



EAST RIDING

OF YORKSHIRE COUNCIL

2021-2026

STATEMENT OF LICENSING POLICY

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I. INTRODUCTION- PROFILE OF EAST RIDING OF YORKSHIRE

- 1.1 The East Riding of Yorkshire is a unique authority stretching across 930 square miles and home to many popular restaurants, guesthouses, pubs, bars and entertainment venues including cinemas and theatres. Many parts of the East Riding of Yorkshire are tourist resorts with competing demands between catering for visitors and ensuring that this does not impact on residents in a negative way. Clearly the Licensing Authority would wish to see adequate provision, which meets the demands of, as well as attracts, visitors to the area.
- 1.2 In addition the expectations and demands of residents and local businesses need to be catered for. The Licensing Authority recognises the need to find an acceptable balance between these potentially conflicting aims.
- 1.3 Over 1330 premises are currently licensed in the East Riding of Yorkshire and 64 entertainment only venues.
- 1.4 There are many outstanding restaurants, licensed entertainment venues, including 2 cinemas, 3 theatres, 4 art centres and numerous high quality traditional and historic pubs and bars and outdoor event spaces. Other premises such as village and community halls and bingo halls provide alcohol and entertainment as part of their overall activities. In addition, there are a significant number of retail premises selling alcohol, including large supermarkets, off licences and small convenience shops as well as on line retailers selling hampers and locally brewed produce.
- 1.5 This Statement of Licensing Policy has been prepared in accordance with the provisions of the **Licensing Act 2003 (the Act)** and having regard to **the Guidance issued under Section 182 of the Act as amended**
- 1.6 East Riding of Yorkshire Council (**the Council**) is the **Licensing Authority** under the Licensing Act 2003 and is responsible for granting applications and regulating premises licences, club premises certificates, temporary events notices and personal licences in the East Riding of Yorkshire Council's area in respect of the sale and/or supply of alcohol, the provision of relevant regulated entertainment and late night refreshment.

East Riding of Yorkshire 'Vision and Values'

- 1.7 This policy supports East Riding of Yorkshire Councils 'vision and values', ensuring 'Everyone Matters' whilst delivering the licensing service and functions with a commitment to:
 - Growing the economy
 - Valuing our environment
 - Protecting the vulnerable
 - Helping children and young people achieve

- Promoting healthy lifestyles

2. PURPOSE, AIM AND SCOPE OF LICENSING POLICY

We want to ensure that the East Riding of Yorkshire continues to offer a wide choice of high quality, thriving and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those individuals who live, work and come to visit here.

Purpose of the Policy

- 2.1 The policy will also assist an applicant in understanding what the Licensing Authority is seeking to achieve through the promotion of the licensing objectives, the factors influencing the licensing objectives and the control measures which could be put in place by applicants to promote those licensing objectives where appropriate.

Aim of policy

- 2.2 The aim of the policy is to facilitate well run, thriving and well managed premises with licence holders displaying sensitivity to the impact of their premises on local residents and visitors to the East Riding area. The policy aims to ensure a sustainable leisure and cultural industry, both during the day time and during the night time economy for people of all ages.
- 2.3 In making this policy the Licensing Authority recognises
- The needs of both the residents within, and visitors to the East Riding of Yorkshire for a safe healthy environment in which to live, work, socialise and visit and that this need should cater for all age ranges.
 - The importance of safe and well-run entertainment premises to both the growth and maintenance of the local economy and vibrancy and reputation of the area.
 - The need to look specifically at local issues impacting on the night time economy in the East Riding of Yorkshire which may at times differ from national initiatives.

The Licensing Authority recognises that *one size does not fit all* and an effective policy needs to be local need based and promote partnership working in the community. Where specific measures would assist a particular area to diversify and develop its offering of licensable premises for the benefit of the community then the policy will reflect those measures and actively promote them.

- 2.4 The Licensing Authority recognises the positive developments that have occurred in the licensed sector over previous years and recognises the importance of licensed businesses to the culture, economy growth and vitality of this area.
- 2.5 The Licensing Authority will use the opportunities presented in the Act to and through its licensing policy to enhance the opportunities for local businesses, residents and visitors whilst at the same time safeguarding residents and business amenities through the promotion of the licensing objectives.
- 2.6 The Licensing Authority also recognises the issues raised in the Governments Alcohol Strategy and seeks through its policy to promote initiatives and partnership working to encourage responsible citizenship of both business and individuals.

Scope of Policy

- 2.7 It should be acknowledged that the policy covers a wide variety of premises and activities carried out in them, including theatres, cinemas, restaurants, guest houses, pubs, nightclubs, private members clubs, churches, community and village halls, as well as off-licences and late night food premises selling hot food or hot drink between the hours of 11.00p.m and 05.00 a.m. For this reason, the policy cannot detail all the factors that influence the achievement of the licensing objectives, nor can this policy detail all the control measures that may be appropriate. Matters will be addressed on a case by case basis in line with promotion of the licensing objectives and 'vision' for the East Riding of Yorkshire.
- 2.8 In carrying out its various licensing duties and functions the Licensing Authority primary role is to promote the four licensing objectives set out in the Licensing Act 2003. These are: -
- **The prevention of crime and disorder**
 - **Public safety**
 - **The prevention of public nuisance**
 - **The protection of children from harm**
- 2.9 **Each objective is of equal importance.** In determining applications, the Licensing Authority can only consider matters, which impact on one or more of these licensing objectives.
- 2.10 The Licensing Authority will balance the promotion of the licensing objectives with other key aims and purposes supported by the legislation .These are vitally important and are identified as principal aims for everyone involved in carrying out licensing functions. These aims include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
 - Giving the police and licensing authorities and responsible authorities the powers they need to effectively manage and police the licensed premises and take action against those premises that are found to be causing problems that may damage communities or compromise public safety.
 - Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
 - Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
 - Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.
- 2.11 To achieve these objectives the Licensing Authority will actively promote partnership working with other local authorities, the police, the fire authority, local businesses, the Community Safety Partnership, community representatives, local residents as well as its own internal partners.
- 2.12 The Licensing Authority recognises that co-operation and building successful partnerships with all involved in providing or regulating licensing services remain the best means of promoting the licensing objectives and providing a safer and more vibrant licensed village and town premises.
- 2.13 The Licensing Authority will, through implementation of this policy, have regard to the amenity of any area in so far as it relates to the four licensing objectives.
- 2.14 Balancing the interests of employers, owners, customers and neighbours of public houses, clubs, late night catering premises and off licences may not always be straightforward or easy. The Licensing Authority will be guided by the four licensing objectives of the Act and will use its powers to promote best practice and to deter poor practice, where this can be evidenced in relation to the operation of licensed premises.
- 2.15 Due consideration will be given to all relevant representations except those that are in the opinion of the Director of Communities and Environment under delegated authority considered to be either not relevant, frivolous, vexatious or repetitious as defined in the section 182 Statutory Guidance.

