects of entertainment. 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 Act 1990. The Act places a duty on Council's 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 (temporarily) 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.

1.26 The Licensing Authority recognises that the Race Relations Act 1967, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.

In seeking to support a community in which diversity is encouraged the Licensing Authority will expect all applicants to take steps that ensure no person is treated differently on the grounds of race, colour, religion, ethnic or national origins, age (unless an aged related event), sex (unless a single-sex event), 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.

- 1.27 In recognition of the Local Authority's cultural strategies the Licensing Authority recognises the need to encourage and promote live music, street entertainment, dance and theatre for the wider benefit of the community, especially children. The Licensing Authority also recognises that licensed premises in the district are a major contributor to these activities and the economy of the district. They attract tourists and visitors, make for vibrant towns and communities and they are a major employer. The Licensing Authority is aware of the need to avoid measures as far as possible that would deter live music, circus, street entertainment, dance and theatre by imposing indirect costs of a disproportionate nature.

When considering applications for such events and the imposition of conditions on licences and certificates (following a hearing), the Licensing Authority will only attach conditions that are reasonable, proportionate, and strictly necessary for the promotion of the Licensing Objectives.

The Licensing Authority may seek in its own name Premises Licences for appropriate public spaces within the district. This will make it easier for people to organise suitable cultural events. The Licensing Authority will consider any request for permission to use such public spaces for cultural activities.

- 1.28 The Licensing Authority recognises that licensing law is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act and is not the only mechanism for the general control of anti-social behaviour by individuals once away from the vicinity of the premises and therefore beyond the direct control of the individual, club or business holding the licence. However, licensing controls shall form an integral part in the management of the evening and night-time economy.
- 1.29 Where a premises licence is sought for off sales of alcohol from retail premises, off-sale hours may normally follow general retail hours unless representations are received which evidence good reasons for any restriction.
- 1.30 The Licensing Authority, in adopting this Policy, recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well-run entertainment premises to the local economy and the vibrancy of Selby District.

- 1.31 Whilst this Policy refers to new or varied applications, current licensees are encouraged to take heed of the guidance contained therein.
- 1.32 The Policy shall remain in force for not more than 3 years and shall be subject to periodic reviews and further consultation as and when required. Following consultation, any revisions or amendments to the Policy shall be published in line with the Regulations.

### Conditions

- 1.33 Where conditions are imposed at a Licensing hearing, they shall be necessary to promote one or more of the four Licensing Objectives and shall be tailored to the size, style, characteristics and activities that take place at the licensed premises. Whilst the Licensing Authority recognise that conditions should be tailored to the specific premises concerned, Responsible Authorities may draw up their own pools of conditions or utilise those in the National Guidance which applicants may draw from, as appropriate, when completing their Operating Schedules.
- 1.34 Licensing conditions shall not seek to replicate the licensing offences set out in the Licensing Act 2003. Any conditions imposed by the Licensing Authority at a hearing shall be necessary, proportionate and reasonable in order to promote the four Licensing Objectives and to address the relevant representations.
- 1.35 The Licensing Authority shall carefully consider any conditions it may impose following a hearing to ensure that they are practical, achievable and enforceable. For example, a condition on toughened glassware must be capable of being met. Beer glasses may be available in toughened glass whereas wine glasses or champagne flutes may not.
- 1.36 In addressing conditions, the Licensing Authority shall primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the vicinity of the premises. In addition, the Licensing Authority shall focus on matters within the control of licensed operators and/or directly outside the premises. Whilst “vicinity” has not been defined in the Licensing Act 2003, this Licensing Authority shall take a common sense approach and shall treat each application on its own merit. This same principle shall also apply to interested parties living in the vicinity who wish to make representations and to those who wish to support an application.
- 1.37 The Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example, the Gambling Act 2005, the Disability Discrimination Act 2004, Health and Safety at Work, etc. Act 1974, Environmental Protection Act 1990 and the Regulatory Reform (Fire Safety) Order 2005. The Licensing Authority will ensure, therefore, that no representations from Responsible Authorities shall overlap and duplicate current legislation and shall avoid attaching conditions that duplicate other regulatory regimes as far as possible.



- 1.38 In addition, the Licensing Authority recognise that in accordance with Section 43 of the Regulatory Reform (Fire Safety) Order 2005, any conditions imposed by the Licensing Authority that relate to any requirements on prohibitions that are or could be imposed by that Order, shall have no effect. The Licensing Authority shall therefore not seek to impose fire safety conditions where the Order applies.
- 1.39 In much the same way, the Indecent Displays Act 1981 prohibits the public display of indecent matter and the Licensing Authority shall therefore not seek to impose conditions concerning such displays inside or outside the premises. The existing laws governing indecency and obscenity are adequate to control adult entertainment.
- 1.40 The Council's Licensing Committee may receive reports from those service departments and/or committees with responsibility for transport, the tourist economy, cultural strategies and local employment within the district at appropriate intervals, thereby ensuring that these matters can receive appropriate consideration and be reflected in Committee determinations.
- 1.41 The Council's Licensing Committee may provide reports to the planning committee regarding licensed premises in the area. Reports may include such matters as:- the number and type of licensing applications received per ward, the results of applications/appeals and such other information as the Licensing Committee deems appropriate.
- 1.42 The Licensing Authority will monitor the impact of licensing on both regulated entertainment and the sale or supply of alcohol on its communities. Where there are indications that either organisers of events are being deterred by licensing requirements within the policy or that alcohol abuse is adversely affecting the amenity enjoyed by the communities the Licensing Authority will review its policy and investigate how if possible the loss of amenity may be restored.
- 1.43 The Licensing Authority's Licensing Policy is contained within Parts 1-4 of this document and is supported by a number of Appendices that provide important information aimed at helping those reading or referring to it. The information provided outside parts 1-4 maybe subject to technical change in the light of Government Guidance from time to time but any such changes will not invoke procedures for revisions of the Licensing Policy referred to in Section 5 of the Licensing Act.
- 1.44 The Glossary at the back of this Policy sets out most licensable activities, although the list is not exhaustive. If any member of the public is uncertain as to whether or not they require a licence they should contact Licensing Section, Civic Centre, Portholme Road, Selby YO8 4SB e-mail the Licensing Authority on [licensing@selby.gov.uk](mailto:licensing@selby.gov.uk).

## **PART 2**

### **PREMISES LICENCE**

#### **General**

- 2.1 The Premises Licence outlines the operating conditions and the Operating Schedule will form the basis of conditions that will be attached to this Licence. The Licensing Authority shall expect the applicant to have carefully considered all four Licensing Objectives in their Operating Schedule.
- 2.2 The Licensing Authority recognises that large-scale events may attract large crowds and the risks to public safety, crime and disorder and public nuisance are likely to increase with these numbers. Event organisers are recommended to contact Responsible Authorities in good time to discuss the Operating Schedule well before an application is submitted. This will enable the applicant to discuss any potential issues with the Responsible Authorities in advance of their application(see later).
- 2.3 Where there are such events, the Operating Schedule should reflect an even greater awareness of the four Licensing Objectives and it is for this reason that applicants are recommended to contact members of the Responsible Authorities who will offer advice on all aspects of the event, particularly with regard to Public Safety.
- 2.4 In the case of festivals and carnivals, where a Premises Licence is required or a Temporary Event Notice is to be served, it will be the responsibility of the event organiser and the landowner to ensure that the appropriate licence is in place. The Licensing Authority recommends that the organiser contacts the appropriate Responsible Authority as soon as is practicable in order to seek advice on holding their events in line with the four Licensing Objectives.
- 2.5 With regard to the licensing of garages, Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises that are used primarily as a garage. However, the Licensing Authority will use the court's approach based on intensity of use, to establish primary use. Where such applications are submitted, the Licensing Authority will expect relevant evidence to accompany the application form and where there is any doubt the Licensing Sub-Committee will decide whether or not any premises is used primarily as a garage.

#### **Interim Authority Notices**

- 2.6 A licence will lapse with immediate effect when the Premises Licence holder dies suddenly, becomes bankrupt or insolvent or becomes mentally incapable. The Act provides for the licence to be reinstated by way of an Interim Authority Notice and this notice must be given to the Licensing Authority within the

prescribed time constraints after the licence has lapsed. As soon as the Licensing Authority is made aware of such circumstances it shall make every effort to ensure that the licence holder or relevant representative is alerted as to their responsibilities under Section 47 of the Act and give advice on the ultimate transfer of the licence.

### **Late Night Refreshment**

- 2.7 Where late night refreshment is provided between the hours of 11pm and 5am applicants must demonstrate in their Operating Schedule how they will promote the four Licensing Objectives, particularly with regard to the Prevention of Crime and Disorder and the Public Nuisance Licensing Objectives.
- 2.8 The Licensing Authority recommend takeaways have a policy for clearing litter from outside their premises and for 25 metres along the pavement in either direction as necessary. Such activity should be undertaken on a regular basis whilst the premises are open and at the end of the working day.

### **Mobile Premises**

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

### **Gaming Machines**

- 2.12 Where an applicant for a gaming machine permit or gaming machine notification is not a Premises Licence holder, the Licensing Authority requires confirmation that the application is made on behalf of, and with the agreement of, the Premises Licence Holder. In the absence of such information, the application will be postponed until that consent has been obtained.
- 2.13 Where licensed premises intend to provide more than two gaming machines, the Licensing Authority will hold a hearing in respect of that application. The need for a hearing will be determined by factors such as the presence of children, nature of the premises and the potential for crime and disorder.
- 2.14 With regard to the Protection of Children from Harm objective, it is recognised that it is a matter for the Premises Licence holder and any adults accompanying the children concerned, whether or not they are entitled to play

lower stake machines (category C and D gaming machines). In the case of premises used exclusively and primarily for the consumption of alcohol, children under 16 will only be lawfully permitted entry to the premises if accompanied by an adult.

- 2.15 The Licensing Authority shall expect the applicant to adhere to the Gambling Commission's Codes of Practice related to all gaming machines and shall expect the applicant to be familiar with Part C: Permits - Alcohol Licensed premises Gaming Machine Permits as stated in the Council's Gambling Policy.

### **Disability Access**

- 2.16 The applicant is expected to have given due regard to the Disability Discrimination Act 2004, including facilities for people with disabilities as well as access and egress.

