

RYEDALE
DISTRICT
COUNCIL



Ryedale District Council's Licensing Policy

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Contents

	PAGE
<i>PART 1 - Introduction</i>	3
<i>PART 2 – The Policy</i>	3
<i>Cumulative Impact</i>	5
<i>PART 3 – Principles</i>	8
<i>Conditions</i>	9
<i>Licensing Hours</i>	11
<i>Early Morning Restriction Orders</i>	12
<i>Late Night Levy</i>	12
<i>Representations</i>	13
<i>Reviews</i>	13
<i>Licensing Authority as a Responsible Authority</i>	14
<i>Health as a Responsible Authority</i>	15
<i>Live Music Act</i>	15
<i>Minor Variations</i>	16
<i>Sexual Entertainment Venues</i>	16
<i>Children</i>	16
<i>PART 4 – Licences: General</i>	18
<i>Late Night Refreshment</i>	19
<i>Mobile Premises</i>	20
<i>Gaming Machines</i>	20
<i>PART 5 – Personal Licences</i>	20
<i>PART 6 – TENS</i>	22
<i>PART 7 – Club Premises Certificatcs</i>	23
<i>PART 8 – Operating Schedule</i>	24
<i>PART 9 – Enforcement</i>	27
<i>Fees: Annual Licensing Fees</i>	28
<i>PART 10 – Licensing Committee</i>	28
<i>PART 11 – Administration, Exercise & Delegations of Functions</i>	29
<i>Role of District Councillors</i>	29
<i>PART 12 – Appeals Against Licensing Authority decisions</i>	30
<i>PART 13 – Complaints Against licensed premises</i>	30
<i>APPENDIX 1 – Delegation of Functions</i>	33
<i>APPENDIX 2 – Licensing Act 2003 Glossary</i>	36

<i>APPENDIX 3 – Responsible Authority Contact List</i>	40
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PART 1

1. Introduction

- 1.1 Ryedale District Council is the Licensing Authority (“the Licensing Authority”) under the Licensing Act 2003 (“the 2003 Act”). The Licensing Authority is responsible for the administration and issuing of Premises Licences, Club Premises Certificates, Temporary Event Notices and Personal Licences in the District of Ryedale in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.
- 1.2 Ryedale district is home to a number of popular restaurants, bars and entertainment venues and the area has a significant number of large events throughout the summer. As a tourist destination there are competing demands between catering for visitors whilst ensuring that these activities do not impact upon residents in a negative way. Clearly the Licensing Authority wishes to see adequate facilities are provided that meet the demands of all. Additionally, 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.
- 1.3 To meet these demands there are a number of premises providing entertainment, alcohol and food later at night and into the early hours of the morning. However, the impact of night time activity, particularly noise from entertainment at these premises and people leaving in a loud and disruptive manner, seriously concerns residential and business communities in the district who wish to see clear limitations imposed to reduce public nuisance. The Licensing Authority recognises the need to find an acceptable balance between these potentially conflicting aims.
- 1.4 The Licensing Authority is aware of the value to the community of a broad range of cultural entertainments, particularly live music, dancing and theatre. 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 such as pubs, members’ clubs, social clubs, restaurants, cafes, cinemas, theatres, hotels and late night takeaways.
- 1.5 This Policy intends to shape the future of licensing, entertainment and related social activities within the district and has been produced after consultation with all Responsible Authorities, Premises and Club Premises Certificate licence holders, licensed trade representatives and a wide section of the general public incorporating businesses and residents within Ryedale district.

PART 2

2. The Policy

- 2.1. The 2003 Act requires a Licensing Authority to prepare and publish a ‘Statement of Licensing Policy’ (“the Policy”) that sets out the principles the Licensing Authority will apply to promote the four Licensing Objectives set out below. The Licensing Authority must base its decisions, in relation to determining

- applications and attaching any conditions to licences or certificates, on the promotion of these objectives.
- 2.2. This Policy encompasses experience gained in the implementation and regulation of the 2003 Act. The overriding aim of the Policy is to promote the four licensing objectives, each is of equal importance:
- **The prevention of crime and disorder**
 - **Public safety**
 - **The prevention of public nuisance**
 - **The protection of children from harm**
- 2.3. This Policy was prepared in accordance with the provisions of the 2003 Act having had due regard to the Guidance issued under s182 of the 2003 Act (“the Guidance”). This Policy was reviewed in 2013 following extensive consultation between 30th of September and 30th of December and will come into force in March 2014. Due consideration and appropriate weight has been given to all responses in the production of this revised Policy.
- 2.4. This Policy shall be kept under review and the Licensing Authority may make any revisions to it as it considers appropriate. In any event the Licensing Authority is required to review their Statement of Licensing Policy every 5 years. The Licensing Authority may make revisions to this Policy following changes to, for example:
- local circumstances;
 - the Licensing Act, associated regulations or statutory guidance;
 - national legislation or
 - the policies and practices of a responsible authority
- 2.5. This Policy shall not undermine the right for any individual to apply for a variety of permissions under the terms of the 2003 Act and to have any such application considered on its individual merits. Similarly the Policy shall not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act. Each application shall be treated on its own merit.
- 2.6. This Policy is intended to provide clarification to Responsible Authorities applicants and any person on how this Licensing Authority will determine applications and reviews. As the ‘vicinity’ test has now been removed, the Licensing Authority will consider all representations from any person however, the Licensing Authority shall apportion the weight of the representation between those persons immediately affected by the premises and its operation and those persons who may have a lack of knowledge of the area or of personal experience.
- 2.7. The Licensing Authority may depart from this Policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the four licensing objectives. Where it does depart from this Policy full reasons shall be provided.

- 2.8. Where revisions are made to the Guidance there may be a period of time when this Policy is inconsistent with the Guidance. In these circumstances the Licensing Authority shall have regard, and give appropriate weight, to the revised Guidance in conjunction with this Licensing Policy.
- 2.9. This Policy recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics.
- 2.10. The applicant is expected to have given due regard to the Disability Discrimination Act 2005, particularly to access and egress for disabled persons. Further advice can be obtained from the Equality and Human Rights Commission web site www.drc-gb.org.

3. Cumulative Impact

- 3.1. The Licensing Authority will not take “need” into account when considering an application, as this is a matter for planning and the market. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to problems of nuisance and disorder outside and some distance from the premises.
- 3.2. Evidence that areas are becoming saturated with the number, type and density of licensed premises has to be gathered before a “special policy” to deal with this problem can be adopted. The Licensing Authority will consider evidence from the following sources:-
- Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots
 - Statistics on local anti-social behaviour offences
 - Health related statistics such as alcohol-related emergency attendances and hospital admissions
 - Environmental health complaints, particularly in relation to noise and litter
 - Complaints recorded by the Council, which may include complaints raised by local residents or resident’s associations
 - Residents questionnaires
 - Evidence from local councillors
 - Evidence obtained through local consultation
 - Trends in licence applications, particularly trends in applications by types of premises and terminal hours
 - Changes in terminal hours of premises
 - Premises capacities at different times of the night and the expected concentrations of drinkers who will be expected to be leaving premises at different times
- 3.3. In these circumstances the Licensing Authority may consider that the imposition of conditions is unlikely to address these problems and further, 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.

3.4. The Licensing Authority will take the following steps into consideration when deciding whether or not to adopt a “special policy”:-

- Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm
- Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or protection of children from harm
- If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
- Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
- Consult with those specified in section 5(3) of the Licensing Act 2003 (eg police, fire etc) and subject to the outcome of the consultation, include and publish details of the “special policy” in the licensing policy statement.