- 2.16 It is recognised that the licensing function is only one means of securing the delivery of the licensing objectives and should not be seen as a panacea for solving all problems within the community.
- 2.17 The Licensing Authority seeks to encourage and support the aims of partnership working with the licensed trade and local town and parish councils through initiatives, as appropriate, such as Best Bar None, Purple Flag, Business Improvement Districts (BID's), Community Alcohol Partnerships to provide a vibrant and safe town centre experience as befits busy tourist areas and key seaside resorts, in providing a vibrant and safe experience.
- 2.18 The Licensing Authority will work closely with the Responsible Authorities to deliver the licensing objectives, and others including the licensed trade, local residents, businesses and Town and parish councils. The Licensing Authority will continue to address issues through the Responsible Authorities Group who meet regularly to facilitate cooperation and coordination between partner agencies to support the strategic objectives and work with the licensed trade to address any issues that may occur.
- 2.19 The Licensing Authority will continue to work closely as part of these groups to promote the common objectives. In addition the Licensing Authority will seek to support strategies where they are allied to the licensing objectives such as the Community Safety Partnership Plan for Reducing Crime and Disorder, Local Strategic Plans, National and Drug, Alcohol and Addiction related Harm Reduction Strategies and any other relevant strategies and policies.
- 2.20 The Licensing Authority recognises that the private sector, local residents, schools, youth services and community groups in particular have a vital role to play in promoting the licensing objectives. The Licensing Authority shall work closely with other enforcement agencies and the Youth Offenders Team, Safeguarding Services and Anti – Social Behaviour team in the management of the licensed economy particularly relating to the tackling of underage sales and proxy sales of alcohol and drunkenness or disorder on or in the immediate vicinity of the licensed premises.
- 2.21 This policy does not seek to undermine the rights of any person to apply under the Act for a licence or certificate covering a variety of permissions, nor does it override the rights of any person to make representations on any application or to seek a review of a licence or certificate where they are permitted to do so under the Act. **Each application will be considered on its own merits.**
- 2.22 The licensing process can only seek to control those measures within the control of the licensee, and others in possession of relevant authorisations. **Licensing law is not the primary mechanism for the general control of individuals once they have left the licensed premises and are therefore beyond the direct control of individual licensees or certificate holders.**

2.23 Licensees and certificate holders should however take all reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, or within their curtilage, for example on the pavement, in a beer garden or in a smoking shelter, where, and to the extent that these matters are within their control. These areas should be clearly identified on the premises plan.

2.24 This policy will be used by the Licensing Authority to regulate licensable activities on licensed premises, undertaken by licensed persons, by qualifying clubs and at temporary events within the terms of the Act.

See Appendix I for a full list of all licensable activities

2.25 The policy will apply to:

- Public houses, wine bars and night-clubs
- Indoor sporting events
- Off-licences, supermarkets and small stores that sell alcohol
- Internet/Online based sales of alcohol, being distributed within the East Riding
- Restaurants that serve alcohol
- Businesses offering hot food and/or hot drink between 11pm and 5am, e.g. late night cafes, takeaways, etc
- Hotels, guesthouses and other similar premises that sell alcohol
- Private members clubs and social clubs
- Theatres and cinemas, art centres
- Garage forecourts selling alcohol or hot food
- Organisers of regulated entertainment activities, e.g. Community Centres and Village Halls, local music festivals.

This list is not exhaustive and the policy covers a wide variety of premises and activities carried out as specified within the Act. For this reason the Licensing Authority cannot detail in the policy all the factors that influence the achievement of the licensing objectives nor can it specify all the conditions or control measures that may be appropriate.

2.26 The scope of the policy covers new applications, the transfer and variation of licences and certificates and where applicable Temporary Events Notices. It also includes the review of licences and certificates, which could lead to the suspension or revocation of a licence or certificate.

2.27 To ensure the promotion of the licensing objectives at all times the Licensing Authority may depart from this Statement of Licensing Policy if the individual circumstances of the case merit such a decision.

2.28 **Where this occurs the licensing authority will give full reasons for departing from its own published statement of licensing policy.** If the local policy statement

is inconsistent with the Guidance issued as a result of constant revisions made to the Guidance, the Licensing Authority will have regard to and give appropriate weight to, the statutory Guidance and its own licensing policy and give clear reasons for its decision. The Licensing Authority may in exceptional circumstances, depart from Statutory Guidance if it has good reason to do so, but any such decision must be first approved and confirmed in writing by the relevant Head of Service in consultation with the Chair of the Licensing Act 2003 Committee and relevant portfolio holder..

- 2.29 This policy will **avoid duplication as far as possible** with existing legislation and regulatory regimes that already place obligations on employers and operators e.g. Health and Safety at Work Act, the Environmental Protection Act 1990, Equality Act and the Regulatory Reform (Fire Safety) Order 2005. **The Licensing Authority will ensure that representations received from Responsible Authorities do not overlap or duplicate current legislation.**
- 2.30 Where objections or relevant representations are made, conditions may be placed on licences or certificates where it is **considered appropriate for the promotion of the licensing objectives and the matter is not the subject of control by other regulatory regimes.**
- 2.31 Conditions may only be added to a licence following full consideration at the Licensing Act 2003 Sub- Committee where the Sub- Committee will determine the matter having regard to the evidence before it.
- 2.32 The Licensing Authority shall ensure that planning; building control and licensing regimes are properly separated to avoid duplication and inefficiency. Although licensing applications will not be a re-run of the planning application, the Licensing Authority will normally expect premises licence and variation licence applications to have the appropriate planning/building control consents in place. However, the obtaining of such permissions and consents will not be a pre-requirement for the granting of any licence under the Licensing Act 2003.
- 2.33 There is no legal basis for the licensing authority to refuse a licence application because the relevant premises does not have planning permission, or where there are conditions on the relevant planning permission.
- 2.34 The Licensing Authority recognise that there are circumstances where a planning condition has been set to determine a terminal hour for commercial purposes. Where these hours are different to the licensing hours, it is expected that the applicant will observe the earlier closing time set out in either regime.
- 2.35 As per Section 9.45 of the 182 Statutory where applications for new premises/club certificates or an amendment to premises licence/club certificates are made simultaneously with a planning application, The Licensing Authority will be open to discussions with the planning authority to agree on mutually acceptable times of operation and design.

- 2.36 It is expected that where premises are operating in breach of their planning permission that they would be liable for enforcement action under planning law.

Policy Review

- 2.37 This policy shall come into effect 1 January 2021 following consultation with all statutory consultees and will be subject to review, as the Licensing Authority considers appropriate. The policy will be re-published every 5 years unless otherwise reviewed by the Licensing Authority and revisions made to the document.
- 2.38 Where revisions are made a statement of licensing policy revisions list will be published detailing the changes. This will be relevant for minor administrative changes to correct errors or where a full consultation exercise is not necessary. The Director of Communities and Environment Services in consultation with the relevant Portfolio holder will be delegated to authorise revisions in these circumstances.

3. GENERAL PRINCIPLES OF THE POLICY

Opening Hours

- 3.1 It is recognised by the Licensing Authority that longer licensing hours for the sale of alcohol can avoid large numbers of people leaving premises at the same time, which in turn could reduce the friction at late night food outlets, taxi ranks, private hire offices and other sources of transport that can lead to disorder and disturbance.
- 3.2 Fixed trading hours within designated areas otherwise known as '**Zoning**', will not be supported as this could lead to significant movements of people across boundaries at particular times seeking premises opening later. This could also result in peaks of disorder and disturbance and undermine the crime and disorder licensing objective.
- 3.3 The Licensing Authority will deal with the issue of licensing hours **having due regard to the individual merits of each application** and where objections or relevant representations are made, conditions in respect of trading hours may be placed on the licence where they are considered appropriate to meet the licensing objectives.
- 3.4 Where an application is made to extend the current opening hours, the Licensing Authority will expect the applicant to carry out a **risk assessment** and detail in their operating schedule the measures to be taken to ensure the licensing objectives can still be met.
- 3.5 **Shops, Stores and Supermarkets** will be permitted to sell alcohol for consumption off the premises during their **normal trading hours unless there is evidence that this will not promote the licensing objectives.** .