### **Personal Licences**

- 2.17 Where a Premises Licence authorises the supply of alcohol, every supply of alcohol must be made or authorised by a Personal Licence Holder. Whilst this does not mean that the Personal Licence Holder must be present at every sale of alcohol or directly supervise each sale, authorisation should be meaningful and properly managed. Further guidance on this can be found in the National Guidance issued under Section 182.
- 2.18 Whilst the Licensing Authority recognise that it is not a requirement of the 2003 Act, it would be good practice for the Personal Licence holder to give specific written authorisation to individuals since they are more likely to be able to demonstrate due diligence. Whilst the Designated Premises Supervisor (DPS) and Personal Licence holder may authorise sales in their absence, they still remain responsible for those sales. Similarly, the Premises Licence Holder also remains responsible for ensuring that the licensing law and conditions are complied with at that premises.
- 2.19 In circumstances where the Personal Licence holder has delegated the responsibility for the sale of alcohol they will still have responsibility for the actions of those they have authorised to make those sales. In this context 'delegated' includes the employment and hiring of staff for the sale of alcohol.
- 2.20 Applicants for Personal Licences with relevant unspent criminal convictions are required to notify the Licensing Authority of the nature of those convictions when making an application. In such cases, the Licensing Authority shall advise North Yorkshire Police and, where an objection is received on crime prevention grounds, a hearing will be held to decide whether or not to grant the licence.

- 2.21 Where North Yorkshire Police submit an objection to a Personal Licence the Licensing Authority are likely to refuse the application unless there are exceptional and compelling circumstances that justify granting it.
- 2.22 Where a Personal Licence holder appears before a magistrates' court for a relevant offence, the Licence holder must produce his licence to the court at the first hearing or provide the court with a valid reason why they are unable to produce that licence. The magistrates and/or the crown court will then decide on what action, if any, to take.
- 2.23 Where an applicant for a Personal Licence is convicted of a relevant offence as listed in the Licensing Act 2003, the applicant is required to advise the Licensing Authority forthwith, so that the Licence can be amended.
- 2.24 Where a Premises Licence is in force authorising the supply of alcohol, a Designated Premises Supervisor will need to be nominated. The main purpose of the DPS is to ensure that there is always one specified person, normally an individual who has day-to-day responsibility for running the business, who can ensure that any problems are dealt with swiftly.
- 2.25 Whilst the Licensing Authority recognise that a DPS may supervise more than one premises, the DPS must be able to ensure that the four Licensing Objectives are promoted and that the licensing law and licensing conditions are complied with. Where the DPS is not available at the premises for whatever reason, the Licensing Authority would normally regard it as appropriate for a Personal Licence Holder to be on the premises at all times when alcohol is sold and who will have details of where the Designated Premises Supervisor can be contacted. If no Personal Licence Holders are available, the Licensing Authority recommends a responsible individual be nominated who can deal with matters in the absence of the DPS. In addition, the Licensing Authority recommend that a notice is displayed prominently indicating the name and position of that nominated person. The Licensing Authority recommend that whenever alcohol is to be sold written consent should be given to that nominated person.

### **Temporary Events Notices**

- 2.26 A Temporary Event Notice ( TEN ) may be given for part of a building such as a single room within a village hall, a plot within a larger area of land or a discrete area within a marquee, as long as the Notice clearly describes the area where the event is to be held and the premises user intends to restrict the number of people present. If a premises user fails to restrict the numbers in that area to a maximum of 499, the user will be liable to prosecution for carrying on unauthorised licensable activities. The Licensing Authority recommends that those giving TEN's seek the permission of the premises owner before submitting their notification to the Police and Licensing Authority.

- 2.27 People giving Temporary Event Notices are recommended to be on the premises for the entire duration of the event, and in any case will remain liable for any offences that may be committed at the premises whilst the Temporary Event Notice is in place, if the event is not adequately supervised or managed, particularly in relation to under age sales.
- 2.28 As a Temporary Event Notice does not relieve the premises user from any requirements under planning law for the appropriate planning permission, the Licensing Authority recommend the user contacts the Planning Authority well in advance of the event to avoid any disappointment.
- 2.29 In order to avoid disappointment, temporary event organisers are encouraged to liaise with the Police Licensing Officer prior to submission of their notifications to the Licensing Authority in order to consider whether or not there are any concerns and where there are concerns, to enable all parties to take the necessary steps to resolve them.
- 2.30 As the Licensing or Police Authority is unable to attach any terms, conditions, limitations or restrictions on the carrying on of licensable activities at such events, the Licensing Authority recommend the person giving the Temporary Event Notice seeks advice from the Responsible Authorities in advance of submitting the application. Such Authorities will be able to offer local advice on other legislative requirements such as health and safety issues, noise pollution, road closures, the use of pyrotechnics, local byelaws, etc. along with the need to prevent anti-social behaviour.
- 2.31 The Licensing Authority recommend that organisers prepare a Fire Risk Assessment with regard to their event. Advice from the Fire Authority on how to prepare a Risk Assessment is available see [www.northyorksfire.gov.uk](http://www.northyorksfire.gov.uk).
- 2.32 In the event of a relevant representation from the Police, the Licensing Authority will hold a hearing and publish their decision as soon as reasonably practicable but not less than 24 hours before the event is due to take place.
- 2.33 Event organisers are reminded of Police powers to close down events without notice, on the grounds of disorder, the likelihood of disorder, or public nuisance. The Licensing Authority, therefore, expects organisers to be aware of the relevant offences under the Licensing Act 2003, for example, sales of alcohol to children or to drunken individuals. Event organisers are advised to contact the Licensing Authority for further advice.
- 2.34 Where there are events solely provided for children, for example an Under 18's disco in a pub or similar premises, applicants are advised to ensure that no alcohol is served at such event and to ensure measures are in place to prevent sales to under aged persons so that the Protection of Children from Harm Licensing objective is promoted.
- 2.35 Where exceptional events of local, national or international significance arise, for example a one off dance festival, or national competitive sporting event, the Secretary of State may make a licensing order for specified extended

hours. A minimum of 6 months' notice must be given to the Secretary of State so that consultation can take place and approval of both Houses of Parliament obtained.

- 2.36 Experience has shown that there have been misunderstandings regarding the minimum 10-day notice period. Applicants are advised therefore to read the definition of 10 working days in the Glossary before submitting their Temporary Event Notice. In order to avoid disappointment, the Licensing Authority recommend that applicants submit their notice at least 28 calendar days before the event to allow proper consideration of the application and guidance to be given to the organisers. The Licensing Authority would also expect applicants to adequately inform local residents of intended events.

### 2.37 **LARGE EVENTS:-**

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.

Much larger crowds may be attracted to large-scale temporary events and the risk to public safety and to crime and disorder as well as public nuisance may be considerable. The Licensing Authority should be given at the earliest opportunity 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, crime and disorder as well as public nuisance 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 1834X;**
- **5 Steps to Risk Assessment - case studies (HSE 1998) ISBN 07176 15804;**
- **The Guide to Safety at Sports Grounds (The Stationery Office 1997) ("The Green Guide") ISBN 011 3000952;**
- **Safety Guidance for Street Acts, Carnivals, Processions and Large Scale Performances published by the Independent Street Arts Network, copies may be obtained through [www.streetartnetwork.org/pages/publications](http://www.streetartnetwork.org/pages/publications)**

### **Club Premises Certificate**

- 2.37 In order for a qualifying club to supply alcohol and provide other licensable activities on Club premises, a Club Premises Certificate is required. Qualifying conditions are specified in section 62 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support the fact that the Club is non-profit making.

- 2.38 The Licensing Authority will require the Club to produce an Operating Schedule evidencing how it will promote the four Licensing Objectives. The Operating Schedule will form part of the Club Premises Certificate.
- 2.39 Where a Club intends to open its premises to the general public, the Licensing Authority recommends a Temporary Event Notice or Premises Licence. The Licensing Authority will however advise that a club should take care not to compromise its Club Premises Certificate. Where the Licensing Authority has any doubts it shall investigate the Club's activities and, where it is evidenced that they are no longer acting as a qualifying club, the Licensing Authority may use its powers to remove the Club Premises Certificate.
- 2.40 Whilst there is no definition of 'guest' within the Licensing Act 2003 the term may include a wide variety of people who are invited by the Club. The manner in which they are admitted as 'guests' would be for the Club to determine and set out in its Club Rules. Where the point is reached that a Club is providing commercial services to the public it will no longer be considered to be conducted in good faith and would therefore no longer meet General Condition 3 in Section 62 of the Licensing Act 2003. Where the Licensing Authority considers a club has ceased to operate in good faith, it shall give the Club notice withdrawing their Club Premises Certificate. The Club shall be entitled to appeal this decision and where the appeal is unsuccessful, the Club will be required to apply for a full Premises Licence.
- 2.41 The Licensing Authority recommend that Clubs consider the definition of 'guest' in their club rules and seek advice from the Licensing Authority where there are any doubts or concerns. In accordance with the Licensing Act, where the rules of the club are amended the Club Secretary shall notify the Licensing Authority with the prescribed fee.
- 2.42 The Licensing Authority shall require the Club Secretary's contact details to be readily available in the event of an emergency.



## **PART 3**

### **OPERATING SCHEDULE**

- 3.1 The Operating Schedule should be precise and clear about the measures proposed to promote each of the Licensing Objectives. Prior to submitting an application, the Licensing Authority recommends an applicant seeks expert advice and guidance from all Responsible Authorities on matters relating to the Licensing Objectives when completing the Operating Schedule. This will ensure the application is processed expeditiously.
- 3.2 The Licensing Authority recommends that applicants for Premises Licences conduct Fire Safety and Health and Safety risk assessments. Applicants are advised to seek the views of professional experts in relation to the preparation of these risk assessments. Where a maximum occupancy is set, applicants are advised to have an appropriate method in place to monitor the numbers of people entering and exiting the premises.
- 3.3 The Licensing Authority recommend that a Premises Log Book is kept at the premises. Information contained in that log book should be completed by the Designated Premises Supervisor and should include a record of:
- All incidents of crime and/or disorder on the premises, the actions taken and by whom
  - All incidents of drug abuse on the premises, the actions taken and by whom
  - All incidents where drugs are seized. These entries must be witnessed and the Police contacted forthwith in accordance with North Yorkshire Police Drugs Policy.
  - The following tests: fire alarm, emergency lighting, staff fire drills and fire extinguisher tests
  - Where door supervisors are employed, details of staff and time on duty and any other relevant information
  - Staff training on the licensing laws, in particular the laws on under aged sales
  - Noise checks
  - Evacuation procedures
  - Review of security procedures.
- (This list is not exhaustive).
- 3.4 The Licensing Authority fully support staff training and awareness of their duties under the Licensing Act 2003 and recommend that all staff are given the appropriate training on the four Licensing Objectives and that this training is recorded in the Premises Log Book.
- 3.5 The Licensing Authority recommend that all policies are written and shared with staff so as to increase awareness and knowledge. For example Policies could include Drugs, Age Restricted Sales, Capacity Monitoring, Drinks

Promotions, Random Search, Security, Dispersal Policy, Noise Monitoring, Confiscation of Weapons, Event Control and Glass Collection Policies. (This list is not exhaustive).