3.5. The effect of adopting a “special policy” of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated by the applicant that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the “special policy” issues in their operating schedules in order to rebut such a presumption. However, a “special policy” must stress that this presumption does not relieve responsible authorities or any other person of the need to make a relevant representation before a licensing authority may lawfully consider giving effect to its “special policy”. If no relevant representations are received , it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities, such as the police or any other person can make written representations maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information which has been before the licensing authority when it developed its statement of licensing policy.

3.6. Once adopted special policies should be reviewed regularly to assess whether they are needed any longer or if those which are contained in the special policy should be amended. While a special policy is in existence, applications will need to demonstrate why the operation of the premises would not add to the cumulative impact being experienced. The Licensing Authority will review any special policies every five years (in line with statements of Licensing Policy) to see whether they have had the effect intended, and whether they are still needed.

- 3.7. Special policies may apply to the impact of a concentration of any licensed premises. When establishing the evidence base for introducing a special policy, the Licensing Authority will consider the contribution to cumulative impact made by different types of premises within its area, in order to determine the appropriateness of including different types of licensed premises within the special policy.
- 3.8. The Licensing Authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these have on the local community. It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each application properly and individually on its own merits.
- 3.9. The Licensing Authority will not use such policies solely:-
- As the grounds for suspension or revocation of an existing premises licence or club premises certificate when representations are received about problems with those premises, or,
 - To refuse a variation to a premises licence or club premises certificate except where those modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits.
- 3.10. During the first nine years of this policy, no particular circumstances have arisen and, at the present time, it is not considered that any of this authorities area warrants consideration of a special policy.**
- 3.11. The Licensing Authority is aware that there are numerous other mechanisms for controlling cumulative impact outside the licensing regime such as:-
- Planning controls;
 - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
 - The provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter rounds;
 - Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publically;
 - The confiscation of alcohol from adults and children in designated areas;
 - Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
 - Prosecution for the offence of selling alcohol to a person who is drunk or allowing a sale)
 - Police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance
 - The power of police, other responsible authorities or other persons to seek a review of a licence or certificate, and

- Early Morning Restriction Orders

PART 3

4. Principles

- 4.1. In determining applications, reviews and enforcement under the 2003 Act the Licensing Authority shall take the following into consideration:
 - promotion and compliance of the four Licensing Objectives;
 - representations or complaints and evidence or supporting documentation provided;
 - s182 Guidance to Licensing Authorities; and
 - Ryedale District Council's Statement of Licensing Policy.
- 4.2. The Licensing Authority recognises that the existence of planning permission, building regulation approval or outside table licences must be properly separated from licensing applications to avoid duplication and inefficiency. Similarly, the existence of a Premises Licence or Club Premises Certificate shall not prejudice the consideration of any planning, building regulation approval or outside table applications. However, the Licensing Authority shall expect applicants to have obtained the appropriate consents or licences prior to operation.
- 4.3. Where premises have not obtained such consents or licences, they will be liable for enforcement action under the appropriate legislation. There may be circumstances when as a condition of planning permission; a terminal hour is set for the use of commercial premises. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their Planning Permission may be liable to enforcement action by the Planning Authority. Licensing applications therefore will not be a re-run of the planning application process and licensing decisions will not cut across decisions taken by the Planning Committee or permissions granted on appeal.
- 4.4. The Licensing Authority shall expect every licence/certificate holder or event organiser to minimise the impact of their activities on the surrounding area and any anti-social behaviour created by their customers in and within the vicinity of their premises by taking appropriate measures and actions consistent with that responsibility. In addressing this matter, the Licensing Authority will 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 area concerned.
- 4.5. The Licensing Authority may recommend actions as good practice. Applicants are asked to give these recommendations serious consideration as adoption of best practices may be considered in the investigation of complaints if they arise in connection with the premises in the future.

- 4.6. The Licensing Authority, however, recognises that the licensing law is not the primary mechanism for the general control of nuisance, noise or anti social behaviour particularly once individuals have left the vicinity of the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence or certificate. However licensing controls and targeted enforcement should have a positive impact on the immediate vicinity of the licensed premises and assist in the management of the evening and night time economy.
- 4.7. 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 Equality Act, The Clean Neighbourhoods and Environmental Act 2005, Health and Safety at Work, etc. Act 1974, Environmental Protection Act 1990, the Noise Act 1996 and the Regulatory Reform (Fire Safety) Order 2005, etc.
- 4.8. The Licensing Authority seeks to encourage the provision of a culturally diverse range of regulated entertainment within the district, particularly live music and dance that are accessible to all people.
- 4.9. The Licensing Authority has a duty under Article 8 of the European Convention on Human Rights to protect the rights of its residents to privacy and family life. The Council also acknowledges the rights of businesses in its area to operate, but this must be balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises.
- 4.10. In drafting this Policy, the Licensing Authority acknowledges its duty under Section 17 of The Crime and Disorder Act 1998 in that the Council has a duty to exercise its functions with a due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area. In addition the Licensing Authority will seek to support strategies where they are allied to the Licensing Objectives such as National and Local Harm Reduction Strategies and any other relevant strategies and policies.

5. Conditions

- 5.1. The Licensing Authority is unable to refuse or impose conditions on applications where no relevant representations have been made. Where relevant representations have been made, the Licensing Authority shall aim to facilitate negotiations/mediation between the applicant and Responsible Authorities and any other person. If negotiations/mediation prove unsuccessful the Licensing Authority will convene a hearing and where necessary take steps that are appropriate and proportionate to promote the four licensing objectives. This may result in the grant or refusal of the application or the imposition of conditions.
- 5.2. Where conditions are imposed at a licensing hearing, they shall be appropriate and proportionate and shall be tailored to the size, style, characteristics and activities that take place at the premises concerned. However, the Licensing

Authority accepts that Responsible Authorities may suggest conditions following negotiation with the applicant when completing their Operating Schedules.

- 5.3. In addition conditions imposed by a Licensing Authority shall be precise and enforceable, clear in what they intend to achieve, shall not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation, shall not replicate offences set out in the 2003 Act or other legislation, shall be justifiable and capable of being met and shall focus on matters which are within the control of the individual licence holders and not seek to manage the behaviour of customers once they are beyond the direct management of the licence/certificate holder and their staff.
- 5.4. The Licensing Authority recommends that conditions volunteered in the Operating Schedule should be:
 - targeted on the deterrence and prevention of crime and disorder
 - appropriate for the promotion of the licensing objectives;
 - proportionate and enforceable;
 - consistent and not conflicting;
 - relevant, clear and concise;
 - not duplicate other legislation; and
 - expressed in plain language capable of being understood by those expected to comply with them.
- 5.5. The Licensing Authority when preparing the licences/certificates shall not simply replicate the wording from an applicant's Operating Schedule but will interpret conditions in accordance with the applicant's overall intentions.
- 5.6. Applicants are advised before completing their Operating Schedule to seek guidance on the framework for writing conditions in their Operating Schedules. Guidance is available from the Council.
- 5.7. The Licensing Authority recognises 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 or prohibitions that are or could be imposed by that Order, shall have no effect. The Licensing Authority shall therefore not impose fire safety conditions where the Order applies.
- 5.8. 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 of this nature. However, the Licensing Authority shall, if it considers necessary in certain premises, consider attaching conditions following a hearing addressing the exclusion of minors.
- 5.9. Although it is accepted that licence conditions should not duplicate other statutory provisions, the Licensing Authority and licensees should be mindful of the requirements and responsibilities placed on them by other legislation.