- 3.6 The Licensing Authority may consider whether there are good reasons for restricting hours, if, for example, a responsible authority or any other person can provide evidence to show that stricter conditions should be imposed in a particular case to promote the licensing objectives.
- 3.7 The four licensing objectives will be the paramount considerations at all times and the Licensing Authority will always consider the individual merits of each case.

Cumulative Impact Assessment

- 3.8 The Licensing Authority can consider whether the number, type and density of licensed premises selling alcohol and/or providing late night refreshment is high or exceptional within a specific area, serious problems of public nuisance or disorder may occur as a result of the concentration within a defined area. The Licensing Authority can choose to publish a Cumulative Impact Assessment
- 3.8 Such an assessment creates a presumption that any new premises licences or club premises certificates as well as any variations which will add to the problems within the cumulative impact area will **normally** be refused following representation by the Police (or any other Responsible Authority) unless the applicant can demonstrate in their operating schedule that there will be **no negative cumulative impact** on the licensing objectives. Each application would be considered on a case by case basis.
- 3.9 **The Licensing Authority does not have a cumulative impact assessment in its area.**

This decision on 'cumulative impact' will be constantly re-assessed having regard to the views and evidence presented to the Licensing Authority by the Humberside Police, Public Health or information provided by other responsible authorities or the public.

- 3.10 The Licensing Authority aware of 'hot spots' in relation to some areas of the East Riding of Yorkshire, which need specific attention and these will continue to be monitored jointly by the Licensing Authority and Humberside Police as 'high risk' premises and appropriate action taken where necessary.
- 3.11 The Licensing Authority may choose, after due consultation and research, to adopt a assessment criteria relating to the cumulative impact of the number of licensed premises in a given area of the East Riding. A decision to consider an impact assessment would be fully consulted on in line with the s182 statutory guidance.
- 3.12 Evidence which may be relevant to the Licensing Authorities decision when considering this matter may but not exclusively include
- Local crime and disorder statistics, broken down into types and geographical area

- Statistics held on anti-social offences
 - Statistics from the Health Authority, including ambulance call outs, hospital submissions, referrals into addiction services.
 - Complaints recorded by Local or Licensing Authority
 - Evidence from Local Councillors, Town Councils gathered through consultation
 - Public Views gathered through consultation.
- 3.13 Cumulative Impact should not be confused with **'need'**, which relates more to the commercial demand for a particular type of premises e.g. a public house, restaurant or hotel. **The issue of 'need' does not form part of this Statement of Licensing Policy.**

Licensing Conditions

- 3.14 The Act requires licences to be tailored to the **individual styles and characteristics** of the premises and events concerned bearing in mind that the East Riding of Yorkshire is a rural area with many historic towns designed to attract local tourists into the area particularly in seaside resorts and market towns.
- 3.15 **There will be no standard conditions imposed on licences other than those imposed by the Act.** There are a number of **mandatory conditions, set out in the Act**, which will be attached to Premises Licences, which are either authorised to sell alcohol, are exhibiting films or require door supervisors.
- 3.16 Additional conditions will only be imposed by the Licensing Act 2003 Committee, where objections or relevant representations are made and it is considered **appropriate, proportionate and necessary** in order to promote one of the four licensing objectives and to reflect, as far as possible, local crime prevention strategies.
- 3.17 Conditions imposed should not be aspirational but should be practical, understandable and must be achievable for the licence holder and within his/her control without being burdensome or reliant on a 3rd party to achieve compliance.
- 3.18 Conditions must also be capable of being met. The Licensing Authority will ensure that in making any decision that any conditions added to a licence are appropriate, practical and achievable.
- 3.19 When considering the imposition of any conditions on a licence, the Licensing Authority acknowledges that the licensing function cannot be used for the general control of anti-social behaviour by individuals once they are away from the direct control of the licensee of any premises concerned.
- 3.20 Conditions added to a licence or certificate where considered appropriate must be conditions, which are enforceable by the Licensing Authority and any alleged breach of

them could result in the commencement of legal proceedings by the Licensing Authority through the Court system.

3.21 Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. The Licensing Authority will encourage applicants to use wording such as “must”, “shall” and “will”, to provide clarity. Conditions on licences must:

- be precise and enforceable;
- be unambiguous;
- not duplicate other statutory provisions;
- be clear in what they intend to achieve; and,
- be appropriate, proportionate and justifiable.

3.22 The Licensing Authority acknowledges that licensed premises must promote the 4 Licensing Objectives at all times and this remains the case were no licence conditions are proposed or imposed on a licence. The premises must still meet its legal duties, and the Licensing Authority can take formal action where promotion of the objectives is not being achieved.

4. THE LICENSING OBJECTIVES

4.1 When making an initial application or variation application, applicants will need to provide evidence to the Licensing Authority that they have carried out a risk assessment for their business and its impact on the community and that suitable and sufficient measures to achieve the licensing objectives are detailed in their operating schedule including how they will be implemented and maintained.

4.2 The operating schedule will be expected to include any additional measures which will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to, attract larger numbers of people.

PREVENTION OF CRIME AND DISORDER

4.3 Prevention of crime and disorder is both an objective of the Act and an important responsibility of the East Riding of Yorkshire Council under the Crime and Disorder Act 1998. The Council is committed to reducing crime and disorder within its boundary and helping residents and visitors to feel safe and the Licensing Authority will have regard to this commitment.

4.4 The promotion of the licensing objective to prevent crime and disorder places a responsibility on licence holders to become key partners in achieving this objective.

Applicants will be expected to demonstrate to the Licensing Authority in their **operating schedule** the practical steps they have taken to further this objective. These steps should be relevant to the premises (in and around the vicinity) or events

If the operating schedule does not address the issues of crime and disorder, the licensing authority may attach, where representations have been received, one or more conditions appropriate to promote the licensing objective.

- 4.5 In considering any application before it, the Licensing Authority shall have regard to Section 17 of the Crime and Disorder Act 1998 that requires a local authority to do all that it reasonably can to prevent crime and disorder in its locality (including anti-social behaviour and other behaviour adversely affecting the local environment) and the misuse of drugs, alcohol and other substances in its area.
- 4.6 The Licensing Authority will also look to the Community Safety Partnership on matters relating to the promotion of the crime and disorder licensing objective.

DRUGS

- 4.7 The Licensing Authority recognises that the misuse of drugs is not an issue for all licensed premises. However, it is also recognised that special measures should be taken to prevent the sale and consumption of drugs. Operating schedules will be expected to address this issue where appropriate. In the absence of adequate measures and the receipt of objections or relevant representations, conditions may be considered appropriate. The Licensing Authority will take into account the '**Safe, Sensible, Sociable**' publication or other replacement document issued by the Home Office.

CCTV

- 4.8 The Licensing Authority and the relevant Responsible Authorities would normally expect the installation of closed circuit television surveillance within all night clubs, busy bars, town centre public houses and late night refreshment venues as CCTV remains one of the most effective measures for reducing crime and disorder. Where queuing occurs at these premises CCTV should be provided to cover the queue.
- 4.9 Off licences, restaurants and other premises anywhere in the East Riding of Yorkshire area may consider the benefits of such systems in providing deterrents against crime to safeguard their own interests.
- 4.10 The Licensing Authority encourages all premises that retail alcohol on or off the premises to have an effective CCTV system installed and working at all times the premises is open for trade. Any system installed by a premises licence holder should be discussed with the Licensing Authority and advice may be taken from Humberside Police on its operation with relation to the siting of the system and its day-to-day supervision.
- 4.11 Where objections or relevant representations have been received and it is considered **appropriate** to achieve the promotion of the licensing objectives the Licensing Authority may require some premises to have an effective CCTV system installed . It

remains the responsibility of the premises to comply with all relevant laws and guidance which cover the use of CCTV. These include, but are not limited to the Information Commissioner's Office, CCTV Code of Practice.