### **Crime and Disorder**

3.6 National statistics show that almost half of all violence is alcohol-related and that one in five incidents occur in or around pubs or clubs. The Prevention of Crime and Disorder is the first of the Licensing Objectives.

3.7 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities), which are likely to adversely affect the promotion of the Crime and Disorder objective. Where appropriate, the Licensing Authority recommends the Operating Schedule considers the following:

3.7.1 **Measures to promote intolerance of drugs on the premises and provision for the storage of seized drugs:-** It is recommended that town centre venues draft their own “Drugs Policy” setting out the measures to be taken in respect of drug misuse or possession on their premises. Alternatively, advice on handling drugs may be obtained from the North Yorkshire Police Licensing Officer and it is recommended that where there is a potential for crime and disorder, applicants adopt the North Yorkshire Police Drugs Policy. Where drugs have been seized, the licensee will be required to inform the Police immediately. The North Yorkshire Police have a Policy on the Use of Drug Safes that requires any new nightclub, or similar establishment, to install a drug drop box or drug safe within the premises. Where there is a search policy, full details should be set out in the Operating Schedule.

3.7.2 **Measures to prevent, or substantially limit, alcohol abuse caused by drinking games and drinks promotions:-** The Licensing Authority recommends Licensees adopt the advice by the British Beer & Pub Association and the Portman Group to discourage binge drinking, particularly by the under 25's.

3.7.3 **Steps to raise staff awareness of drug and alcohol abuse:-** The Licensing Authority recommends suitable staff training to recognise the symptoms of drug abuse. In order to support the Licensing Objectives, the Licensing Authority would recommend that the Operating Schedule identify staff training and development in general. Where staff training is undertaken, the Licensing Authority recommends details are recorded in a Premises Log Book with all members of staff signing to confirm that they have undertaken such training. In addition, the Licensing Authority recommends ongoing staff training. A range of qualifications covering staff development and risk assessments designed to support the Licensing Objectives is available from the British Institute of Inn-Keeping at [info@bii.org](mailto:info@bii.org).

3.7.4 **Physical security of premises, such as CCTV, appropriate security lighting, etc:-** The use of CCTV within licensed premises is a useful tool for

addressing crime and disorder and the Licensing Authority clearly supports the expansion of this scheme. Licensees are, therefore, asked to liaise closely with the Police to seek their views on whether or not CCTV is required on the licensed premises. Where CCTV is required the Licensing Authority recommend that it have a time and date recording facility. Advice on CCTV requirements may be obtained from the Police Licensing Officer.

- 3.7.5 **Design** :- Whilst the strongest tools for preventing disorder are effective management controls and best practice procedures, good design of premises can significantly reduce the likelihood of disorder or criminal activities. As a preventative measure in the planning process, all applicants for new build premises are recommended to contact the Police Licensing Officer to seek appropriate advice on 'designing crime out'.
- 3.7.6 **Promotion nights, disco nights and special events could potentially attract large numbers of people:-** Where appropriate, licensees are asked to demonstrate how they propose to work with the Licensing Authority, Police and other traders to discourage large numbers of people moving between premises. One way this can be achieved is through the "Pubwatch" scheme. This scheme is also very effective in providing communication between licensed premises, the Licensing Authority and the Police. In respect of securing the objective of preventing crime and disorder, the establishment of a "Pubwatch" system is an essential element. It is therefore strongly recommended that town centre premises, where the consumption of alcohol is the primary activity, become active members of the "Pubwatch" scheme. Out of town on-licensed premises are encouraged to join or form a local scheme and applicants are encouraged to liaise with the Police. The National Pubwatch Good Practice Guide provides advice on how schemes can be established locally and includes Codes of Practice. More information about Pubwatch can be obtained through their web site at [www.national/pubwatch.org.uk](http://www.national/pubwatch.org.uk). Where applicants participate in the Pubwatch scheme all associated communication and alarm equipment must be maintained in full working order whilst the premises are open to the public.
- 3.7.7 **Evidence of active management measures to prevent violence and public disorder:-** Applicants may consider the use of SIA ( Security Industry Authority ) registered Door Supervisors to effectively control potential flashpoints such as the entrance to the premises and flashpoints within the premises itself. Similarly all Door Supervisors will have a key role to play in ensuring public safety within the premises.
- 3.7.8 **Evidence of competent management procedures in place to promote this Licensing Objective, as well as Public Safety:-** The responsibility for order on the licensed premises, particularly where there are large numbers of people in premises primarily for the consumption of alcohol, rests with the Premises Licence holder. They should ensure a competent DPS and managers are in charge of the premises and that they are suitably trained to deal with all aspects of public safety and crime and disorder.

- 3.7.9 **Premises Style** :- Applicants should also address in the Operating Schedule all aspects relevant to the individual style and characteristics of their premises and proposed events and activities. Research has shown that the amount of seating can be relevant to the prevention of crime and disorder and the Operating Schedule should include consideration of the layout and seating provided.
- 3.7.10 **Provision of toughened, plastic or shatterproof glasses, particularly when used in designated outside areas**:- In the interests of both Crime and Disorder and Public Safety, the Licensing Authority advise that where alcohol is consumed in designated outside areas, provision is made to ensure that glasses will be of a type which, when broken, do not enable the remnants to be hazardous or to be used as a weapon. Drinking glasses or bottles that may be left outside at night can be misused and the applicants are advised to put in place a policy to clear glasses and bottles. This should detail the frequency of clearing the outside areas and arrangements for clearing the area at night when the premises close.
- 3.7.11 **Violent Groups** :- Wherever possible applicants are asked to be aware of local groups known to incite violence or hatred, or who partake in extremist activities in order to prevent the likelihood of meetings resulting in crime and disorder. Licensees are asked to take into consideration the potential impact on privacy or religious freedom and the ethnic and cultural composition of the local area when hosting such meetings. The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The Licensing Authority therefore recommends licensees seek guidance on how to prepare race impact assessments. This guidance is available on <http://www.cre.gov.uk/duty/reia/indix.html>.
- 3.7.12 **Transport** :- Ensuring there is provision for people to get home late at night to prevent potential problems from large numbers of persons leaving licensed premises at night. For example, a licensee may wish to enter into an agreement with a private hire operator to ensure that adequate numbers of vehicles are available on demand during the period leading up to and immediately after closing time. An alternative measure is to ensure there is a public telephone within the premises with taxi posters or business cards appropriately displayed.
- 3.7.13 **Queuing/Dispersal Policy** :- In relevant premises the applicant may have a queuing policy to prevent disorder in the queue whilst customers are waiting to enter the premises. Additionally, and in appropriate circumstances, licensees may wish to demonstrate in the Operating Schedule how they will deal with the dispersal of customers after their permitted licensing hours. For example, suitably worded announcements at the end of the evening; the display of notices in the vicinity asking customers to leave quietly; or by placing a member of staff at the exit points.

- 3.7.14 **Wind down policy** :- Where appropriate, the Licensing Authority recommends a calming atmosphere to be created to assist in the orderly and quiet dispersal of customers. For example, lowering the volume of music and raising lights during the last 30 minutes before closing or ceasing alcohol sales 30 minutes to 1 hour before closing.
- 3.7.15 **Security Procedures** :- In addition and where appropriate, the Licensing Authority recommend regular reviews of security procedures. Other additional suggestions would be: Cloakroom attendants; UV lighting in toilets and regular checks of toilets to monitor under age drinking and illegal drug taking; staff awareness of 'hot spots' in the premises that are likely to be covered by insufficient lighting; radio systems inside the premises; staff identification; adequate lighting outside and inside the premises to ensure the safety of the public; roving security patrols; soft drinks always available; the use of 'spikeys' to avoid drinks being spiked (information on spikeys can be obtained from the Police Licensing Officer).
- 3.7.16 **Other Licensing Objectives** :- Attention is drawn to the above paragraphs related to Proof of Age schemes and strict policies on under age sales under the Protection of Children from Harm section and paragraphs relating to the monitoring of occupancy levels and to the provision of stewards under the Public Safety section, which may also be considered as measures to control crime and disorder issues.
- 3.7.17 **Smoking** :- Measures taken to prevent the potential of crime and disorder from customers wishing to smoke outside or in the vicinity of the premises. In addition applicants may wish to consider a policy to ensure that no glasses or drinks are taken out of the premises.

## **Public Safety**

- 3.8 Members of the Public have a right to expect that due consideration has been given to their needs regarding their physical safety. Licensees must be able to demonstrate that they have considered and put into effect measures to protect the safety of the public. The Licensing Authority recommend that advice is sought from the Council's Environmental Health Service however, where the premises are owned by the Local Authority, the Licensing Authority recommend the applicant seek advice from their own Health and Safety Officer or the Health and Safety Executive.
- 3.9 Where an applicant identifies an issue with regard to public safety that is not covered by existing legislation, the applicant should indicate in the Operating Schedule the steps that will be taken to ensure public safety. Depending on the individual style and characteristics of the premises and/or events, the following may be considered in an Operating Schedule:
- 3.9.1 **Security Industry Authority** :- The provision of SIA registered Door Supervisors during events to control access to and egress from the premises to ensure public safety.