- 5.10. Whilst the Licensing Authority encourages cultural activities and live music within the district it is also aware of the need to avoid measures that will deter live music when determining what conditions should be placed on licences/certificates, particularly those conditions that impose costs of a disproportionate nature. However, any adverse environmental impact that may arise from individual applications will also be taken into account when considering such applications. With regard to dancing, the Licensing Authority acknowledges the changes set out in the Policing & Crime Act 2009 related to lap dancing clubs and their re-classification as sexual entertainment venues.
- 5.11. With reference to the Protection of Children from Harm Licensing Objective, those conditions relating to the admission of children to any premises remain a matter for the individual licensee or club or person who has given a Temporary Event Notice (TEN). Venue operators may however volunteer prohibitions or restrictions in their Operating Schedules.
- 5.12. All relevant representations will be considered during the decision making process unless they are considered to be frivolous, vexatious, repetitious, or not in line with the four Licensing Objectives.
- 5.13. The Glossary at the back of this Policy sets out the licensable activities and relevant definitions surrounding the licensing process. If any member of the public is uncertain as to whether or not they require a licence or certificate they should contact Licensing Team, Ryedale District Council, Ryedale Houses, Old Malton Road, Malton, YO17 7ZG or e-mail the Licensing Authority on; licensing@ryedale.gov.uk.

6. Licensing Hours

- 6.1. With regard to licensing hours, when the Licensing Authority's discretion is engaged, it will consider each application on its own merit and shall not seek to impose predetermined licensed hours. Where there are no objections to those hours raised by Responsible Authorities or other persons on the basis of the promotion of the licensing objectives, the Licensing Authority will have no discretion but to grant the hours requested.
- 6.2. With regard to shops, stores and supermarkets, the Licensing Authority shall normally expect such premises to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise reasons for restricting those hours, based on the licensing objectives.
- 6.3. The Licensing Authority recognises that in some circumstances flexible licensing hours for the sale of alcohol may help to ensure that concentrations of customers leaving premises simultaneously are avoided.

7. Early Morning Restriction Orders

- 7.1. The Police Reform and Social Responsibility Act 2011 ("the PRSR Act") gives the Licensing Authority the discretion to restrict sales of alcohol in the whole or part

of their area by introducing an Early Morning Restriction Order (“EMRO”) to restrict the sale or supply of alcohol between the hours of midnight and 6am to tackle high levels of alcohol-related crime and disorder, nuisance and anti-social behaviour.

- 7.2. The decision to implement an EMRO must be evidence based and the Licensing Authority must be satisfied that such an Order would be appropriate to promote the licensing objectives. Furthermore, the Licensing Authority shall consider the potential burden that would be imposed on premises licence/certificate holders.
- 7.3. As an EMRO is a powerful tool and a very stringent approach in tackling issues, the Licensing Authority will first consider whether other measures may address the problems and achieve the same goal. These could include:
- The use of a Cumulative Impact Policy (see Part 2 point 3);
 - Taking a robust joint agency approach to tackling problem premises;
 - Prior to reviewing a licence/certificate, meeting with the DPS and licence/certificate holder to ensure a Premises Improvement Plan is in place
 - Where this fails, reviewing Premises Licences/Certificates by the North Yorkshire Police or other Responsible Authorities;
 - Using other mechanisms to control the cumulative impact, e.g. planning controls;
 - Using other mechanisms to control noise and anti social behaviour;
 - Using Closure Notices and Closure Orders;
 - Providing powers to designate parts of the local authority area as places where alcohol may not be consumed publicly;
 - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
 - Provision of CCTV;
 - Provision of night marshals and street angels, introduction of a late night levy;
 - Reviews and Expedited Reviews of individual premises, etc.
- 7.4. The Licensing Authority would periodically review any active EMROs in order to ensure that it continues to be appropriate for the promotion of the licensing objectives. The applicant may be required to periodically submit evidence as part of this process to demonstrate that the EMRO is appropriate and achieving the goals and confirming that these cannot be achieved by alternative methods.

8. Late Night Levy

- 8.1. The PRSR Act has also introduced the power for the Licensing Authority to charge a late night levy (“the levy”) to all premises within Ryedale District. The late night levy is a discretionary power allowing Councils to collect an annual fee from all licensed premises in the District that are authorised to sell alcohol between the hours of midnight and 6am as a means of raising a contribution towards the costs of policing the night time economy. The decision to introduce, vary or cease the levy will be made by full Council in conjunction with the Police and Crime Commissioner and North Yorkshire Police. However any decision in

relation to the administration and design of the levy will be delegated to the Licensing Committee.

- 8.2. The Licensing Authority recognises that this levy would cover the whole of the district and not just those premises that are causing problems, predominantly those premises in the market towns. Therefore serious consideration must be given to the introduction of the levy in light of this. Furthermore, the Licensing Authority will give serious consideration as to whether or not the levy is a viable proposal (see Licensing Committee Report dated 22 November 2012).

9. Representations

- 9.1. Under the 2003 Act both Responsible Authorities and 'other persons' may make representations on licence/certificate applications and review existing premises licences/certificates. A list of Responsible Authorities can be found at Appendix 3.
- 9.2. 'Other persons' is defined as any individual, body or business that may be affected by the operation of a licensed premise regardless of their geographical location. Although the other person may be in any geographical location, any representation they make must be relevant to one or more of the licensing objectives. In addition the other person is encouraged to provide evidence supporting their representation or review. This may be for example by way of recording dates where noise nuisance or anti social behaviour occurs. Any representation however must be specific to the premises in question and not to the area in general.
- 9.3. The Licensing Authority will however consider the geographical location of the other person who has made the representation to see if in fact that it is a relevant and valid representation with supporting evidence.
- 9.4. In addition all representations must be relevant relating to the likely effect of the grant of the licence/certificate on the promotion of at least one of the licensing objectives. The Licensing Authority will determine whether a representation from an individual, body or business is relevant, frivolous, repetitive or vexatious. In borderline cases, the benefit of the doubt will be given to the person or body making that representation.
- 9.5. Any person aggrieved by a rejection of their representation may lodge a complaint through the Council's complaints procedure or alternatively by way of judicial review.

10. Reviews

- 10.1. Responsible Authorities and other persons may apply to review a licence or certificate where it is believed an operator of a licensed premise is in their opinion managing their business in a manner that does not promote one or more of the four Licensing Objectives.

- 10.2. Examples of triggers for a review may be: continual complaints of noise from or in the vicinity of the premises; continual complaints of noise or intimidation from customers outside the premises; an accumulation of breaches of licensing conditions; poor management where the licensing objectives are undermined; underage sales of alcohol (persistent or otherwise); crime-related activity; anti-social behaviour; sales of alcohol outside of the permitted hours, etc.
- 10.3. Where an application for a review has been submitted the Licensing Authority will determine whether or not it is relevant, frivolous, vexatious or repetitious. In borderline cases the benefit of the doubt will be given to the person making that application. Advice on reviews is available from the Council.
- 10.4. The Licensing Authority shall expect applicants for a review to gather sufficient and relevant evidence relating to the specific premises that is subject to the review. This may include a diary of events and any potential witnesses. With regard to reviews on noise complaints, applicants are encouraged to liaise with the Council's Environmental Protection team who may be able to assist with and support the review process.
- 10.5. Prior to a review, however, North Yorkshire Police, other Responsible Authorities or the Licensing Authority may seek to meet with the licence/certificate holder to address issues through a premises improvement plan.