- 4.12 Video recordings of identifiable living individuals constitute personal data and therefore storage should be limited to what is necessary. For the purposes of complying with this policy individual CCTV systems should, retain recording materials for a minimum period of **28 days**. It is accepted however that in some cases, for example new digital recording CCTV systems due to the quality of the data obtained may not be able to store recording materials for this amount of time. If this is the case the **Designated Premises Supervisor (DPS)** should inform the Licensing Authority of the time period for which video footage can be stored. If an incident takes place on the premises and it is deemed necessary to store the recording materials for a longer period of time, it must be done so securely. Removal of the recording materials and their safe storage will be the responsibility of the **Designated Premises Supervisor (DPS)**.
- 4.13 Recording equipment and/or recorded materials should be made available to the police or an authorised officer of the Licensing Authority for immediate viewing or as requested for the detection or prevention of crime purposes or safeguarding, where deemed **appropriate** to do so. These officers may remove the recording equipment and materials or formats in order for copies to be made. Recording equipment and/or materials required for investigation shall not be allowed back into use until the Investigating Officer gives permission in writing to do so. It remains the responsibility of the premises to ensure that it is satisfied requests for recording materials comply with all relevant laws and guidance.

DOOR SUPERVISORS

- 4.14 The Licensing Authority and the relevant Responsible Authorities recognise the value of a high standard of door security in controlling crime and disorder and public safety.
- 4.15 The times during which door supervisors are employed and the number considered necessary is a business matter for the premises holder and designated premises supervisor to address when promoting the four licensing objectives.
- 4.16 The Licensing Authority would, where appropriate, normally expect the operating schedule to indicate if door supervisors are to be provided on the premises and at what level. Discussions between the applicant, responsible authorities and Licensing Authority would be helpful to ensure adequate cover is available at key times.
- 4.17 Where objections or relevant representations are made, the Licensing Authority may consider that certain premises require additional supervision for the purpose of promoting the reduction of crime and disorder licensing objective. In such cases the Licensing Authority may impose a condition that door supervisors must be employed at the premises either at all times or at such times as is considered appropriate to

promote the reduction of crime and disorder objective whilst certain licensable activities are being carried out.

- 4.18 Door Supervisors, must be registered by the Security Industry Authority (SIA) until replaced by a similar 'code of practice for door supervisors'
- 4.19 Licence holders are encouraged by the Licensing Authority to consider the use of door supervisors on days when custom may be affected by a special event at the premises or within the local area, where the maximum occupancy of a premises is anticipated or where dancing is permitted after midnight. Special risk events include adult entertainment, pugilistic events, race days or a demonstration of hypnotism.

TAKING OF GLASS BOTTLES AND DRINKING GLASSES FROM PREMISES

- 4.20 Glass bottles and drinking glasses taken from premises have the potential to be later used as offensive weapons. Applicants may wish to include in their operating schedule the measures that they have put in place to prevent open glass bottles and glasses being taken from their premises or alternatively what additional measures they have in place to promote the licensing objectives if glass bottles and glasses are used in outdoor areas. Consumption areas should be clearly identified on the plan of the premises
- 4.21 The Licensing Authority supports the use of polycarbonate glasses for special events including large outdoor events but recognises that in some cases this may not be appropriate or practical.
- 4.22 Where the consumption of alcohol immediately outside a premise is prohibited the Licensing Authority will expect licence holders to take steps to ensure that customers do not take glasses containing alcohol or open alcohol containers purchased in their premise into this area.

UNDER AGE SALES

- 4.23 The Licensing Authority takes the sale of alcohol to minors seriously and would expect applicants to demonstrate in their operating schedule that effective controls are in place to prevent underage activities and in line with the mandatory condition indicate the scheme adopted for verifying ID on their premises.
- 4.24 As young people can look older than their actual age, the Licensing Authority shall encourage licensees as a minimum to adopt a Challenge 21 Policy to challenge those people who appear to be under 21 in order to be certain that no sales of alcohol to under 18s take place and record this in a refusals book/log, additional advice can be obtained from East Riding Of Yorkshire Council Licensing Authority and the Food Standards (Weights and Measures) Team.
- 4.25 It is accepted that there are ongoing issues of persons obtaining alcohol on behalf of individuals under 18, called 'proxy sales' and the Licensing Authority are continuing to

work in partnership with East Riding of Yorkshire Council Weights and Measures Team, Humberside Police and East Riding of Yorkshire Council's Safer Communities to try to tackle this issue.

- 4.26 Adequate training of staff should be in place to prevent the sale of alcohol to children and licensees are encouraged to participate in the Licensing Authority's 'Check it, Pass it, Record it' CPR Scheme to evidence these checks are carried out and that an auditable record is available as evidence.

4.27 EXCESSIVE ALCOHOL CONSUMPTION

Excessive or binge drinking is a direct contributor to crime, disorder and anti-social behaviour and public health issues. The Licensing Authority and the relevant Responsible Authorities would normally expect operating schedules to indicate the measures proposed to reduce the possibility of excessive consumption of alcohol by individuals in the premises and would require staff training provisions to be provided in this regard.

PUBLIC SAFETY

- 4.28 The Licensing system should protect the safety of those visiting and working in licensed premises, whilst also protecting residential and business amenity. All licensed premises within the East Riding of Yorkshire should be safe, well managed and maintained.
- 4.29 Applicants will be expected to demonstrate in their operating schedule that practical steps have been taken to further this objective.
- 4.30 The Licensing Authority is committed to ensuring public safety across the East Riding of Yorkshire Council's area by working in close partnership with the Humberside Police, Humberside Fire and Rescue Service, Public Health and licensees.
- 4.31 When addressing the issue of Public Safety, an applicant must demonstrate that those factors that impact on public safety have been considered.
- 4.32 A safe capacity is essential for the promotion of public safety and, in particular, to ensure the building can be safely evacuated in the case of an emergency. A safe capacity also contributes towards the Crime and Disorder objective by ensuring reasonable space is available to customers, and others.
- 4.33 It is advised that the operating schedule should indicate the maximum safe capacity level for their premises and the management arrangements to ensure it is not exceeded. This can be achieved through a risk assessment of the premises or a recommendation from Humberside Fire Authority, and should take into account numbers of staff on the premises. In line with S182 guidance they should send their suggested capacity limits to Humberside Fire Authority with their application for this to be agreed.

- 4.34 Where objections or relevant representations have been made, which relate to one or more of the licensing objectives, the Licensing Authority will attach no licensing condition to a licence or a certificate which conflicts with or duplicates the requirements of the Equality Act 2010. The Act requires that reasonable adjustment be made to facilitate access, this does not however compromise the need for safe evacuation procedures. The Local Authority encourages all premises licence holders to seek information and advice on the Equality Act 2010.