- 3.9.2 **Occupancy Levels** :- The setting of an occupancy level, whether there is entertainment or not. Advice can be sought from the Fire Authority. Examples of where an occupancy limit may be required would be in a nightclub, large pub or pubs operating late opening hours and licensed premises holding live television coverage of national sporting events. Where an occupancy figure is advised, the Licensing Authority recommends consideration is given as to how this will be monitored and enforced.
- 3.9.3 **Section 177 provisions** :- Where an applicant without an existing permitted capacity wishes to take advantage of the special provisions made for dancing, amplified and unamplified music in Section 177 of the Licensing Act 2003, the Licensing Authority recommend that the applicant should conduct their own risk assessment as to the appropriate capacity for the premises. The Licensing Authority advise that they should then send their recommendation to the Fire Authority who will consider it and decide what the permitted capacity of the premises should be.
- 3.9.4 **Occupancy monitoring** :- With regard to the monitoring of capacity, the Licensing Authority recommend various methods, such as the use of clickers to record numbers; entrance by ticket sales only; Managers 'walking through' the premises whilst entertainment is carried on; adequate seating, etc.
- 3.9.5 **Stewards** :- The provision of stewards whose primary role is to provide advice and ensure the safety of those visiting the premises. The role of stewards is not to be confused with the role of Door Supervisors whose primary responsibility is to carry out security activity. Stewards may be considered for large events or events covered under a Temporary Event Notice.
- 3.9.6 **Risk Assessment** :- Applicants should be able to demonstrate that they have carried out a thorough risk assessment when preparing their applications and put into place measures to reduce the risk to public safety. This can be achieved with the assistance of the Responsible Authorities.
- 3.9.7 **Evidence that regard has been given to noise both in terms of safety and the prevention of nuisance.** The applicant should explain how ventilation will be controlled where doors and windows have to remain closed in order to control noise for example, and where relevant, fans, extractors and air conditioning could be considered.
- 3.9.8 **Smoking** :- Measures taken to prevent glasses and/or drinks being taken outside the premises when customers wish to smoke outside but in the vicinity of the premises.
- 3.9.9 **Litter Control** :- Applicants shall detail what arrangements are in place for the control of litter generated by the activity of the premises so that this does not cause a nuisance, safety, or fire hazard.
- 3.9.10 **Flammable Materials** :- Where flags, decorative materials, curtains etc are used in the premises, the Licensing Authority recommend advice is obtained from the Fire Officer to ensure that all material is fire retardant.

- 3.9.11 **Theatres/cinemas** :- Where appropriate, and in particular relating to auditoriums in cinemas and theatres, applicants may consider the provision of toughened glass or plastic containers for refreshments to prevent accidents occurring on the premises. In addition, where additional seating is provided, applicants should consider that this seating is securely fastened to the floor or battened together in lengths of not fewer than 4 nor more than 12 chairs, to avoid trip hazards in the event of an emergency.
- 3.9.12 **Night Clubs** :- In night clubs or similar type premises where dancing takes place, the Licensing Authority recommend that the applicant seeks guidance from the Safer Clubbing Guide on the health and safety of anyone dancing. Where appropriate, sufficient staff trained to an appropriate level in first aid should be present on the premises at all times when the public are present. First Aiders should be able to recognise the symptoms caused by the potential combination of drugs (including controlled drugs) and alcohol, which could lead to overheating and exhaustion.
- 3.9.13 **Provision of Drinking Water** :- Where appropriate, particularly where dance entertainment is taking place, licensees should consider the provision of free drinking water.
- 3.9.14 **External Lighting** :- Where appropriate, and to ensure that the public can safely enter or exit the premises, sufficient external lighting shall be provided to ensure that any trip hazards or obstructions are easily visible. Licence holders should be able to evidence that any external lighting of this nature does not shine through the windows of any nearby premises or cause annoyance from glare.
- 3.9.15 **Special Effects** :- The use of special effects such as lasers, pyrotechnics, smoke, strobe or foam machines can be dangerous. If it is intended to use any special effects, full details of when and how the effects will be used should be set out in the Operating Schedule and appropriate risk assessments of the location, use and type of special effects should be provided.
- 3.9.16 **Glass Collection** :- An effective glass collection policy to ensure glasses are cleared on a regular basis so as to avoid the risk of injury from broken glass. In addition the licensee, where relevant, may consider regularly patrolling the premises to ensure the premises are safe and free from risks.
- 3.9.17 **Fire Detection** :- An effective fire detection warning system, which could either be an electronic warning system linked to a centralised system or simply allocating the responsibility of verbally shouting 'FIRE' to a member of staff. In addition a policy of checking the premises to ensure that all fire exits are not blocked or obstructed. The Licensing Authority recommends staff training on fire safety procedures be recorded in the Premises Log Book.
- 3.9.18 **Animals** :- If at any time consideration is to be given to allowing onto the premises animals with the potential to cause harm, e.g. animals specified in the Dangerous Wild Animals Act or Dangerous Dogs Act, the Operating

Schedule should set out the circumstances in which such animals would be admitted to the premises, the purposes for which they would be there and the steps which would be taken to ensure public safety, both for staff and the public, while the animals are present.

3.9.19 **Indoor Sports** :- With regard to indoor sports entertainment, the applicant may consider the following:

- Provision of a qualified medical practitioner throughout a sports entertainment
- Where a ring is involved, that it be constructed by a competent person and inspected by a competent authority and any material used be flame-retardant
- Where there is a wrestling or similar entertainment that the public do not occupy any seat within 2.5 metres of the ring
- Where there is a water sports event, staff adequately trained in rescue and life saving to be in the vicinity at all times.

### **Public Nuisance**

3.10 The Licensing Authority is committed to reducing disturbance to members of the public and interprets this to incorporate such issues as noise, light, odour, litter and anti-social behaviour. Clearly the Licensing Authority may receive representations seeking stricter controls in areas of greater residential accommodation and these will be dealt with on an individual basis.

3.11 The Licensing Authority recommend that applicants liaise closely with their neighbours prior to submitting an application, thus engaging the community and reducing the likelihood of representations. Current licensees are recommended to liaise with their neighbours prior to holding any special event. Where the Licensing Authority receive representations, any necessary and proportionate conditions shall normally focus on the most sensitive periods. For example, where noise occurs late in the evening when residents are trying to sleep.

3.12 When addressing public nuisance, the applicant should initially identify any particular issues (within their control and having regard to their particular type of premises and/or activities) that are likely to adversely affect the promotion of the objective or preventing public nuisance. Such steps as are required to deal with any issues identified should be included within the applicant's Operating Schedule and these may include (where relevant):

3.12.1 **Nuisance Control Measures** :- Measures taken to control noise, light, odour, litter and anti-social behaviour. Where premises are located near to noise sensitive areas such as residential housing, nursing homes, hospitals, or places of worship, the Operating Schedule shall specify the steps taken to ensure no such disturbance is caused.



- 3.12.2 **Measures taken to reduce noise and vibration escaping from the premises:-** This would include music, ventilation equipment noise and human voices, whether amplified or not. Noise and/or vibration causing public nuisance is a complex issue and advice may in certain circumstances need to be sought from appropriately qualified acoustic consultants.
- 3.12.3 **Measures taken to prevent unreasonable disturbance by customers and staff arriving or departing from the premises:-** For example, notices on all exits requesting patrons to consider the neighbours.
- 3.12.4 **Measures taken to control noise emanating from the delivery of goods and services:-** This could include requesting suppliers to deliver at reasonable hours of the day.
- 3.12.5 **Measures taken to control light to ensure that it does not stray outside the boundary of the premises, such as to give cause for concern to residents or businesses:-** However, the Licensing Authority recognise that bright lighting outside premises may be considered necessary to prevent crime and disorder and the Licensing Authority shall balance such issues prior to attaching any relevant conditions following a hearing.
- 3.12.6 **Provision of litter bins either in the premises or in the vicinity of the premises to prevent accumulation of litter:-** This is particularly important in premises where customers have to use public areas for smoking.
- 3.12.7 **Ejected Individuals :-** Measures taken to ensure the efficient and prompt removal of persons ejected from the premises and their dispersal from the immediate vicinity.
- 3.12.8 **Temporary Event Notices :-** Where licensable activities are taking place under Temporary Events Notices, the Licensing Authority strongly recommend that event organisers conduct regular monitoring to determine the likelihood of unreasonable disturbance to any nearby residential premises. Where this is the case, it is recommended that a log of such monitoring be recorded indicating the time, details of any incidents and what remedial action was taken.
- 3.12.9 **Noise/litter from queuing or smoking :-** An effective policy to prevent noise or litter nuisance from people either waiting to enter the premises or whilst smoking outside but in the vicinity of the premises. Additionally, in appropriate circumstances, licensees may wish to demonstrate in the Operating Schedule how they will deal with the dispersal of customers after their permitted licensing hours. For example, suitably worded announcements at the end of the evening, the display of notices in the vicinity asking customers to leave quietly, or placing a member of staff at the exit points.
- 3.12.10 **Provision of a quiet room or winding down period:-** This could be by way of raising the lights and lowering the volume of music.

- 3.12.11 **Measures taken by management to manage individuals who have consumed excess alcohol and to prevent individuals from consuming excess alcohol whilst on the premises:-** The training of staff in alcohol abuse awareness and the laws relating to the sale of alcohol to drunken individuals is essential in order for this control to be effective and meet both the Public Safety, Prevention of Nuisance and Crime and Disorder Licensing Objectives.
- 3.12.12 **Other Controls:-** Measures taken to control and deal with the potential for litter/vomit or anti-social behaviour outside but in the vicinity of the premises caused by customers leaving the premises.

### **Protection of Children from Harm**

- 3.13 The Secretary of State advocates family-friendly environments in many licensed premises, such as pubs/restaurants/café bars/hotels. This Licensing Authority recognises that there are a range of activities/premises for which licences may be sought that children can expect to visit, often on their own, for food/or other entertainment. However, the Licensing Authority also recognises that limitations may have to be considered where it is deemed necessary to protect children from harm (moral; physical and psychological) eg:
- Where entertainment or services of an adult or sexual nature are commonly provided (eg topless bar staff, striptease, lap or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language);
  - Where there have been convictions of members of the current staff at the premises 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 (but not, for example, the simple presence of a small number of cash prize gaming machines); and
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

The Licensing Authority therefore recommends that all incidents that cause concern are recorded in the Premises Log Book.