11. Licensing Authority as a Responsible Authority

- 11.1. The PRSR Act amended the 2003 Act to include the Licensing Authority as a Responsible Authority. This Licensing Authority will therefore be empowered to fulfil the same functions as other Responsible Authorities under the Act including making relevant representations to new licence/certificate applications and variations and reviewing an existing licence/certificate.
- 11.2. The Licensing Authority will however not normally act on behalf of other parties (e.g. local residents, councillors or community groups) as such parties may make relevant representations in their own right. However, if these parties fail to make such representations and the Licensing Authority is aware of relevant grounds to make a representation, it may in these circumstances choose to act in its capacity as a Responsible Authority.
- 11.3. However, before the Licensing Authority acts in its capacity as a Responsible Authority it will expect other Responsible Authorities to intervene where the basis for that intervention falls within the remit of that particular Responsible Authority. The Licensing Authority recognises that each Responsible Authority has equal standing under the 2003 Act and they may act independently without waiting for representations from any other Responsible Authority.
- 11.4. In cases where the Licensing Authority is also acting in its capacity as a Responsible Authority it will ensure that there is a separation of responsibilities within the Council to ensure procedural fairness and eliminate conflict of interests. The Health and Environment Manager and the Principal

Environmental Health have been delegated to act as the Responsible Authority for the Licensing Authority. These Officers shall not be involved in the review application process. However, a separate Licensing Officer will receive and process these applications. Communications between both Officers shall remain formal and separate throughout the process. Thus a separation will be achieved by allocating distinct functions to different Officers. Essentially, the Licensing Officer advising the Licensing Sub Committee shall be different from the officer who is acting as the Responsible Authority.

12. Health as a Responsible Authority

- 12.1. The PRSR Act has also introduced first-tier local authority Directors of Public Health from April 2013 or their equivalent as Responsible Authorities. It is expected that this Responsible Authority may be useful in providing evidence of alcohol-related health issues if the Council was considering either a cumulative impact policy or an early morning restriction order for example.
- 12.2. The local contact for this Responsible Authority is included in the list of Responsible Authorities at the rear of this Policy.

13. Live Music Act

- 13.1. Due to the introduction of the Live Music Act 2012 the public performance of live amplified and unamplified music on relevant licensed premises between the hours of 08:00 and 23:00 on any day is no longer a licensable activity. Any existing licence/certificate conditions relating to live music remain in place but are suspended between these hours. However, the Licensing Authority may impose new, or reinstate existing conditions, following a review of the premises licence or club premises certificate.
- 13.2. Throughout this Policy the Licensing Authority recognises that the definition of regulated entertainment is determined by central Government and may be subject to change.
- 13.3. When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merit. Live music is a performance of live music in the presence of an audience that it is intended to entertain. Live music for example can include the playing of some recorded music and may be part of the performance of amplified live music. As there will inevitably be a degree of judgement as to whether a performance is live music or not organisers of events are encouraged to consult with the Licensing Authority if in doubt.

14. Minor Variations

- 14.1. Minor variations generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions. In all cases the Licensing Authority will consider whether the proposed variation would adversely impact on any of the four licensing objectives.

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

15. Sexual Entertainment Venues (SEVs)

- 15.1. Where an operator seeks to provide activities that include striptease or any other kind of nudity or sexual entertainment (for example, lap dancing clubs or topless waitresses), an application will need to be submitted for a Sexual Entertainment Venue Licence under the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009. However, it is recognised that there is an exception that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Where this exemption is exercised and concerns are identified with a licensed premise this may lead to a review of the premises licence and the imposition of any relevant conditions.
- 15.2. Where an application for an SEV is submitted for a licensed premise Ryedale District Council has a Procedure in force setting out standard conditions. Operators are reminded that where there are similar conditions in the two regimes, the more onerous conditions shall apply.

16. Children

- 16.1. With regard to the Protection of Children from Harm licensing objective, the Licensing Authority and this Policy recognises The Director of Children and Young People's Services at North Yorkshire County Council as the Responsible Authority competent to act in relation to this licensing objective. The Licensing Authority will give considerable weight to representations on child protection matters.
- 16.2. The Licensing Authority shall not seek to limit the access of children to any licensed premises unless it is necessary for the prevention of physical, moral or psychological harm. In all other cases it will be left to the discretion of the Licensee but the Licensing Authority shall expect that the licensee shall give full consideration of access by children at all times and ensure that there is a policy in place to promote this licensing objective.
- 16.3. Where there are concerns with regard to access of children the Licensing Authority will consult the Director of Children and Young People's Services. However, where the Licensing Authority's discretion is engaged it will judge the merits of each application before deciding whether or not to impose conditions limiting the access of children.
- 16.4. The following are examples of premises that are likely to raise concern and engage the Licensing Authority as a Responsible Authority to take action:

- Where entertainment or services of an adult or sexual nature are common thereby likely to undermine the licensing objectives;
 - Where relevant premises are known to allow unaccompanied children;
 - Where the applicant has described in the Operating Schedule that '*no adult or similar entertainment shall take place on the premises*' but intends to hold an event liable to compromise the protection of children from harm licensing objective;
 - Where there has been early indication and subsequent evidence of poor management of the premises leading to undermining of the licensing objectives;
 - Where the premises have a known association with drug taking or dealing;
 - Where the current staff have received convictions or cautions for serving alcohol to minors or where the premises has a reputation for underage drinking or failures in test purchasing;
 - Where there is a strong element of gambling on the premises;
 - Where there is likely to be under age events with the intention of selling or exposing alcohol for sale or where the intention is to permit adults to this event;
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 16.5. Examples of entertainment likely to cause concern are entertainment or services of an adult or sexual nature including topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or entertainment involving strong or offensive language.
- 16.6. Where there are events solely provided for children, for example an Under 18's disco in a public house or similar relevant premises, the Licensing Authority strongly advises that no alcohol is served at such events and for the management of the premises to ensure that measures are in place to prevent sales to under aged persons. In addition, it is recommended that measures should be in place to prevent alcohol being brought onto those premises and to prevent under aged persons leaving and returning to the premises in order to consume alcohol in the vicinity of the premises.
- 16.7. In particular, the Licensing Authority will consider what conditions are offered in the Operating Schedule. The applicant in completing the Operating Schedule is required to describe the steps they intend to take to promote this Licensing Objective and highlight any adult entertainment or services, etc. that may give rise to concern in respect of children. However, where the applicant does not state the steps they intend to take to promote this Objective but does state that "*no adult or similar entertainment shall take place on the premise*", the Licensing Authority shall consider that this restriction to be a condition on the Licence/certificate even though it may not state it on the Licence/Certificate itself.
- 16.8. The 2003 Act as amended by the Policing & Crime Act 2009 has introduced a number of mandatory conditions. One of these conditions provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be

restricted in accordance with the recommendations given either by the British Board of Film Classification (“the BBFC”) or by the Licensing Authority itself. The Licensing Authority has a procedure in place for the approval of unclassified films that includes conditions relating to the admission of children. In adopting these procedures the Licensing Authority supports the BBFC Guidelines and shall not seek to duplicate the BBFC’s recommendations. The Film Authorisation Procedure is available from Council. Any changes to these procedures are not considered changes to this Policy and as such any amendment to these procedures will not necessitate a review of the Licensing Policy.

PART 4

17. Licences & Certificates – General

- 17.1. New applicants and existing licence/certificate holders are encouraged to take heed of the information contained within this Policy. In order to avoid potential representations which generally delay an application, the Licensing Authority strongly recommends that prior to submitting their application applicants consult all Responsible Authorities, in particular North Yorkshire Police and the Environmental Protection team. In some cases, it may be advisable to consult ‘other persons’ as defined in the Act, for example a Town or Parish Council or neighbouring properties.
- 17.2. The Premises Licence/Certificate application outlines the operating conditions and the Operating Schedule that will form the basis of conditions that will be attached to the Licence/Certificate. The Licensing Authority shall expect the applicant to have carefully considered the promotion of all four Licensing Objectives in their Operating Schedule.
- 17.3. 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 consult with Responsible Authorities and the Safety Advisory Group in good time to discuss the Operating Schedule and any potential issues well before an application is submitted.
- 17.4. Where a festival, carnival or similar event requiring a Premises Licence or Temporary Event Notice is due to take place, the event organiser and/or landowner are recommended to consult with Responsible Authorities and the Safety Advisory Group in good time to discuss any potential issues.
- 17.5. With regard to the licensing of garages and/or filling stations Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises that are primarily used as a garage. The Licensing Authority must decide whether or not a premise is used primarily as a garage. The accepted approach is based on “intensity of use” to establish “primary use”. For this reason, the Licensing Authority shall expect an applicant to provide comprehensive statistical information with their application on the intensity of use to establish primary use.