PREVENTION OF PUBLIC NUISANCE

- 4.35 Responsible applicants will wish to ensure their operations do not disturb their neighbours or give rise to representations being made against a licence application. It is important that applicants are able to demonstrate to the Licensing Authority the practical steps that will be taken to promote this objective. The Licensing Authority would expect licence holders to consider hours of operation when compiling their operating schedules as tolerance to disturbance is likely to be reduced at certain times and days. The later into the night the operation continues the greater the likelihood of public nuisance being caused.
- 4.36 The Licensing Authority will take an objective view as to the potential for public nuisance particularly where licensed premises are operating in close proximity to residential properties. Operating schedules should address the issue of potential public nuisance.
- 4.37 Where objections or relevant representations have been made and it is considered appropriate in order to fulfil this licensing objective appropriate conditions may be imposed, as the Licensing Authority deems appropriate, for individual premises.
- 4.38 The Licensing Authority will consider all proposed control measures to prevent public nuisance.

PROTECTION OF CHILDREN FROM HARM

- 4.39 The Act provides specific protection for children from the sale or provision of alcohol and the provision of regulated entertainment. The protection of children from harm is therefore an important licensing objective.
- 4.40 The Licensing Authority works alongside the East Riding Safeguarding Services to ensure that appropriate protections are in place to protect children from harm on licensed premises. This includes identifying any risk to safeguarding and child criminal/sexual exploitation whilst children are on the premises and putting relevant controls in place.
- 4.41 The Licensing Authority is committed to protecting children from harm. It is hoped that family friendly premises will thrive, but the risk and the prevention of harm to children remains of importance when determining applications. Where children are to be admitted to premises, applicants will need to demonstrate in their operating schedule

they have considered, and put in place as appropriate, measures to ensure that the licensing objective of protection from children from harm is met. For the purpose of this policy a 'child' is defined as **any person under the age of 18 years**.

- 4.42 Where objections or relevant representations have been received and it is considered appropriate to achieve the licensing objectives the Licensing Authority may impose conditions limiting the access of children or excluding them altogether from licensed premises.
- 4.43 When considering whether or not to limit access to children the Licensing Authority **will judge each application on its own merits**. Examples of premises, which may give cause for concern, are those where:
- There have been convictions for serving alcohol to those under 18 years of age
 - There is evidence of regular under-age drinking activity
 - There is a known association with drug taking or dealing
 - There is a strong element of gambling taking place
 - Entertainment of an adult or sexual nature is commonly provided
 - There is evidence of safeguarding concerns or child sexual/criminal exploitation taking place on the premises or associated with the premises.
- 4.44 In the case of Licensed Premises being used for film exhibitions, the Licensing Authority will require licensees to restrict the access of children from viewing age- restricted films classified according to recommendations of the British Board of Film Classifications or the licensing authority as appropriate.
- 4.45 The British Board of Film Classification guidelines for awarding an R18 certificate can be viewed at www.bbfc.co.uk and select the R18 logo.
- 4.46 In addition to restricted access, other options for limiting access of children can be adopted in combination and may include:
- Limitations on the hours when children may be present
 - Limitations on the exclusion of the presence of children under certain ages when specified activities are taking place
 - Age limitations (below 18)
 - Requirement for accompanying adults.
 - Limitations on the areas of premises to which children might be given access.

These matters should be clearly demonstrated in the operating schedule when an application is made.

This list is not exhaustive and is only for guidance.

- 4.47 No conditions will be imposed relating to these matters unless objections or relevant representations are received and a Licensing Sub-Committee determines that such a condition is appropriate to fulfil one or more of the licensing objectives.
- 4.48 The Licensing Authority expects that licence holders contribute to this element by ensuring that age related checks are carried out and that the recommendation is that the forms of proof of identification accepted would include passport, driving licence and the Proof of Age Standards Scheme (PASS card).
- 4.49 All premises licensed to sell alcohol must have an age verification policy in place requiring them to check the ID of anyone who looks under 18 to prevent underage drinking which can lead to antisocial behaviour and put young people at risk of harm. This is a mandatory condition of the licence. The Licensing Authority recommends a minimum policy of 'Challenge 21'.
- 4.50 The Licensing Authority will not impose any condition requiring licensed premises to admit children. Where no licensing restriction is appropriate, the admission of children will be a matter for the discretion of the licensee or club. This is subject to the requirement that a person over the age of 18 years accompanies any child under 16 years of age, where the **primary or exclusive purpose** of the business is the supply and consumption of alcohol.
- 4.51 Licence holders are advised to display in a prominent position on the exterior of their premises a sign indicating their opening hours and also whether children are allowed access to those premises and any time restrictions in place.
- 4.52 Where large numbers of children are likely to be present on any licensed premises for the purposes of regulated entertainment, for example a pantomime, junior disco or children's show, the Licensing Authority expects the operating schedule to specify an adequate ratio of numbers of adults to children, in order to ensure the prevention of harm to the children.
- 4.53 The Licensing Authority will have particular regard to representations from The Director of Children, Family and Schools Services when determining whether the measures proposed are sufficient to ensure that children are adequately protected from harm.
- 4.54 In recognising the importance of the issue of underage drinking, applicants are advised to consider the arrangements that they have in place to prevent sales of alcohol to children, except as provided for by the Act.
- 4.55 Where there is children's play areas on the premises and children are asked to remove their footwear, the Licensing Authority actively encourages applicants to consider that glass containers should not be used in those particular areas for reasons of safety.
- 4.56 All licence holders and their staff should have a basic awareness of child protection and safeguarding issues. This includes:

- Being alert to the possibility of child abuse , child criminal and/or sexual exploitation and neglect, i.e. the definition, prevalence, identifying features in a child or adult, legal parameters and social consequences;
- Having enough knowledge to enable staff to recognise an abusive or potentially abusive event or set of circumstances;
- Knowing who in the company and Council to raise concerns with;
- Being competent in taking the appropriate immediate or emergency action, and;
- Knowing how to make a referral to LA Children's Social Care and/or the Police.

4.57 Recommended best practice is for the licence holder to designate themselves or a senior staff member to have the following responsibilities* in relation to safeguarding children for the licensed premises - to:

- Arrange safeguarding children and recognition of child sexual exploitation training for all staff;
- Monitor and report on whether all staff have received the minimum (initial and refresher) safeguarding children and recognition of child sexual exploitation training;
- Provide advice and support to staff when they have a concern about safeguarding a child;
- Record all concerns raised by staff; and
- Be the contact person for the LA Children's Social Care, Safeguarding Unit and the Police in relation to all incidents or concerns related to the safeguarding of children on or linked to the premises.