- 3.14 When deciding whether to limit the access of children to premises the Licensing Authority will judge each application on its merits. To assist in this process the Licensing Authority will consult with North Yorkshire Police, North Yorkshire Social Services and other agencies as appropriate. Where concerns have been identified in respect of individual premises, a range of alternatives which may be considered for limiting the access of children to such premises is available, if considered necessary for the prevention of harm to children. Those which can be adopted in combination, include:

- Limitations on the hours when children may be present;
  - Limitations excluding the presence of children under certain ages when particular specified activities are taking place
  - Limitations on the parts of premises to which children might be given access;
  - Age limitations(below 18);
  - Requirement for accompanying adults(including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
  - Full exclusion of those people under 18 from the premises when licensable activities are taking place.
- 3.15 No conditions will be imposed by the Licensing Authority requiring that children be admitted to any premises. Where no limitation is imposed admission will be left to the discretion of the individual licensee.
- 3.16 All applicants should set out in the Operating Schedule the appropriate steps they will take to ensure the proper protection of children from harm while licensable activities are taking place. The Licensing Authority strongly recommends that any refusals of alcohol to under aged persons are recorded in the Premises Log Book and that these records are made available for inspection by an authorised officer. It is recommended to include in the Log Book a description of the person, date, time and reason for refusal.
- 3.17 When addressing the protection of children, the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) that are likely to cause concern in relation to children. Such steps as are required to deal with these identified concerns should be included within the applicant's Operating Schedule and these may include in certain circumstances:
- 3.17.1 **A proof of age scheme:-** From the 1<sup>st</sup> October 2010 premises licence holders or club premises certificate holders are required to ensure that an age verification policy applies to their premises in relation to the sale of alcohol. Licensees may like to consider adopting the Challenge 21 Policy supported by North Yorkshire Police. Advice may be obtained from the Police Licensing Officer and licensees are recommended to display the Challenge 21 posters throughout their premises.
- 3.17.2 **Supermarkets:-** It is recommended that applicants, particularly supermarkets, small retailers and off licences, obtain best practice advice on 'No Proof No Sale' from Trading Standards officers to ensure alcohol is not sold to under 18's.
- 3.17.3 **Price Scanning Devices :-** Applicants from retail outlets who use price/code scanning devices are recommended to consider demonstrating how they will control the sale and purchase of alcohol by persons under the age of 18.
- 3.17.4 **Hotels etc :-** Whilst the Licensing Authority recognises it is impossible for a hotel licensee to control underage drinking in the confines of a hotel bedroom, the Licensing Authority recommend they consider measures to control access

by children to the room mini bars. This could be by way of a locking mechanism or combination lock.

**3.17.5 Off Sales :-** Where there are off-licence sales, the Licensing Authority would expect the Operating Schedule to demonstrate how the licensee will discourage the sale of alcohol to customers on behalf of children in the vicinity. For example, if the licensee has any suspicions of this activity to ask the customer if they had been approached by children to purchase alcohol and where necessary contact the Police and record the incident in the Premises log book.

**3.17.6 Training :-** Each premises shall have a strict policy in force with regard to under age sales. Where relevant, licensees should demonstrate that their staff have sufficient training on the Licensing Act 2003 with regard to under age sales. This training should be recorded in the Premises Log book and be available for inspection.

**3.17.7 Where children are present :-** licensees should, where relevant, address the following issues in the Operating Schedule:

- The purchase, acquisition and consumption of alcohol
- Likely exposure to drugs, drug-taking or drug dealing
- Exposure to Gambling
- Exposure to entertainment or services of an adult or sexual nature
- Exposure to incidents of violence and disorder

**3.17.8 Large Public Events :-** Where appropriate, and particularly with regard to large public events, the Licensing Authority advise licensees to include in the Operating Schedule procedures for lost and found children.

**3.17.9 Childrens Events :-** Where there are events solely provided for children, for example an Under 18's disco, applicants are asked to demonstrate how they will ensure that no alcohol is served at the event in question and how they will prevent unauthorised adults joining in that event. Such measures could be closing the public bar whilst children are on the premises, ticketed events so as to prevent over 18s from entering, no adult entertainment, CRB checked staff assisting at the event, limitation on permitted hours, restriction of event to parts of the premises to which children have access.

**3.17.10 With regard to Under 18 events:-** the Licensing Authority recommend the licensee consider a policy to ensure young people have left the premises safely and are not left on their own late at night outside the premises with no supervision.

**3.17.11 Supervision of Children :-** In appropriate cases and where relevant, the Licensing Authority will expect the licensee to show how they intend to provide for the supervision of children as customers or as performers providing regulated entertainment. Licensees will have to demonstrate that consideration has been given to the welfare of children as performers or customers.

- 3.17.12 **Supervision of Children continued** :- In appropriate circumstances, where children are supervised on a one to one basis or in an isolated area, the Licensing Authority will expect the Operating Schedule to demonstrate that supervisors have been appropriately checked by the Criminal Records Bureau.
- 3.17.13 **Codes of Practise** :- The Licensing Authority encourage licensees to demonstrate in the Operating Schedule that they have considered guidance from the Portman Group Code of Practice on the naming, packaging and promotion of alcohol drinks to prevent children from being enticed into purchasing these products.

## **Films**

- 3.17.14 **With regard to film classification**:- No film will be exhibited at licensed premises which is likely to lead to disorder and/stir up or incite violence towards any section of the public on grounds of colour, race, or ethnic or national origin, disability, religious beliefs, sexual orientation or gender. If a licence holder is notified by the Licensing Authority that a particular film in the opinion of the Licensing Authority falls into that category and may not be shown, its decision shall be final in that respect.
- 3.17.15 **In connection with film exhibition**:- conditions will specify that immediately before each exhibition at the premises of a film (other than a current newsreel) passed by the British Board of Classification there shall be exhibited on screen for at least five seconds in a manner as to be easily read by all persons in the auditorium, a reproduction of a certificate of the Board. As regards a trailer advertising a film, a statement approved by the Board indicating the category of the film.
- 3.17.16 **Film**:- No film shall be available to the public without being classified (which must be displayed) and the film if it is unclassified must be given to the Licensing Authority at least 28 days before screening for classification.
- 3.17.17 **Videos**:- Where videos are shown on licensed premises and clubs they should be suitable for children and be in line with any officially recognised classification of the work.
- 3.17.18 **Admission**:- The admission of children to any film exhibition shall be restricted in accordance with the recommendations given by the British Board of Film Classification or by the Licensing Authority.
- 3.17.19 **Classification**:- If the Licensing Authority do not agree with the classification in which the films have been passed by the British Board of Film Classification, 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 in the altered category. Conditions relating to the altered classification shall be complied with.

- 3.17.20 **Licensee:-** The licensee shall maintain good order and decent behaviour in the licensed premises and shall inform North Yorkshire Police immediately he/she becomes aware of any indecent conduct taking place.
- 3.17.21 **Certification:-**The nature of any certificate received in respect of a film shall clearly be indicated by the letters “U”, “PG”, “12”, “12A”, “15”, or “18” (British Board of Film Classification) in any advertisement of the film displayed at the premises.
- 3.17.22 **Advertisements:-** No advertisement displayed at the premises relating to a film to be exhibited at the premises shall depict a scene or incident that is not included in that film as certified by the British Board of Film Classification or approved for exhibition by the Licensing Authority.
- 3.17.23 **Advertisements Continued:-** Where the Licensing Authority 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 or incite crime or lead to disorder or to be offensive to the public, that advertisement shall not be displayed without the written consent of the Licensing Authority and any conditions of such permissions shall be complied with.
- 3.17.24 **Licensing Authority:-** If the Licensing Authority request that the licensee exhibit to them any film, he/she shall do so at such reasonable times as the licensing authority may, in writing direct.
- 3.17.25 **Meaning of Film Exhibition:-** For the purpose of this licence “film exhibition” means any exhibition of moving pictures produced otherwise than by the simultaneous reception and exhibition of:-
- a) television programmes; or
  - b) programmes included in a cable programming service which is, or does not require to be licensed under Section 4 of the Cable and Broadcasting Act 1934, or
  - c) programmes received via a satellite receiver or other similar receiver.
- 3.15.26 With regard to theatres, the Licensing Authority recognise that theatres may present a wide range of plays and activities. The admission of children would normally be at the licence holder`s discretion, however, the Licensing Authority would expect to see such measures taken to prevent children from access to a production/activity involving adult orientated productions.

## **PART 4**

### **APPEALS**

- 4.1 There is a right of appeal where any decision aggrieves an applicant. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to the Justices' Chief Executive, York Magistrates' Court, The Law Courts, Clifford Street, York, YO1 9RE. In hearing an Appeal against the Licensing Authority's decision, the court will have regard to this Policy and the National Guidance issued under Section 182 of the Licensing Act 2003. However, the court would be entitled to depart from both of these documents if it considers it justified so to do.
- 4.2 Where an appeal has been made against a decision of the Licensing Authority, the Licensing Authority will in all cases be the respondent to the appeal and may call as witnesses interested parties or Responsible Authorities who made representations against the application if it so chooses. In addition, and provided the court considers it appropriate, the Licensing Authority may also call as witnesses any individual or body it considers may assist in their response to an Appeal.
- 4.3 In respect of Personal Licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other licences must be made to the Magistrates' Court where the premises or event is situated.

### **COMPLAINTS AGAINST LICENSED PREMISES**

- 4.4 Where there are complaints against a licensed premises, complainants are advised, whenever possible, in the first instance to raise their complaint directly with the licensee in order to resolve the matter. Where this is not possible, complaints in the first instance should be addressed to: The Licensing Enforcement Officer, Selby District Council, Civic Centre, Portholme Road, Selby, YO8 4SB. However, it is expected that all noise-related complaints are initially raised with the Council's Environmental Health Services (Environmental Protection). Complaints regarding unlicensed activities and operating outside the permitted hours should be raised with the Licensing Enforcement Officer.
- 4.5 On receipt of a complaint, the Licensing Officer shall investigate the circumstances, discussing the complaint with the Designated Premises Supervisor of the licensed premises and the complainant. Where it is a valid complaint, the Licensing Authority shall endeavour to seek a resolution through informal means prior to taking any legal action.