- 17.6. Where there is insufficient evidence to establish primary use (e.g. where there is a new build) the Licensing Authority shall decide whether to deal with any issues through enforcement action after the licence is granted or defer granting the licence until the primary use issue can be established to the Licensing Authority's satisfaction. R (Murco Petroleum Limited) v Bristol City Council 2010 addresses the issue of Licensing Authority's compelling applicants to answer questions and to supply relative turnover figures if requested to do so. The Licensing Authority's role is not merely adjudicatory; it may also take a more inquisitorial stance.
- 17.7. In order to promote the four Licensing Objectives, the Licensing Authority may consider seeking Premises Licences for land or buildings under public ownership within the district. The Local Authority will seek to encourage and promote festivals, carnivals and similar events in the district to provide a more vibrant community.
- 17.8. In addition, the Licensing Authority encourages local Town and Parish Councils to seek Premises Licences for land or buildings under public ownership within the community.

Late Night Refreshment

- 17.9. It is recognised that the provision of late night refreshment forms an important part of the district's late night economy. As such 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.
- 17.10. Where an applicant wishes to sell alcohol either on or off the premises in such an establishment or provide an alcohol delivery service, the Licensing Authority recommends that the Operating Schedule sets out specific measures to ensure the prevention of Crime and Disorder and Public Nuisance in the vicinity of the premises. Existing premises that seek to provide an alcohol delivery service are expected to notify the Licensing Authority that they are operating such a service setting out specific measures they intend to take to promote the licensing objectives.
- 17.11. Where a delivery service is operated from these premises extra care must be taken by the operator with regard to compliance/breach of licensing hours. For example, a pizza order must be capable of reaching the customer at the delivery address by no later than the end of the permitted hours.
- 17.12. The Licensing Authority recommends takeaways and late night refreshment houses have a responsible policy for regularly clearing litter from outside their premises whilst the premises are open and at the end of the working day. Such a policy could also include notices displayed advising customers to use the bins provided.

Mobile Premises

- 17.13. Where licensable activities take place in mobile vehicles, a Premises Licence will be required for the land upon which the vehicle operates. The application must specify the pitch from where trading is to take place.
- 17.14. 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, prevent Public Nuisance and promote Public Safety.
- 17.15. 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

- 17.16. Where licensed premises intend to provide more than two Category C or D gaming machines, the Licensing Authority will hold a licensing hearing to determine the application for an alcohol-licensed premises gaming machine permit.
- 17.17. Compliance within the Gambling Commission's Codes of Practice relating to gaming machines on licensed premises is mandatory.

PART 5

18. Personal Licences

- 18.1. 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.
- 18.2. The Licensing Authority advises that it is good practice for the Personal Licence holder to give specific written and dated authorisation to individuals to demonstrate due diligence. Whilst the Designated Premises Supervisor ("the 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.
- 18.3. Where a community premises applies for an exemption from the requirement to have a DPS, the Licensing Authority must be satisfied that arrangements for the management of the premises by their Committee or Board of individuals are sufficient to ensure the adequate supervision of the supply of alcohol on the premises. The applicant will be required to set out how the premise is managed, its committee structure and how the supervision of alcohol sales are conducted. Copies of the Constitution and other management documents must be submitted. The management committee is strongly encouraged to notify the Licensing Authority if there are any key changes in the committee's composition as this committee will collectively be responsible for ensuring compliance with licence

conditions and licensing law. Where management arrangements are unclear, the Licensing Authority may seek further details to confirm that the management board or committee is properly constituted and accountable. While overall responsibility lies with the management committee where premises are hired out, the hirer will be clearly identified as having responsibilities falling within their control. Community premises are encouraged to check with the Licensing Authority before making any application.

- 18.4. Where a Premises Licence is in force authorising the supply of alcohol, a DPS will need to be nominated. The main purpose of the DPS is to ensure that there is always one specified individual who can be readily identified by Responsible Authorities as the individual who has day-to-day responsibility for running the business and who can therefore ensure that any problems are dealt with swiftly. As such the DPS will occupy a pivotal position. Experience has proved that in some cases the Premises Licence Holder has employed a DPS who is remote from the premises and therefore not involved in the day-to-day running of that premises. In these cases where there is no individual readily identifiable by Responsible Authorities, the Licensing Authority will therefore pay particular attention to those premises where the DPS is remote and not the person responsible for the daily running of the premises.
- 18.5. Whilst the Licensing Authority recognises that a DPS may supervise more than one premise, 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 recommends a responsible individual is nominated who can deal with matters in the absence of the DPS. In addition, the Licensing Authority recommends that a notice is displayed prominently indicating the name and position of that nominated person. Whenever alcohol is to be sold it is recommended that written and dated consent be given to that nominated person.
- 18.6. Applicants for Personal Licences with relevant unspent criminal convictions are required to notify the Licensing Authority of the nature of those convictions upon 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 determine whether or not a licence should be granted.
- 18.7. 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.
- 18.8. 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 as soon as is reasonably practicable so that the Licence can be amended.
- 18.9. Experience has indicated that a number of Personal Licence Holders have failed to produce their Personal Licence to the court in accordance with Section 128 of

the 2003 Act. The Licensing Authority views this at best as negligent and at worst placing the public at risk as some of the offences have been serious. In view of this the Licensing Authority will take appropriate action against those who continue to fail to notify the courts and provide notification of their change of address in accordance with their statutory duty.

- 18.10. All offences under the Licensing Act 2003 are considered summary offences that normally have to be prosecuted within 6 months of the offence. However, by virtue of Section 186(3) the time limit for the laying of information has been extended from 6 months to 12 months from the date of the offence.

PART 6

19. Temporary Event Notices

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

- 19.8. Event organisers are advised to submit their TEN to The Police Licensing Officer, Malton Police Station, Old Malton Road, Malton, YO17 7YD. In addition, event organisers are advised to submit their application to the Licensing Authority and the Environmental Protection Team on a weekday and in any event before 12 midday on a Friday in order to ensure a quick, efficient and timely response.
- 19.9. Temporary Event Organisers are advised to submit their TENS well before the date of the event and in any event, must submit their notifications to the Licensing Authority in accordance with the number of working days currently specified in Regulations. When serving notices, organisers should serve the notice on the Licensing Authority, Police and the Environmental Protection Team at the same time. This then ensures that the Responsible Authorities have sufficient opportunity to consider the notice in line with the Prevention of Crime and Disorder and Prevention of Public Nuisance Licensing Objectives.
- 19.10. It is a legal requirement for all organisers to assess the Health and Safety and Fire Risk associated with their event and document any significant findings. Guidance on how to conduct such risk assessments may be obtained from the relevant enforcing authority. In any event, the Licensing Authority will notify the Fire Authority of all TENS submitted so that they can offer advice to event organisers if necessary. Members of the Safety Advisory Group will also be notified of all TENS for similar reasons. Organisers are recommended to give thought to the provision of first aid at such events. It should be noted that if the Fire Authority is of the opinion that the use of premises/venue involves, or will involve, a risk to relevant persons so serious, including anything affecting their escape from the premises in the event of fire, the Fire Authority may prohibit or restrict premises use without notice.
- 19.11. 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.