* This list is not exhaustive

5. ENTERTAINMENT AND LIVE MUSIC ACT 2012 & DEREGULATION ACT 2015

- 5.1 The Licensing Authority will ensure that proper account will be taken of the **need to encourage, promote and monitor** the impact of live music and dancing, theatrical performances, circuses etc for the wider cultural benefit of the community.
- 5.2 Any conditions imposed on licences will not, therefore, discourage the promotion of such entertainment unless appropriate for the promotion of the licensing objectives. **The Licensing Authority will carefully balance the cultural needs with the necessity to promote the licensing objectives.**
- 5.3 In the case of **circuses**, the Licensing Authority recommends organisers contact them in the first instance in order to ascertain whether or not a Temporary Events Notice is required. The Licensing Authority however recognises that live music and dancing may be considered as ancillary to the circus performance and therefore each application will be considered on its own merits.
- 5.4 Although no longer a licensable activity, it is recognised that dancing in crowded areas highlights the potential for violence and public disorder. Licence holders should consider sensible precautions and good practice by carrying out a **risk assessment** to :-
- Clearly define the dance area in terms of construction
 - Locate the dance floor away from the bar area, toilets and exits wherever possible
 - Provide signs to prohibit drinking on the dance floor where considered appropriate by the licence holder
 - Cover the dance floor with a CCTV camera and ensuring adequate staff supervision of dancers,
 - Provide a safe location for the DJ or artists,
 - Identify the potential of using special effects and lighting
- This list is not exhaustive.** Conditions may, however, only be imposed where relevant representations have been made and a Licensing Act 2003 Sub-Committee determines that specific conditions are **appropriate in any individual case** to ensure that one or more of the licensing objectives are met.
- Further advice can also be sought from the Council's Health and Safety Team and Licensing Team on this matter.**
- 5.5 Exemptions to the licensing of regulated entertainment are shown at *Appendix 2* of this policy statement
- 5.6 Small community street parties and fetes may not need a licence to provide entertainment under the Licensing Act 2003. Further advice can be sought from the Licensing Team or from www.streetparty.org.uk

Live Music Act 2012 and other Entertainment Licensing Deregulation

- 5.7 The Live Music Act is designed to encourage more performances of 'live' music and removes the licensing requirements for:
- Amplified 'live' or recorded music between 8am and 11pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises.
 - Amplified live or recorded music between 8am and 11pm before audiences of no more than 500 people in workplaces not otherwise licensed under the Act (or licensed only for the provision of late night refreshment)
 - Unamplified 'live' music between 8am and 11pm in all venues
 - The provision of entertainment facilities
- 5.8 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing conditions following a review.
- 5.9 When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merits. There will be inevitably a degree of judgement as to whether a performance is live music or not, so organisers are encouraged to check with the licensing authority if in any doubt.
- 5.10 Further de-regulation which is effective from April 2015 will add the following as activities which can take place without an authorisation in place between 8am and 11pm each day
- A performance of a play in the presence of any audience of no more than 500 people
 - An indoor sporting event in the presence of any audience of no more than 1000 people
 - A performance of dance in the presence of any audience of no more than 500 people

6. PROVISION OF LATE NIGHT REFRESHMENT

- 6.1 It is recognised that in most cases late night refreshment premises do not adversely impact on the licensing objectives and can assist with managing the night time economy, providing refreshment for those in drink.
- 6.2 Where late night refreshment (hot food or hot drink) is provided for consumption either on or off the premises between the hours of 11p.m and 5a.m 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.

- 6.3 The Licensing Authority would actively encourage takeaways and late night refreshment houses to have a responsible policy for the regular clearing of litter from outside their premises whilst the premises is open and as the premises is about to close.
- 6.4 **Where an applicant wishes to sell alcohol in such an establishment,** The Licensing Authority recommends the Operating Schedule set out specific measures to ensure the prevention of crime and disorder in the vicinity of the premises and the protection of children from harm in relation to provision of alcohol by means of a delivery service. A Challenge 21 or similar scheme would be appropriate.
- 6.5 Following the Deregulation Act in 2015, Licensing Authorities have the discretion to exempt some types of premises from the need to be licensed for late night refreshment. No exemptions are in force in this area, all premises are required to hold late night refreshment provisions between 23.00-05.00 hours if applicable as these are key operating hours in the night time economy.

7. PREMISES LICENCES

The Licensing Authority encourages all applicants to discuss their proposals informally with the licensing authority and the Responsible Authorities at an early stage before an application is submitted to the Licensing Authority. This would identify potential problems, provide informal advice on the application and help to build good partnership working. It may also reduce the need for a Hearing at a later stage.

Any person aged over 18 years; a business or partnership may apply for a Premises Licence.

In order to confirm the validity of an application, where an application is made on behalf of an individual by a solicitor or other authorised agent, it is the responsibility of the solicitor or authorised agent/consultant to provide evidence to the Licensing Authority that they have been given the authority to make that application if requested to do so by the Licensing Authority.

- 7.1 All sales or supplies of alcohol to the public are now a licensable activity under the Act. Therefore there will be a need for a **Premises Licence** and a **Designated Premises Supervisor** who holds a **personal licence** where such transactions take place.
- 7.2 For **Internet and mail order** sales a Premises Licence will be required for the warehousing/storage of the alcohol for dispatching. However the call centre where the order was placed would not be licensable.

- 7.3 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 LA may request an applicant to provide statistical information to establish primary use. Where there is insufficient evidence to establish primary use the LA shall decide whether to grant the licence and deal with any issues through enforcement action or defer granting the licence until the primary use issue can be resolved to the LA's satisfaction. *R (Murco Petroleum Limited) v Bristol City Council 2010* addresses the issue of LA's compelling applicants to answer questions and to supply relative turnover figures if requested to do so. The LA's role is not merely adjudicatory, it may take a more inquisitorial stance.
- 7.4 **Vessels or ships** are licensable by the Licensing Authority where they are normally moored.
- 7.5 Where appropriate and in order to promote the four licensing objectives the Council may consider seeking Premises Licences from the Licensing Authority for public spaces or buildings it owns within the community in its own name. Such areas could include sea fronts, village greens, market/town squares. This will encourage and promote festivals, carnivals and similar events in the East Riding of Yorkshire area. Performers will not have to obtain a licence or serve a Temporary Event Notice themselves to facilitate a performance in these areas but will need the permission of the local authority as Premises Licence holder.
- 7.6 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.
- 7.7 Church and chapel halls, schools and sixth form colleges, parish halls, community centres and village halls providing regulated entertainment will require a Premises Licence but **may not** have to pay a licence fee unless they are selling alcohol on the premises. The Licensing Team can be contacted for advice on this matter. There is also an exemption for the need for a designated premises supervisor on community premises where alcohol is sold.
- 7.8 **Operating Schedules**
- The operating schedule should include information which is appropriate to enable Responsible Authorities or relevant persons to assess whether the steps to be taken to promote the licensing objectives are satisfactory and have been fully addressed. A well-drawn specific operating schedule indicates that an application understands and is prepared to meet the responsibilities of a licence holder under the Act. The Authority considers that a blank or sparsely completed operating schedule may give the impression that the applicant has given inadequate thought to the responsibilities of a licence holder.
- 7.9 The key to compliance with the four licensing objectives is the **operating schedule** for licensed premises.

- 7.10 The operating schedule will determine the conditions that set out the manner in which the business will be run.
- 7.11 The Licensing Team will work with the licensees and applicants to minimise the number of disputes that may arise in this area by providing advice and guidance on the completion of the schedules. **The responsibility for drawing up the operating schedule rests with the applicant who is encouraged to seek guidance from the Licensing Team and Responsible Authorities at an early stage of the application.**
- 7.12 Any individual preparing an operating schedule is free to volunteer any measure as a step he or she intends to take to promote the licensing objectives.
- 7.13 **The operating schedule must include:**
- Relevant licensable activities to be conducted on the premises
 - Details of days and times during which it is proposed that the licensable activities are to take place
 - Any other times when the premises are to be open to the public for non-licensable activities.
 - Where the licence is required only for a limited period, that period must be specified
 - Where the activities include the sale of alcohol the name and address of the Designated Premises Supervisor.
 - Where alcohol is to be supplied, whether it is to be consumed on or off the premises or both.
 - Any steps the applicant proposes to promote the licensing objectives.
 - The arrangements in place for restricting access for children to restricted films.
 - The plan of the premises to include all requirements of the Act and clearly identify licensed activity areas and consumption areas.

It is advised that the operating schedule should indicate the occupancy level of that premises in order that the fire authority can assess the issue of public safety on the premises.