- 4.6 The Licensing Enforcement Officer is responsible for considering complaints in the context of this Policy and will determine whether or not it is a relevant complaint.
- 4.7 Where there is a serious complaint, then the Licensing Enforcement Officer shall ensure that it is investigated and enforcement action taken where necessary. The Licensing Authority shall act in accordance with its Enforcement Policy.
- 4.8 With regard to whether or not a representation is relevant, the Licensing Enforcement Officer in consultation with the Council Solicitor shall decide on whether it is vexatious, frivolous, repetitive or not relevant (that is, in line with one or more of the four Licensing Objectives). Aggrieved objectors should take their own legal advice. The exclusion of a complaint on the grounds that it is repetitious does not, however, apply to Responsible Authorities. Responsible Authorities may make more than one request for a review of a premises within the 12 month period or other reasonable interval agreed by the Licensing Authority. Where the decision is made that a complaint is vexatious, frivolous, repetitious or irrelevant, the complainant will be informed of this in writing with full reasons being given for the decision.
- 4.9 The Licensing Authority recognises that this Policy and the promotion of the Licensing Objectives relies on partnership between all the parties. Therefore where there are any concerns identified at the premises, or there is need for improvement, the Licensing Authority shall work closely with the parties at an early stage to address these concerns.

## **ENFORCEMENT**

- 4.10 In order to ensure compliance with the law and licensing conditions, the Licensing Authority will carry out unscheduled inspections. Where one off events are taking place, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted. Inspections shall be carried out in accordance with the principles of risk assessment, targeting problem premises and any relevant Codes of Practice relating to enforcement.
- 4.11 In addition, the Licensing Authority shall conduct random checks to ensure pale blue notices for new and varied applications are accurate and clearly displayed and also that notices for reviews, displayed at or near the site of the premises, are randomly checked.
- 4.12 Section 57 of the Licensing Act requires a licensed premises to ensure that the Premises Licence, or certified copy of that licence, is kept at the premises and in the custody, or under the control of, either the licence holder or a person who works at the premises and whom the licence holder has nominated in writing to have custody of that licence. In addition, the Act requires that a summary, or certified copy, is prominently displayed at the premises together with a notice specifying the name and person nominated to



have custody of the licence. Experience has shown that a number of licensees are not aware of this legislation. With regard to enforcement, where a premises does not display both notices or does not have the licence, or certified copy, on the premises, then the Licensing Authority shall write to the licence holder giving them an initial warning prior to taking any legal action.

- 4.13 The Licensing Authority has adopted an Enforcement Policy, in accordance with the principles of consistency, transparency, proportionality and targeting set out in the current Enforcement Concordat. The Enforcement Policy proposes that a graduated response is taken where offences against licensing legislation are found or where licensing conditions have been contravened. Further, the Licensing Authority will undertake its enforcement responsibilities so as to promote the four licensing objectives and will aim to ensure enforcement is consistent, fair, balanced and co-ordinated.
- 4.14 The Licensing Authority has entered into a joint agency memorandum of understanding that sets out the lead enforcement agencies and their roles in enforcing the licensing law and it shall continue to work closely with these agencies. Where official warnings are given prior to any decision to prosecute for an offence, the Licensing Authority shall ensure that all enforcement authorities are informed of these warnings and the result of any action taken.
- 4.15 Any decision to instigate legal proceedings will take account of the criteria set down in the Code for Crown Prosecutors.

#### **ADMINISTRATION AND DELEGATION**

- 4.16 The Licensing Authority is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. The powers under the Act also allow for delegation of powers/functions to Licensing Sub-Committees or to one of more officers. Appreciating the need to provide a speedy, efficient and cost effective service to all parties involved in the licensing process, the Licensing Committee will take advantage of these powers and establish a Licensing Sub-Committee. The Licensing Committee will consist of 10 Members. The Licensing Sub-Committee consisting of 3 Committee Members will hear any relevant representations from Responsible Authorities and interested parties. Any of these individuals or groups may specifically request a representative to make representations on their behalf.
- 4.17 Decisions on all licensing matters shall be taken in accordance with an approved scheme of delegation. This is aimed at underlining the principles of timely, efficient and effective decision-making. The table given in 4.23 below sets out the agreed delegation of decisions and functions of the full Licensing Committee, Sub-Committee and officers. The various delegations include delegation to impose appropriate conditions. This scheme of delegation is without prejudice to the right of relevant parties to refer an application to a Licensing Sub-Committee or full Licensing Committee if considered appropriate in the circumstances of any particular case.

- 4.18 Many of the decisions and functions of the Licensing Authority are largely administrative in nature, such as the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made. These will be delegated to Council officers. All such matters dealt with by officers will if required be reported for information to the next full Licensing Committee meeting.
- 4.19 Applications where there are relevant representations will be dealt with by the Licensing Sub Committee unless such representations are considered irrelevant, frivolous or vexatious or unless the Licensing Authority, the applicant and everyone who has made representations agree that a hearing is not necessary( usually after mediation/negotiations ).
- 4.20 The decision determined by the Licensing Sub-Committee shall be accompanied with clear and cogent reasons, having had due regard to the Human Rights Act 1998 and all other legislation. Unless there are compelling reasons to the contrary, the Licensing Authority will require the Licensing Committee or it`s Sub-Committee to meet in public, although Members can retire into private session to consider their decision.
- 4.21 Elected District Councillors may make representations on behalf of an interested party if specifically requested to do so or as an interested party in their own right. However, local Councillors are subject to the Local Authorities (Model Code of Conduct) Order 2007 which restricts their involvement in matters and participation in meetings to discuss matters in which they have a prejudicial interest (ie an interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the member`s judgement of the public interest). However, the latest version of the Code, which came into force on the 3<sup>rd</sup> May 2007 and which was adopted by this Council on the 1st of September 2007 has relaxed the rules on prejudicial interest. This has the effect of allowing Councillors with a prejudicial interest in an application to attend relevant meetings to make representations, answer questions or give evidence provided that the public are also allowed to attend for the same purpose, whether under the Licensing legislation or otherwise and as long as they withdraw from the meeting immediately afterwards. It must be emphasised that Councillors have a duty to act in the interests of all their constituents. Councillors role as a community advocate must therefore be balanced with their ability to represent specific interests. The Code applies to any Council member whether or not they are a member of the Licensing Committee. A member of the Licensing Committee, representing others or acting in their own right, would need to consider carefully at a Committee meeting whether they had a prejudicial interest in any matter affecting the licence of the premises in question which would require them to withdraw from the meeting when that matter is considered. Members with a prejudicial interest in a matter should not seek to influence improperly a decision on the licence in any other way.
- 4.22 Elected District Councillors may wish to be kept informed of licensing related matters within the area, such as applications and reviews. The Act does not prevent Licensing Authorities from providing this information to councillors, for

instance by way of regular updates, as long as it done in a neutral way that could not be seen as “soliciting” representations. It should be remembered that the “ Licensing Authority” in most cases is the full council including all ward councillors, and each is therefore entitled to information required to inform that role.

4.23 Scheme of Delegation see over

<b>Delegation of Functions:</b>			
<b>Matter to be dealt with</b>	<b>Full Licensing</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
Application for Personal Licence		If a Police objection	If no objection made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for Transfer of Premises Licence		If a Police objection	All other cases
Application for Interim Authorities		If a Police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police objection to a Temporary Event Notice		All cases	

## LICENSING ACT 2003 GLOSSARY

<b>Authorised Persons/Officers</b>	Officers empowered by the Act to carry out inspection and enforcement roles. This group includes: <ul style="list-style-type: none"> <li>• Officers of the Licensing Authority</li> <li>• Fire Authority Inspectors</li> <li>• Inspectors locally responsible for the enforcement of the Health and Safety at Work, etc. Act 1974; and</li> <li>• Environmental Health Officers</li> <li>• Trading Standards Officers</li> </ul> North Yorkshire Police are separately empowered and not included in the above list.
<b>AWP</b>	Amusement with Prizes gaming machine.
<b>Capacity Limit</b>	Where the Licensing Authority, in conjunction with the Fire Authority, will set a limit on the number of people allowed in a premises, thus preventing overcrowding which can lead to crime and disorder, and concerns over public safety.
<b>Child</b>	Any person who is under the age of 16 years.
<b>Club Premises Certificate</b>	A Licence to supply alcohol to members of a Qualifying Club and sell it to members and their guests on the premises without the need for any member or employee to hold a Personal Licence.
<b>Conditions:</b> <b>Proposed Condition</b> <b>Imposed Condition</b> <b>Mandatory Condition</b>	Conditions proposed by the applicant in the Operating Schedule. Conditions imposed by the Licensing Authority after a licensing hearing Conditions laid down by the Licensing Act 2003
<b>Cumulative Impact</b>	Where there is a potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area.
<b>Designated Premises Supervisor</b>	A specified individual holding a Personal Licence, who is responsible for the day to day running of the business and whose name will appear on the Premises Licence.
<b>Frivolous Representation</b>	Representation or objection that is categorised by its lack of seriousness.