PART 7

20. Club Premises Certificate

- 20.1. In order for a qualifying club to supply alcohol and provide other licensable activities on Club premises, a Club Premises Certificate is required. Qualifying conditions are specified in section 62 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support the fact that the Club is non-profit making. Additional information is available from the Council and in Guidance Notes.
- 20.2. 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.

- 20.3. Where a Club intends to open its premises to the general public, the Licensing Authority recommends a Temporary Event Notice or Premises Licence. 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 not successful; the Club will be required to apply for a full Premises Licence.
- 20.4. The Licensing Authority shall require the Club Secretary's contact details to be readily available in the event of an emergency.

PART 8

21. Operating Schedule

- 21.1. The Operating Schedule is a key part of the application form whereby applicants may volunteer appropriate conditions to demonstrate compliance of the licensing objectives by describing the steps they intend to take to promote these objectives. These volunteered conditions will then form conditions on the Premises Licence or Certificate. In completing an Operating Schedule, applicants are expected to have regard to this Policy.
- 21.2. The Licensing Authority encourages applicants and existing operators to plan ahead to meet their legal responsibilities under the Equality Act 2010. In addition, applicants are expected to include positive proposals in their Operating Schedule on how they will manage any potential risks. Where their operation is within a cumulative impact area, they will be expected to demonstrate how the operation of their premises will not add to the cumulative impact already being experienced in that area.
- 21.3. Premises Licence and Club Premises Certificate applicants may wish to refer to their Fire Safety and Health and Safety risk assessments that they will have conducted. Applicants are advised to seek the views of professional experts in relation to the preparation of these risk assessments. Where a maximum occupancy is set, applicants are advised to have an appropriate method in place to monitor the numbers of people entering and exiting the premises.
- 21.4. In completing their Operating Schedule the Licensing Authority suggest an applicant considers the following:

General

- Premises log book

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

Prevention of Crime and Disorder

- Drugs policy
- CCTV
- Pub Watch and Radio links with other licensed premises
- Security Industry Authority Door supervisors and Approved Contractor Scheme
- Polycarbonate or shatterproof vessels
- An appropriate ratio of tables and chairs to customers
- Management of outside areas
- Use of 'spikeys' or similar anti drink spiking device
- Calming atmosphere at close of business/event
- Safe capacities
- Queuing policy
- Stewards for events and event plan

Public Safety

- Health and Safety and Fire Safety risk assessments and staff training
- Safeguarding measures
- Use of CCTV in and around the premises
- Safe capacities and monitoring procedures
- Provision of local taxi companies who can provide safe transportation home
- Procedures to control access to and egress from premises
- Patrolling of premises
- Glass clearance policy
- Control of ventilation
- Control of litter immediately outside the premises
- First aid trained staff
- Adequate external lighting
- Consideration of the safety of performers appearing at any premises
- Indoor sporting events: medical practitioner; flame retardant material location of public to wrestling ring; water sports events – lifeguards
- Stewards for events and event plan; and regard to standards of the National Sporting Body
- Ensuring appropriate access for emergency services

Prevention of Public Nuisance

- Control of general noise, disturbance, light, odour, litter and anti social behaviour
- Whilst regulated entertainment taking place, management of noise disturbance

- Control of litter (e.g. cigarette ends, rubbish, etc), vomiting, urinating and anti social behaviour in the vicinity of the premises
- Dispersal policy to ensure customers respect their neighbours
- Removal of persons causing disturbance
- Management of outside areas, e.g. pub gardens, smokers, etc.
- Control of deliveries in early hours
- Queuing policy
- Winding down period

Protection of Children from Harm

- Refusals book
- Consideration of access to premises where adult entertainment may take place
- Consideration to proximity of premises to schools and youth clubs
- Clarity on activities and times at which events take place to determine whether or not it is appropriate to allow access to children
- Challenge 21 policy
- Prompting mechanism on tills at retail outlets
- Measures to control access to hotel minibars
- Operational measures to avoid proxy purchases
- How to prevent children from being exposed to alcohol sales at under age events, gambling, incidents of violence and disorder and drugs or drug taking
- Consideration of safeguarding issues
- Consideration of children as performers where relevant
- Supervision of children
- Under 18 event Code of Conduct, for example: searches, ticketed event, door supervisors, stewards monitoring event, set hours for event, restricted event, policy to ensure young people leave premise safely, etc.

21.5. These lists are not exhaustive and advice can be obtained from the relevant responsible authorities. However, applicants are reminded again to contact the relevant Responsible Authorities to seek their expert advice before an application is submitted to the Licensing Authority.

21.6. Where an applicant is a vessel, the Licensing Authority strongly recommends advice be sought from the Maritime & Coastguard Agency prior to submitting the application form. This Agency will offer advice on the safety of passengers aboard the vessel.

PART 9

22. Enforcement

22.1. With regard to enforcement action the Licensing Authority will take a graduated approach and work with the licence/certificate holder, DPS and relevant Responsible Authorities in ensuring the premises complies with the licensing laws and promotes the licensing objectives. The Licensing Authority will seek to meet with the licence or certificate holder and/or DPS working closely with them

and relevant Responsible Authorities in implementing a Premise Improvement Plan where appropriate.

- 22.2. Where the premise does not comply with an agreed Improvement Plan and continues to breach the licensing laws and/or licence conditions, the Licensing Authority will consider further sanctions, either by way of a review, formal caution, prosecution or serving of a s19 Closure Notice. In any event, the Licensing Authority will have regard to the Regulators' Compliance Code and the Enforcement Concordat together with the Council's own Enforcement Policy.
- 22.3. However, where the premise continues to flout the law, act irresponsibly, or serious issues are identified firm action will be taken that may include immediate prosecution, particularly where the licensing objectives have been undermined.
- 22.4. Enforcement action will be:
- Targeted toward those premises presenting the highest risk;
 - Proportional to the nature and seriousness of the risk those premises present;
 - Consistent, so that the Licensing Authority takes similar approaches in similar situations;
 - Transparent, so those who are subject to enforcement action know what to expect; and
 - Accountable so that the Licensing Authority and its officers take responsibility for their actions.
- 22.5. In order to ensure compliance with the law and licensing conditions, the Licensing Authority will carry out with North Yorkshire Police whenever possible unscheduled 'non routine' evening inspections. After each visit the DPS and licence or certificate holder shall be notified of any concerns and be given an opportunity to rectify any issues. Where one off events take place, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are promoted.
- 22.6. In addition, the Licensing Authority will conduct checks to ensure that official notices for new applications, varied applications, reviews and minor variations are accurate and clearly displayed. Notices for reviews shall be displayed at or near the site of the premises, and where there are concerns these shall be regularly checked and recorded.
- 22.7. The licence/certificate holder is required to ensure that the Premises Licence/Club Premises Certificate, or certified copy of that licence or certificate, is kept at the premises and in the custody, or under the control of, either the licence/certificate 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 of the person nominated to have custody of the licence. Experience has proved that a number of licensees/certificate holders are not aware of this legislative requirement. With regard to enforcement, where a premises does not display the

licence summary or does not have the licence/certificate, or certified copy, on the premises, then the Licensing Authority shall write to the licence/certificate holder giving them an initial warning prior to taking any legal action. Continued failure will result in further sanctions being taken as outlined above.

- 22.8. Any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.