- 7.14 The operating schedule must specify **all types of entertainment**, which will take place at the premises. If there is dancing on the premises the operating schedule must specify the type of dancing and whether this will include dancing by members of the public, lap dancing, strip tease, professional performers and in what setting.

8. PERSONAL LICENCES

- 8.1 Personal licences 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-out of that activity. Although there is no requirement that

there is more than one personal licence holder for individual premises, the Licensing Authority encourages Premises Licence holders where alcohol is being sold to consider whether there are **sufficient personal licence holders present at the premises** to ensure adequate supervision of the sale of alcohol.

- 8.2 The Licensing Authority will require one of the personal licence holders to be a **Designated Premises Supervisor (DPS)**. The main role of the DPS being to ensure that there is always one specified individual who can be readily identified at the premises in cases of emergency, and who is normally in charge of the day-to-day running of the business. However the Licensing Authority accepts that for operational reasons this may not always be the case.
- 8.3 Within the operating schedule for premises from which alcohol will be sold, a DPS must be identified. The Licensing Authority will expect the DPS to have been given day-to-day responsibility for running the premises by the holder of the Premises Licence whilst the DPS is named on the licence.
- 8.4 Where the DPS is not available at the premises for whatever reason, the Licensing Authority will require that details of where the DPS can be contacted to be available at the premises. The Premises Licence will specify the name of the DPS. It is the responsibility of the licensee to notify the Licensing Authority immediately of any change of the DPS. The Licensing Authority commends to Designated Premises Supervisors membership of the local Pub watch scheme, the Licence Victuallers' Association or any similar scheme.
- 8.5 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls) Order 2009 amended the Act and allows certain community premises which hold a premises licence that authorises alcohol sales to apply to have the alternative licence condition added to the licence therefore not requiring specification on the licence of a designated premises supervisor.
- 8.6 The Licensing Authority encourages Village halls and Community Centres to apply as the 'management committee' and take responsibility for all sales of alcohol made pursuant to the licence.
- 8.7 All such sales will be made or authorised by the licence holder and there will be no requirement for a DPS or for alcohol sales to be authorised by a personal licence holder.
- 8.8 Whilst the Licensing Authority recognises that it is not a requirement of the 2003 Act, it would be good practice for the Personal Licence holder to give specific **written and dated authorisation to individuals** since they are more likely to be able to demonstrate due diligence. Whilst the Designated Premises Supervisor (DPS) and Personal Licence holder may authorise sales in their absence, they still remain responsible for those sales.

- 8.9 Any individual may seek a personal licence whether or not they have current employment or business interests involving the sale of alcohol.

Personal Licence Holder – Convictions

- 8.10 If an applicant has a relevant conviction the police can object to the application. If an objection is lodged then a Licensing Act 2003 Sub- Committee will determine the application. The Sub- Committee will determine each case on its own merits.
- 8.11 Where a personal licence holder has been convicted by a court of a relevant offence, the court will advise the Licensing Authority.
- 8.12 The Personal Licence holder has a duty to inform the Licensing Authority of any relevant convictions as soon as they are convicted of the offence.
- 8.13 In line with the Policing and Crime Act 2017, upon receipt of confirmation that a personal licence holder has been convicted for a relevant and/or foreign offence or received a civil penalty for immigration matters, the Licensing Authority can engage its discretion to revoke the licence or suspend the licence for a period of six months. Matters of this nature will be placed before the Licensing Act 2003 Sub-Committee for determination.
- 8.14 The Licensing Manager or Senior Licensing Officer will process the notice period for such a hearing, and collate any representations from the licence holder, Humberside Police or Home Office Immigration service as applicable. The licence holder will be given a minimum of 28 days to make formal representation to the authority. If the authority determines not to revoke/suspend the personal licence it will give Humberside Police or the Home Office Immigration Service 14 days to make representations back to the licensing authority.

9. TEMPORARY EVENTS NOTICES (TEN)

- 9.1 The system of permitted temporary activities is a ‘light touch’ process, and as such, the carrying on of licensable activities is not authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on gives notice of the event (a “temporary event notice” or TEN)

The Licensing Authority, Humberside Police and the local authority exercising Environmental Health (EH) functions must be notified, using the Temporary Events Notice (TEN) procedure, of **temporary or occasional events, which do not require a premises licence.**

- 9.2 A TEN is a notice enabling the temporary sale of alcohol or the provision of regulated entertainment or late night refreshment at premises not authorised by a Premises

Licence or club premises certificate. **Where an application is made to the local authority then the Licensing Authority must acknowledge it within 1 working day or a counter notice issued.**

9.3 A Temporary Events Notice

- The duration is limited for a maximum period of **up to 168 hours or 7 days**
- The event will involve the presence of **not more than 499 people** at any one time
- The same premises can be used for up to **15 occasions** in one calendar year commencing 1st January but the aggregate number of days **must not exceed 21 in total**
- A **personal licence holder** is limited to **50 TEN's** per year at premises that are not already licensed
- A person **not holding a personal licence** is limited to **five TEN's** per year
- A personal licence holder is limited to **10 Late TEN's** each year
- A non-personal licence holder is limited to **2 late TEN's** each year.

9.4 If the above criteria are not fulfilled, an event at which licensable activities are to take place will require a Premises Licence or Time Limited premises licence.

9.5 The police and EH can only object or modify the arrangements for TEN events if the event is **likely to undermine the licensing objective**. The Licensing Authority will reject the application, if the limits on the number of Notices that may be given in various circumstances, as outlined in the Act have been exceeded.

9.6 Humberside Police or EH may make representation to a TEN by the 'giving' of an Objection Notice to both the Licensing Authority and the Applicant. Valid Objection Notices must be 'given' to both the LA and the Applicant within 3 working days of receiving the TEN. Where a valid objection is received then a Hearing will be necessary to determine the matter unless the Objection Notice has been withdrawn by the Police or EH. . There is no scope for a hearings in respect of late TENs and if objections are raised by the Police or EH in relation to a late TEN, the notice will be invalid and the event will not go ahead.

9.7 Organisers of Temporary Events are encouraged to submit their TEN as soon as it is reasonably practicable to enable Humberside Police, EH and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

9.8 The Act states **at least 10 working days notice** must be given; the less time that is given may increase the possibility of the Police objecting to the Notice. The Licensing Authority recommends that **at least 21 working days** notice be given to hold such events to allow assistance to be given to organisers to plan events safely in particular larger events involving over 100 persons.

9.9 Late TEN's may be given between 5- 9 working days before the Event.

- 9.10 For events **involving more than 499 people** a **Premises Licence** will be required for a limited time. Where the sale of alcohol is involved there must be a **Designated Premises Supervisor** specified on the application, who must be a **Personal Licence holder unless the event is at a community premises and the exemption for the DPS requirement is in place.**
- 9.11 **Organisers of Temporary Events should contact the Licensing Section, EH and the Police for advice at an early stage.** In the event of an objection from the Police, the Licensing Authority will hold a hearing not less than 24 hours before the event is due to take place unless the criteria in 9.3 above are exceeded in which case a Counter Notice will be issued.
- 9.12 Notices received by the Licensing Authority containing obvious and minor factual errors will not normally be returned to the applicant if they can be easily amended by the Licensing Authority.
- 9.13 Where a TEN is being used for an outdoors event then the person submitting the TEN is encouraged to consider the use of plastic containers for consumption of alcohol purposes and consider the impact on surrounding premises in the immediate vicinity if outdoor entertainment is planned.
- 9.14 Organisers of TEN's should be aware that, although a licence or authorisation may not be needed under the Licensing Act 2003, other legislation might apply. This can include:
- Health and Safety at Work etc Act 1974
 - Regulatory Reform (Fire Safety) Order 2005
 - Environmental Protection Act 1990

10. PROVISIONAL STATEMENTS

- 10.1 Applicants may apply for a Provisional Statement for premises that are being constructed for the purposes of being used for one or more licensable activities or are being extended or otherwise altered for that purpose (whether or not they are already being used for that purpose).