<b>Interested Parties</b>	Bodies or individuals who are entitled to make relevant representations or seek a review of a Premises Licence. This group includes: <ul style="list-style-type: none"> <li>• A person living in the vicinity of the premises in question</li> <li>• A body representing persons living in that vicinity, e.g. a residents association or Parish Council</li> <li>• A person involved in a business in the vicinity of the premises</li> <li>• A body representing persons involved in such businesses, e.g. a trade association</li> <li>•</li> </ul>
<b>“In the Vicinity of”</b>	There is no set definition. Licensing Authorities will primarily consider whether the individual’s residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside. The decision by the Licensing Authority will therefore be approached with common sense.
<b>Late-Night Refreshment</b>	The supply of hot food and drink between the hours of 11pm and 5am for consumption on or off the premises.
<b>Licensable Activities</b>	<ul style="list-style-type: none"> <li>• The sale of alcohol by retail</li> <li>• The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club</li> <li>• The provision of regulated entertainment</li> <li>• The provision of late-night refreshment</li> </ul>
<b>Licensing Objectives</b>	<ul style="list-style-type: none"> <li>• Prevention of Crime and Disorder</li> <li>• Public Safety</li> <li>• Prevention of Public Nuisance</li> <li>• Protection of Children from Harm</li> </ul>
<b>Licensing Qualification</b>	Qualification obtained from the British Institute of Innkeeping and a requirement for a Personal Licence.
<b>Operating Schedule</b>	This forms part of the completed application form for a Premises Licence and must promote the 4 Licensing Objectives. It must include: <ul style="list-style-type: none"> <li>• The relevant licensable activities</li> <li>• The times during which the applicant proposes that the relevant licensable activities are to take place</li> <li>• Any other times during which the applicant proposes that the premises are to be open to the public</li> <li>• Where the applicant wishes the licence to have effect for a limited period, that period</li> <li>• Where the relevant licensable activities include the sale by retail of alcohol, prescribed information in</li> </ul>

	<p>respect of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor</p> <ul style="list-style-type: none"> <li>• Whether the relevant licensable activities include the supply of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both</li> <li>• The steps which the applicant proposed to take to promote the 4 Licensing Objectives.</li> </ul>
<b>Personal Licence</b>	<p>A Licence to authorise individuals to sell or supply alcohol or authorise the sale or supply of alcohol for consumption on or off the premises for which a Premises Licence is in force for the carrying on of that activity. Valid for 10 years.</p>
<b>Premises Licence</b>	<p>A Licence in respect of any premises, such as land or buildings within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless reviewed or revoked.</p>
<b>Proprietary Clubs</b>	<p>Clubs run commercially by individuals, partnerships or business for the purpose of profit.</p>
<b>Provisional Statement</b>	<p>A statement where premises are being constructed or extended or substantially altered that the Licensing Authority would be provisionally minded to grant a Licence on completion of the works.</p>
<b>Qualifying Club</b>	<p>Where members have joined together for particular social, sporting or political purposes and then combined to buy alcohol in bulk as members. Examples of Qualifying Clubs are:</p> <ul style="list-style-type: none"> <li>• Conservative, Labour and Liberal Clubs</li> <li>• Royal British Legion</li> <li>• Ex-Servicemen's Club</li> <li>• Working Men's Club</li> <li>• Social and Sports Clubs</li> </ul>

<b>Regulated Entertainment</b>	Entertainment that is provided to members of the public, to members of a Qualifying Club and is an event held with a view to profit and where spectators are involved: This includes: <ul style="list-style-type: none"> <li>• Performance of a play</li> <li>• An exhibition of a film</li> <li>• Indoor sporting events</li> <li>• Boxing or wrestling entertainment (indoors or outdoors)</li> <li>• Performance of live music</li> <li>• Any playing of recorded music, except incidental</li> <li>• Performance of Dance (exception being Morris Dancing)</li> </ul> This list is not exhaustive.
<b>Relevant Offences</b>	As set out in Schedule 4 to the Licensing Act 2003.
<b>Relevant Representations</b>	Representations, or objections, in line with the four Licensing Objectives made by authorised persons, responsible authorities and interested parties
<b>Responsible Authorities</b>	This group can make relevant representations and includes public bodies such as: <ul style="list-style-type: none"> <li>• North Yorkshire Police (Chief Officer of Police)</li> <li>• Children and Young People’s Service</li> <li>• North Yorkshire Fire &amp; Rescue Service</li> <li>• North Yorkshire Trading Standards</li> <li>• The Local Enforcement Agency for the Health and Safety at Work, etc. Act 1974</li> <li>• The Local Authority Environmental Health Service</li> <li>• North York Moors Planning Authority/Local Authority Planning Service</li> <li>• Maritime and Coastguard Agency (if applicable)</li> </ul>
<b>SAG</b>	Safety Advisory Group – a group of officers from Licensing, Planning, Highways, Police, Fire, Ambulance, Health and Safety, Emergency Planning formed to offer advice to applicants on carrying out events either under a TEN or a time restricted Premises Licence
<b>Temporary Events Notice (TEN)</b>	A Notice served on the Licensing Authority for the temporary carrying on of the sale of alcohol, provision of regulated entertainment or late-night refreshment at a premises not authorised by a Premises Licence or Club Premises Certificate. This Notice is subject to certain limitations as laid down by the Licensing Act 2003.



<b>TEN – 10 working days’ notice</b>	10 working days <u>exclusive</u> of the day on which the event is to start <u>and</u> exclusive of the day on which the Notice is given to the Licensing Authority.
<b>Types of Authorisation</b>	<ul style="list-style-type: none"> <li>• Premises Licence</li> <li>• Club Premises Certificate</li> <li>• Personal Licence</li> <li>• Provisional Statement</li> <li>• Temporary Events Notice</li> </ul>
<b>Working Days</b>	Any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971

## **APPENDICES**

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

# **APPENDIX A**

## **POOL OF MODEL CONDITIONS RELATING TO:**

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

## **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. Judgements may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the licensing authority to consider whether the imposition of a new condition prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

## **Signage**

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

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

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

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

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and

- the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

## **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 Regulatory Reform (fire safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control 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](http://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.

Special 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.

Specials effects include:

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

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

### **Scenery**

Any scenery should be maintained flame-retardant

### **Safety curtain**

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

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

In force from 6 April 2010

**New Mandatory Condition 1.**

(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

**New Mandatory Condition 2.**

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

**New Mandatory Condition 3.**

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

In force from 1 October 2010

**New Mandatory Condition 4.**

(1) The premise licence holder or club premise certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

**New Mandatory Condition 5.**

The responsible person shall ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

# **APPENDIX C**

## **FURTHER 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 (Appendix H)**

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). (See Appendix F).

## **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 (see Appendix G for details of the provision of Regulated Entertainment and any exemptions thereof).

## **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:

- (a) that the ground is not relevant to one or any of the licensing objectives; or
- (b) 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 (see below).

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**

### **1. Consents**

No exhibition, demonstration or performance of hypnotism (as defined in Section 6 of the Hypnotism Act 1952) shall be given by any person at any venue except with the express written consent of the licensing authority and in accordance with any conditions attached to such a consent.

Any exhibition shall be so conducted as not to be likely to cause harm to those persons subjected to the influence of hypnosis, to say or do anything indecent, offensive or harmful to the public.

### **2. Applications**

Any application for consent shall be in writing and signed by the applicant and shall be made not less than 28 days in advance of the exhibition, demonstration or performance concerned. The Licensing Authority is also to be informed of the following:

- a. The name (both real and stage, if different) and address of the person who will give the performance (hereafter referred to as the 'hypnotist'), together with details of their last three performances (when and where).
- b. A statement as to whether, and if so giving full details thereof, the hypnotist has been previously refused or had withdrawn a consent by any Licensing Authority or been convicted of an offence under the Hypnotism Act 1952 or of an offence involving the breach of a condition regulating or prohibiting the giving of a performance of hypnotism on any person at any theatre or other place of public amusement or public entertainment.

### **3. Conditions**

The following conditions shall apply to any consent given for an exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form

of induced sleep or trance in which the susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

#### **4. Publicity**

- a. No poster, advertisement or programme for the performance, which is likely to cause public offence, shall be displayed, sold or supplied, by or on behalf of the licence holder either at the premises or elsewhere.
- b. 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’.***

#### **5. Insurance**

- a. The performance shall be covered by a minimum of £5 million public liability insurance. The hypnotist must provide evidence of this to the Licensing Authority if requested and it must be available for inspection at the performance.

#### **6. Physical arrangements**

- a. The means of access between the auditorium and the stage for the participants shall be properly lit and free from obstruction.
- b. A continuous white or yellow line shall be provided on the floor of any raised stage at a safe distance from the edge. This 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 whilst under hypnosis, unless specifically told to do so as part of the performance.

#### **7. Treatment of the audience and subjects**

- a. 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 risks 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, or are under the influence of alcohol or other drugs or are pregnant”.***

- b. 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 techniques, which seek to identify and coerce out on 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 the stage) should only be used when the audience is fully aware of what is intended and that participation is entirely voluntary at every stage.
- c. If volunteers are to remain hypnotised during an interval in the performance, a reasonable number of minders as agreed with the Licensing Authority shall be in attendance throughout to ensure their safety.

## **8. Prohibited actions**

- a. The performance shall be conducted as not to cause offence to any person in the audience or any hypnotised subject.
- b. The performance shall be so conducted as not likely to cause harm, anxiety or distress to any person in the audience or any hypnotised subject. In particular, the performance shall not include:
  - I. 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.);
  - II. Any suggestion that the subject has lost something (e.g. a body part), which, if it really occurred, could cause considerable distress;
  - III. Any demonstration in which the subject is suspended between supports (so called ‘catalepsy’);
  - IV. The consumption of any harmful or noxious substance;
  - V. Any demonstration of the power of hypnosis to block pain (e.g. pushing a needle through the skin).

- c. The performance shall not include giving hypnotherapy or any other form of treatment.

## **9. Completion**

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

**Public Session**

**Report Reference Number (PR/15/6)**

**Agenda Item No: 8**

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**To: Policy Review**  
**Date: 14<sup>th</sup> July 2015**  
**Author: Ralph Gill**  
**Lead Officer: Ralph Gill – Benefits & Taxation**  
**Executive Member: Councillor Mark Crane**

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**Title: Welfare Reform - Six Month Update**

**Summary: The report provides a six month review detailing the effect of the Welfare Reform changes in Selby district and highlighting future developments.**

**Recommendations:**

**To note the report**

**Reason for recommendation**

**To ensure Policy Review Committee are able to effectively scrutinise the impact of welfare reform on Selby residents.**

**1. Introduction and background**

- 1.1 Welfare Reform introduced significant changes to Housing Benefit from April 2013
- 1.2 Size Criteria in the form of a Spare Room Deduction was introduced for Social Rented Sector tenants to mirror the measures already in place within the Private Rented Sector
- 1.3 An overall Benefit Cap was introduced to limit the amount of state benefits a non-working family can receive.
- 1.4 The Council has now received formal notification that Universal credit will be rolled-out on a trial basis in the Selby area from November 2015.

1.5 The Government announced in its manifesto that it has set a target to save a further £12bn on welfare spending for working age people over the course of the new Parliament.