23. Fees: Annual Licence Fees

- 23.1. The PRSR Act gives the Licensing Authority the power to suspend a licence or certificate if the holder fails to pay the annual licence fee promptly in accordance with the invoice. Where the licence/certificate holder fails to pay the annual fee when due the Licensing Authority will notify the licence/certificate holder in writing specifying the date on which the suspension takes effect. This date will be two working days after the day the Licensing Authority has given the licence/certificate holder such notice. The Licensing Authority will work with North Yorkshire Police and appropriate action will be taken when the premise continues trading whilst suspended.
- 23.2. Where the licence/certificate holder has paid the annual fee the Licensing Authority will lift the suspension and inform North Yorkshire Police accordingly.

PART 10

24. Licensing Committee

- 24.1. 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.
- 24.2. The Licensing Committee will consist of 12 Members. The Licensing Sub-Committee will hear any relevant representations from Responsible Authorities and any other persons. Any of these individuals or groups may specifically request a representative to make representations on their behalf.
- 24.3. Applications for Premises Licences, Club Premises Certificates or Temporary Event Notices where relevant representations have been received will be dealt with by a 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).
- 24.4. 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.

PART 11

25. Administration, Exercise and Delegations of Functions

- 25.1. The 2003 Act provides that the functions of the Licensing Authority, including all its determinations, are to be taken or carried out by its Licensing Committee with the exception of the preparation of this Policy. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Licensing Committee has delegated certain decision and functions and has established Sub Committees to deal with them.
- 25.2. Many of the decisions and functions are purely administrative in nature and the grant of non-contentious applications has in turn been delegated to authorised officers.
- 25.3. The table at Appendix 1 sets out the agreed delegation of decisions and functions to the Licensing Committee, Licensing Sub Committees and authorised officers.
- 25.4. The Licensing Committee has approved its own rules relating to the procedure of hearings by the Licensing Sub Committee under the Licensing Act 2003.

26. The role of District Councillors

- 26.1. The Licensing Authority recognises that District Councillors play an important role in the local community. They may make representations in writing and speak at the hearing on behalf of any other person such as a local resident or business if specifically asked to do so. They can also make representations in their own right if they have concerns about a premise.
- 26.2. Residents or businesses may wish to contact their local District Councillor in respect of a licence/certificate application. Details of how to contact District Councillors may be obtained from the Council's website. Where a resident or business seeks the assistance of a District Councillor it is helpful if they can send them any evidence that a premise is causing a problem in the area. It is also helpful if a resident or business that makes a representation on an application to send a copy of their representation to the relevant District Councillor. This then helps them to gain an understanding of local feelings.
- 26.3. District Councillors may attend hearings of licensing sub committees considering applications and speak on behalf of local residents and businesses, but only if:
- They have made a personal representation;
 - They have made a representation on behalf of local residents or business as 'community advocates'
 - They have been nominated by (an objector) who cannot attend the hearing or prefers to be represented at the hearing.
- 26.4. District Councillors may however attend a hearing as an observer or as part of training for the Licensing Committee. It should be noted however that local

Councillors are subject to the Local Authorities (Model Code of Conduct) Order 2007 (or its equivalent if amended). This Code applies to any elected Council member whether or not they are a member of the Licensing Committee.

- 26.5. A member of the Licensing Committee representing others or acting in their own right, should consider carefully at a Sub 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. In addition, a Member with a prejudicial interest in a matter should not seek to influence improperly a decision on the licence/certificate in any other way.
- 26.6. District Councillors wish to be kept informed of licensing related matters within the Ryedale 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 is done in a neutral way that could not be seen as “soliciting” representations. Elected members will be signposted to the Councils Website where all current application/review notices can be viewed.

PART 12

27. Appeals Against Licensing Authority decisions

- 27.1. Following a hearing of an application by the Licensing Authority, the applicant or any objector has the right to appeal against that decision to Scarborough Magistrates’ Court within 21 days. In hearing an Appeal against the Licensing Authority’s decision, the court will have regard to this Policy and the 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.
- 27.2. Where an appeal has been lodged 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 any other person 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.
- 27.3. 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.

PART 13

28. Complaints against licensed premises

- 28.1. Where the Licensing Authority receives complaints against a licensed premises, complainants are advised in the first instance, whenever possible, to raise their complaint directly with the licensee in order to resolve the matter. The Licensing

Authority, however, recognises that it is not always possible or practical for the public to raise complaints directly with the licensed premises. In such circumstances complaints in the first instance should be addressed to: The Health and Environment Manager, Ryedale District Council, Ryedale House, Old Maltongate, Malton, YO17 7ZG.

- 28.2. Complaints will be dealt with in a timely and efficient manner. However, it is expected that all noise-related complaints are initially raised with the Council's Environmental Protection team and complaints regarding unlicensed activities and operating outside the permitted hours are raised with the Licensing Authority or Police Licensing Officer.
- 28.3. On receipt of a licensing complaint, the Licensing Officer shall investigate the circumstances, discussing the complaint with the DPS of the licensed premises, the licence/certificate holder, any relevant Responsible Authority 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 formal sanction.
- 28.4. The Health and Environment Manager is responsible for considering complaints in the context of this Policy and will determine whether or not it is a relevant complaint. The Health and Environment Manager shall authorise suitably qualified officers to discharge duties as appropriate to their seniority, professional qualifications and/or experience.
- 28.5. Where there is a serious complaint, then the Health and Environment Manager, Principal Environmental Health Officer and Licensing Officer shall ensure that it is investigated and enforcement action taken where necessary. The Licensing Authority shall act in accordance with the Enforcement Policy available from Licensing Services and in accordance with the Regulators' Code and the Enforcement Concordat.

With regard to whether or not a complaint/representation is relevant, the Licensing Officer in conjunction with the Health and Environment Manager and 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) and there is no right of appeal against this decision. Aggrieved objectors should take their own legal advice. The exclusion of a complaint/representation 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 Licence/Certificate 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.

Appendix 1 – DELEGATION OF FUNCTIONS

Matters to be dealt with	Council	Sub Committee	Officer
Licensing Policy approval	All cases		
Application for a Personal Licence		If Police objection	If no Police objection
Application for a Personal Licence with unspent convictions		All cases	
Application for a licence or Club Premises Certificate		If relevant representation made	If no relevant representation made
Application for a Provisional Statement		If relevant representation made	If no relevant representation made
Application to vary licence or Club Premises Certificate		If relevant representation made	If no relevant representation made
Application to vary DPS		If Police objection	All other cases
Request to be removed as DPS			All cases
Application for transfer of premises licence		If Police objection	All other cases
Applications for interim authorities		If Police objection	All other cases
Application to review licence or Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant, repetitious, frivolous, vexations or repetitious, etc.			All cases

Matters to be dealt with	Council	Sub Committee	Officer
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a TEN		All cases	
Imposition of existing conditions on a standard TEN (s.106A of the 2003 Act)		All cases	
Determination of application to vary licence at community premises to include alternative licence condition		If police objection	All other cases
Decision on whether to consult other Responsible Authorities on minor variation application			All cases
Determination of minor variation application			All cases
Acting as a Responsible Authority on behalf of the Licensing Authority			Health and Environment Manager & Principle Environmental Health Officer
Suspension of a licence or Club Premises Certificate for non payment of annual fee			All cases
Specify the date on which suspension takes effect (min. 2 working days)			All cases

Matters to be dealt with	Council	Sub Committee	Officer
Decision to introduce, vary or end a late night levy	All cases		
Other decisions relating to administration and design of levy	All cases		
Decision to introduce, vary or revoke an Early Morning Restriction Order	All cases		

Appendix 2 - LICENSING ACT 2003 GLOSSARY

Authorised Persons/Officers	Officers empowered by the Act to carry out inspection and enforcement roles. This group includes: <ul style="list-style-type: none"> • Officers of the Licensing Authority • Fire Authority Inspectors • Inspectors locally responsible for the enforcement of the Health and Safety at Work, etc. Act 1974; and • Environmental Health Officers • Trading Standards Officers North Yorkshire Police are separately empowered and not included in the above list.
Child	Any person who is under the age of 16 years.
CIP	Cumulative Impact Policy
Club Premises Certificate (CPC)	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.
Conditions: Proposed Condition Imposed Condition Mandatory Condition	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 as amended
Cumulative Impact	Where there is a potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area.
Designated Premises Supervisor (DPS)	A specified individual holding a Personal Licence, who is responsible for the day to day running of the business and whose name will appear on the Premises Licence.
DCMS	Department of Culture Media & Sports, now known as Department of Culture, Olympics, Media & Sport.
Frivolous Representation	Representation or objection that is categorised by its lack of seriousness.