## 2. The Report

### 2.1 Housing Benefit Size Criteria/Spare Room Deduction

2.1.1 This change applies the Local Housing Allowance size criteria already used in the Private Rented Sector Private to working-age people living in social housing

2.1.2 The legislation states that one bedroom is permitted for:

- Every adult couple (married or unmarried)
- Any other adult aged 16 or over
- Any two children of the same sex aged under 16
- Any two children aged under 10
- Any other child (other than a foster child or child whose main home is elsewhere)
- A carer (or team of carers) who do not live with at the property but provide a member of the household with overnight care

2.1.3 Any tenant assessed as under-occupying receives a percentage reduction to their Housing Benefit entitlement based on the number of unoccupied bedrooms:

14% if someone is considered to have one extra bedroom.

25% if someone is considered to have two or more extra bedrooms.

2.1.4 The number of people affected by the Spare Room Deduction shows only minor changes to the position in November 2014:

Tenure	% Reduction	Number affected June 2015	Average Reduction	Highest Reduction	Lowest Reduction	Number affected November 2014
Council	25%	51	£23.74	£27.09	£18.43	51
	14%	225	£12.47	£15.17	£9.01	220
HA	25%	12	£26.10	£37.59	£21.41	12
	14%	146	£13.78	£17.45	£0.65	143

2.1.5 Currently 13 Council tenants affected by the deduction have rent arrears and are receiving DHP payments. The total value of arrears on these accounts is £6,443; with an average value of £495.65.

2.1.6 Community Officers continue to support tenants in arrears to ensure they are receiving all the support and guidance that is currently

available to them. Where necessary Community Officers visit tenants to help them with their welfare reform queries.

- 2.1.7 Community Officers also visiting all housing applicants who have indicated a wish to downsize to confirm their requirements.
- 2.1.8 It is very difficult to state how many people have moved home as a direct result of Welfare Reform. It may be a contributing factor; however it is not necessarily the sole factor.

## **2.2 Discretionary Housing Payments (DHP)**

- 2.2.1 DHPs are available to people who find themselves in financial hardship due to the welfare reform changes. This funding has again been made available in 2015/16 and the Council uses it to provide additional support for resident where appropriate.
- 2.2.2 Challenges in the Courts to the legality of the spare room deduction have failed because DHPs are seen to be a mitigating factor. It is unlikely therefore that we shall see a reduction in DHP funding whilst the deduction remains.
- 2.2.3 However, DHP should not be regarded as a long term solution and should only be used to support individuals as they try to find alternative accommodation or stabilise their financial position.
- 2.2.3 The Council continues to promote DHP to those in most need of support. In 2015/16 the Council has a total DHP budget of £88,563. From this budget, £16,276 has been paid to residents with a further £19,076 committed.
- 2.2.4 The DHP Budget for 2014/15 was £88,562 and only £297.47 was unallocated.
- 2.2.5 From April 2014, 244 households have received 542 DHP awards. Of these 44% received DHPs for more than six months.

## 2.3 Benefit Cap

2.3.1 The 'Benefit Cap' introduced a maximum limit on the total amount of benefit that people can receive. The Cap limits benefit to:

- A maximum of £500 a week
  - If the household is made up of a couple (with or without children), or
  - If the recipient is a lone parent and has children living with them who are included in their Housing Benefit entitlement.
- A maximum of £350 a week - if the recipient is a single person and
  - has no children; or
  - has children but they don't live with the recipient and are not included in their Housing Benefit calculation.

2.3.2 Eight households in Selby district are currently affected by the Benefit Cap. These can be broken down into the following tenures:

Tenure Type	Households	Reduction	Weekly
Council	2	Highest	£47.65
		Lowest	£14.19
		Average	£30.92
Housing Association	2	Highest	£111.54
		Lowest	£6.74
		Average	£59.14
Private	4	Highest	£35.18
		Lowest	£0.08
		Average	£12.12

2.3.3 One of the Housing Association tenants above has received DHPs to mitigate the effects of the Benefit Cap.

2.3.4 The government have announced plans to reduce the cap from its current level of £26k to £23k as part of the announced welfare reforms, but we do not know when this will take effect. This equates to a reduction of £57.69 per week.

### 3. Universal Credit

- 3.1 Universal Credit (UC) is a new type of benefit designed to support people who are on a low income or out of work. It will replace six existing benefits and is currently being rolled out across the UK. The six benefits included within UC are Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, Income Support, Child Tax Credit, Working Tax Credit and Housing Benefit. On 29<sup>th</sup> September 14 the Minister for Work and Pensions announced an accelerated timescale for the national roll out of Universal Credit (UC).
- 3.2 Universal Credit is being rolled out in stages with the first tranche of local authorities going live in February 2015. In North Yorkshire Craven, Hambleton, Ryedale and York were part of the first tranche; with Richmondshire in the second tranche.
- 3.3 On 16<sup>th</sup> February 15 the third tranche of Local Authorities going live in November 15 was announced with Scarborough and Selby included.
- 3.4 The roll-out is to single people, who would otherwise have been eligible for Jobseeker's Allowance. Accordingly, the numbers affected by Universal Credit will be relatively low.
- 3.5 DWP estimates show that between November 2015 and March 2016 within the district they expect:

Claims	279
On-Line Supported Access	14
Straight forward Personal Budgeting Support	10
Complex Personal Budgeting Support	3
Council Tax Support claimants	0
Support for UC Service Centre on claims	56

Experience elsewhere shows that these estimates are higher than those actually realised.

- 3.6 As DWP state that they do not believe any of these people will be claiming Council Tax Support we can assume that no-one currently receiving Housing Benefit will be affected until we enter a later phase; but the timescales for this are not yet known.
- 3.7 Under Universal Credit all claimants will have their housing costs paid directly to themselves rather than the landlord as at present. This has a potentially significant impact for the Council as, for the first time, a number of the Council's tenants will have discretion over when and if they pay their rent.



#### **4. Future Changes**

- 4.1 The Government has committed to reduce spending on working age benefits by £12bn a year.
- 4.2 Whilst the Council expects that there will be changes to Jobseekers' Allowance both for the under 30s and European Economic Area migrants as well as reductions in the number of children that both Child Tax Credit and Child Benefit will cover, it is generally regarded that the bulk of the savings will come from Housing Benefit. However, the Government has not yet provided any detail on what reductions will be made or when they will come into effect.
- 4.3 Reductions in the eligibility criteria for DWP and HMRC benefits (such as Jobseeker's Allowance, Child Benefit, Child Tax Credit, Carer's Allowance and Disability Living Allowance) along with a move to make some benefits taxable (Disability Living Allowance, Personal Independence Payments and Attendance Allowance) will have the effect of reducing household incomes thereby increasing entitlements to Council Tax Support for existing claimants and increasing the caseload with more people becoming entitled. Without amendments to the scheme increased entitlements will not only affect the Council Tax Collection Fund but will also reduce the Council Tax Base.
- 4.5 Any reduction in households' income will also have an effect on their ability to pay Council Tax and rent and therefore the collection of these will suffer.

#### **5. Legal/Financial Controls and other Policy matters**

##### **5.1 Legal Issues**

- 5.1.1 The provision of financial support to individuals falls within the Council's legal responsibilities and will be subject to relevant terms and conditions.
- 5.1.2 The DWP and HMRC carry out Equalities Impact Assessments where state benefits, including Housing Benefit, are affected.

##### **5.2 Financial Issues**

- 5.2.1 We continue to monitor the effect on welfare reform changes on the relevant income and expenditure budgets.
- 5.2.2 All support incentives are delivered in line with current budget provision. New burdens funding is not ring-fenced to Benefits and therefore goes into the General Fund unless bids are made for specific projects.

- 5.2.3 Experience from the Direct Payment Pilots suggests that substantial arrears could be expected amongst UC claimants although the total number of UC claimants is expected to remain low for some time.
- 5.2.4 The reduced welfare spending on DWP and HMRC benefits will see increased awards of Council Tax Support reducing Council Tax income and affecting the Council Tax Base.

## **6. Conclusions**

- 6.1 The previous welfare reform changes are now well embedded and support measures are in place.
- 6.2 The Government's new savings target of £12bn from working age people is something that officers will monitor closely as it is expected to have very noticeable impacts on residents, tenants and Council Services as a whole.
- 6.3 We do not yet have sufficient detail to model the impacts with any degree of certainty.

## **7. Background Documents**

There are no background documents associated with this report.

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**Policy Review Committee Work Programme 2015/16**

<b>Date of Meeting</b>	<b>Topic</b>	<b>Action Required</b>
16 June 2015	<u>Executive Requested Item</u> PLAN Selby	To receive an update from Executive Member and Officers
14 July 2015	<u>Requested by Executive (via KI)</u> Transitional Relief Policy	To receive a report from the Executive Director (s151).
	<u>Requested by Executive (via KI)</u> Discretionary Rate Relief Policy	To receive a report from the Executive Director (s151).
	<u>Committee Requested Item</u> Welfare Reform	To receive an update from Lead Officer Council Tax/Benefits.
	<u>Committee Requested Item</u> Licensing Policy Report	To receive a report on the Licensing Policy.
	<u>Committee Requested Item</u> Work Programme	To review the Committee's Work Programme.

15 September 2015	<b><u>Budget and Policy Framework</u></b> Financial Strategy	To consider the Executive's proposals for the Council's long term (10 year), resource and spending framework in which the budget strategy and three year financial plan will be developed.
	<b><u>Committee Requested Item</u></b> PLAN Selby	To receive an update from Executive Member and Officers.
	<b><u>Committee Requested Item</u></b> Enforcement Report	To receive a report from the Lead Officer.
	<b><u>Committee Requested Item</u></b> Work Programme	To review the Committee's Work Programme.

19 January 2016	<b><u>Budget and Policy Framework</u></b> Draft Budget and Medium Term Financial Plan	To consider the Executive's proposals for revenue budgets and the capital programme for 2015/2016.
	<b><u>Committee Requested Item</u></b> Welfare Reform	To receive an update from Lead Officer Council Tax/Benefits.
	<b><u>Committee Requested Item</u></b> Work Programme	To review the Committee's Work Programme.

12 April 2016	Approve Policy Review Annual Report & Work Programme 2015/16	To consider the Committee's Annual Report.
	<u>Committee Requested Item</u> Work Programme	To review the Committee's Work Programme.

The following dates are also in the Democratic Services calendar for Provisional meetings if required:

21 October 2015  
17 November 2015  
15 March 2016