Late-Night Refreshment	The supply of hot food and drink between the hours of 11pm and 5am for consumption on or off the premises.
Licence Holder	Licence holder is defined as the Premises Licence Holder or Club Premises Certificate Holder.
Licensable Activities	<ul style="list-style-type: none"> • The sale of alcohol by retail • The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club • The provision of regulated entertainment • The provision of late-night refreshment
Licensing Objectives	<ul style="list-style-type: none"> • Prevention of Crime and Disorder • Public Safety • Prevention of Public Nuisance • Protection of Children from Harm
Licensing Qualification	Qualification obtained from for example the British Institute of Innkeeping and a requirement for a Personal Licence.
Occupancy Levels	Safe occupancy limits for a premises or venue is determined by the size of the premises or venue combined with ensuring that escape routes are adequate for the people, and numbers of people, who are likely to use them. This prevents over crowding which can lead to crime, disorder and concerns over public safety.
'Other Persons'	Defined as any individual, body or business affected by the operation of a licensed premises, regardless of their geographic proximity to the premises.
Operating Schedule	<p>This forms part of the completed application form for a Premises Licence and must promote the 4 Licensing Objectives. It must include:</p> <ul style="list-style-type: none"> • The relevant licensable activities • The times during which the applicant proposes that the relevant licensable activities are to take place • Any other times during which the applicant proposes that the premises are to be open to the public • Where the applicant wishes the licence to have effect for a limited period, that period • Where the relevant licensable activities include the sale by retail of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor • 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 • The steps which the applicant proposed to take to promote the 4 Licensing Objectives.

Personal Licence	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.
Prejudicial Interest (Members)	An interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.
Premises Improvement Plan	An agreed action plan with timeframes agreed between the licence holder and the Responsible Authority.
Premises Licence	A Licence in respect of any premises, such as land or buildings within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless reviewed or revoked.
Proprietary Clubs	Clubs run commercially by individuals, partnerships or business for the purpose of profit.
Provisional Statement	A statement where premises are being constructed or extended or substantially altered that the Licensing Authority would be provisionally minded to grant a Licence on completion of the works.
Proxy Purchases	Illegal purchasing of alcohol on behalf of a person under the age of 18.
Qualifying Club	Where members have joined together for particular social, sporting or political purposes and then combined to buy alcohol in bulk as members. Examples of Qualifying Clubs are: <ul style="list-style-type: none"> • Conservative, Labour and Liberal Clubs • Royal British Legion • Ex-Servicemen's Club • Working Men's Club • Social and Sports Clubs
Regulated Entertainment	Entertainment that is defined by statute.
Relevant licensed premises	Premises that are authorised to supply alcohol for consumption on the premises by a premises licence or CPC.
Relevant Offences	As set out in Schedule 4 to the Licensing Act 2003.
Relevant Representations	Representations, or objections, are relevant if they relate to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives.

Responsible Authorities	<p>This group can make relevant representations and includes public bodies such as:</p> <ul style="list-style-type: none"> • Relevant Licensing Authority • North Yorkshire Police (Chief Officer of Police) • Children and Young People’s Service • North Yorkshire Fire & Rescue Authority • North Yorkshire Trading Standards • The Local Enforcement Agency for the Health and Safety at Work, etc. Act 1974 • The Local Authority Environmental Health Service • North York Moors Planning Authority/Local Authority Planning Service • Primary Healthcare Trust (or its equivalent) • Maritime and Coastguard Agency (if applicable)
Safety Advisory Group	<p>Safety Advisory Group – a group of officers from Licensing, Highways, Police, Fire, Ambulance, Health and Safety, Emergency Planning formed to offer advice to applicants on carrying out events either under a TEN or a restricted Premises Licence</p>
Special Policy	<p>A policy contained within the Statement of Licensing Policy to deal with cumulative impact.</p>
Temporary Events Notice (TEN)	<p>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.</p>
TEN – 10 working days’ notice	<p>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.</p>
Types of Authorisation	<ul style="list-style-type: none"> • Premises Licence • Club Premises Certificate • Personal Licence • Provisional Statement • Temporary Events Notice
Vexatious Representation	<p>A representation may be considered vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification.</p>
Vicinity	<p>A term which has been removed from the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2011. Previously, the Licensing Authority in making their initial decision on the question of vicinity had to consider whether the individual’s residence or business is likely to be directly affected by disorder and disturbance occurring on those premises.</p>

APPENDIX 3 – RESPONSIBLE AUTHORITY CONTACT LIST

In accordance with the s182 Guidance this policy lists all the relevant contact points where members of the public may obtain general advice. The Licensing Authority in particular recommends that all applicants seek advice from the Responsible Authorities below prior to submitting applications.

The Licensing Team
Ryedale District Council
Ryedale House
Old Malton Road
Malton
YO17 7ZG

Tel: 01653 600666
Fax:01653 600764
e-mail: licensing@ryedale.gov.uk

Please note the Licensing Authority is also a Responsible Authority in its own right(see below)

North Yorkshire Police

Police Licensing Officer
Malton Police Station
Old Malton Road
Malton
YO17 7YD

Tel: 01723 509866
e-mail: nyplicensing@northyorkshire.pnn.police.uk

North Yorkshire Fire & Rescue Authority

Station Manager
North Yorkshire Fire & Rescue Service
Malton Fire Station
Sheepfoot Hill
Malton
YO17 0EB

Tel 01653 692626

Local Authority Environmental Health Services

Environmental Health Officer
Environmental Protection
Ryedale District Council
Ryedale House
Old Malton Road
Malton
YO17 7ZG

Tel: 01653 600666

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

Environmental Health Officer
Food & Occupational Safety
Ryedale District Council
Ryedale House
Old Malton Road
Malton
YO17 7ZG

Tel: 01653 600666

OR

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

The Operations Manager
Health & Safety Executive
The Lateral
8 City Walk
Leeds
LS11 9AT

Tel: 0113 2834200
Fax: 0113 2834382

**Planning Services
Local Authority Planning**

Development Control Manager
Ryedale District Council
Ryedale House
Old Malton Road
Malton
YO17 7ZG

Tel: 01653 600666

OR:

North Yorkshire Moors National Park Authority
The Old Vicarage
Bond Gate
Helmsley
York
YO62 5BP

Tel: 01439 770657
Fax: 01439 770691

Social Services

Director of the Children and Young People's Service
North Yorkshire County Council
Children and Young People's Service
Room 122
County Hall
Northallerton
DL7 8AE

Tel: 01609 780780

Trading Standards

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

Tel: 01609 760616

Director of Public Health

Director of Public Health,
North Yorkshire County Council,
County Hall,
Northallerton
DL7 8AD

Tel: 01609 780780

For vessels only

Maritime & Coastguard Agency

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

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