11. CLUB PREMISES CERTIFICATES

- 11.1 Qualifying clubs are organisations whose members have joined together for particular social, sporting or political purposes and then combine to buy alcohol in bulk as members. There are therefore technically no sales of alcohol by the club at such premises.
- 11.2 This should not be confused with **proprietary clubs** which are clubs run commercially by individuals, partnerships or businesses for the purpose of profit and which will require a Premises Licence.

- 11.3 In order for qualifying clubs to supply alcohol and provide other licensable activities on club premises a Club Premises Certificate is required. There is no requirement to specify a Designated Premises Supervisor. The Licensing Authority will require the Club Secretary's contact details to be readily available in the event of an emergency.
- 11.4 Section 61 of the Act specifies qualifying conditions that the Licensing Authority must be satisfied have been met including evidence that the club is **non-profit making** and that there is a minimum of **48 hours delay** between application and acceptance of new members.
- 11.5 The Licensing Authority will require the Club to produce a **Club Operating Schedule** that demonstrates how it will promote the licensing objectives
- 11.6 Where a club intends to admit the general public to a regulated entertainment event or hire out its function room to the general public then a premises licence or Temporary Events Notice is required.

12. MINOR VARIATIONS

- 12.1 Premises Licences and Club Premises Certificates granted can be amended in line with a simplified process by licence/certificate holders where the changes are small and will not **impact adversely on the licensing objectives**. These applications were introduced to reduce burdens on applicants and Responsible Authorities.
- 12.2 The Licensing Authority will accept minor variations for
- Minor changes to structure/layout of premises
 - Removal of a licensing activity
 - Addition of a licensable activity, **other than the sale of alcohol**, which will require a full variation to be made.
 - Small adjustments to increase licensing hours- activities **other than sale of alcohol**
 - Small adjustment to alcohol sale hours between 07.00-23.00 hours, subject to their being no increase in sale duration.
 - Removal of outdated, unenforceable or irrelevant conditions on the licence or the addition of volunteered conditions

In all cases the overall test for the Licensing authority will be whether the proposed variation could **impact adversely** on any of the four licensing objectives

- 12.3 **Changes in relation to the increase in sale of alcohol hours or addition of sale of alcohol licensable activity will need to be made by a full variation application.**

- 12.4 These applications are not required to be advertised in the local newspaper and have a shorter application timeframe.
- 12.5 Delegation is given to Officers under the Act and under specific delegation the responsibility lies with the Licensing Manager and Senior Licensing Officers to consider such applications and determine whether the change requested is *likely to impact adversely on the promotion of the licensing objectives*.
- 12.6 Applicants should contact the Licensing Team before making any minor variation application to discuss whether a minor variation would be the appropriate application to make.
- 12.7 Where the Licensing Authority does not feel it has the ‘expertise’ to make a decision on the application and whether there could be an adverse impact on the licensing objectives then it may seek specialist advice from an appropriate Responsible Authority before determining the matter.
- 12.8 When considering the application and in making its decision on whether a minor variation is appropriate the LA will consider the following factors: -
- The nature of the licensable activity applied for
 - How substantial the change of plan is
 - Proximity of premises to residential and business areas
 - Track record of the premises-both negative and positive
 - Complaints made against the premises which are founded
 - Proximity and density of other public houses/nightclubs

Where premises have a proven track record or history of problems/incidents or complaints against them, and the Licensing Authority is aware of these, it will normally consult with the relevant Responsible Authority when the application is received.

This is not an exhaustive list. The Act requires the Licensing Authority Licensing Officers to bring their own experience and knowledge of licensing and local premises/local area to bear when considering applications made.

13 MAKING APPLICATIONS

- 13.1 The Licensing Authority will issue and make readily available on its website, advice and guidance on all issues relating to the licensing policy and the procedures it requires for making applications for licences and will from time to time review such guidance. Contact details for applications, advice and addresses of the responsible authorities are available on the Council's website www.eastriding.gov.uk and detailed in the Licensing Authorities Application Guidance notes

Pre- Application Advice Services

- 13.2 The Licensing Authority offers a bespoke pre-application advice service to new applicants or existing licence holders who wish to vary their licences. The service is bespoke to all circumstances of an individual premises and includes the following if applicable
- A site visit to the proposed premises, with consideration to ensuring all plan requirements are lawfully met, and
 - Advice on suggested controls and measures for the operating schedule to promote the four licensing objectives.
 - One to one technical advice from an experienced licensing officer, covering the application criteria, procedures and all statutory time frames associated with making the application.
 - Provision of relevant notice templates and wording for advertising of applications
 - Advice on good practice and guidance on controls and measures to meet and continue to uphold the licensing objectives.
 - Circulation of completed application to Responsible Authorities
- 13.3 All pre- application services are chargeable at competitive rates and the rates for these discretionary services will be reviewed each year and published on the Councils website (www.eastriding.gov.uk) All requests for pre-application advice should be made through the single point of contact for business advice at public.protection@eastriding.gov.uk
- 13.4 The Licensing Authority is aware it cannot pre-determine any application made, and all applications will and must be subject to the statutory consultation procedures before a licence is granted.
- 13.5 The pre-application service is a discretionary service for applicants and licence holders and does not guarantee the success of any application made for a new application or for variation of existing licences. There will be no disadvantage to any applicant who submits an application without using the pre-application service.
- 13.6 The Licensing Authority will ensure all applications made are processed and granted by a separate officer to the officer who carried out the pre-application advice service, to ensure a clear separation in duties and ensure 'chinese walls' are in place.

Community Engagement/ Representations

- 13.7 A person making an application for a Premises Licence or Club Premises certificate or to vary an existing licence **must send copies to the responsible authorities**. In the case of all premises, information is available on the council's website www.eastriding.gov.uk or by e mailing licensing@eastriding.gov.uk

- 13.8 The notice must include the following:
- a copy of the application form,
 - the operating schedule and a plan of the premises.
 - if the application form includes the supply of alcohol, a form of consent from the individual who is to be specified as the Designated Premises Supervisor must be included.
- 13.9 An application for the grant or variation of a Premises Licence must be **advertised in a local newspaper circulating in the vicinity of the premises and also be clearly displayed on or near the premises for a period of at least 28 consecutive days from the date the application is validated by the Licensing Authority**. The content of the advertisement must use the terms and descriptions of the application prescribed by any Regulations made under the Act.
- 13.10 The application will also be advertised on the Council's website and details from the Licensing Public Register will be updated regularly
- 13.11 Should discrepancies be found in advertising requirements either during the representation period or following the grant of the licence then the Licensing Manager will determine any appropriate action necessary and the application may have to be re advertised.
- 13.12 Applicants are encouraged to demonstrate that satisfactory consultation has been completed by providing the local authority with proof of service on the responsible authorities (unless the application was made in an electronic format) and copies of the appropriate pages of the local newspapers.
- 13.13 The receipt of any applications made under the Act will be notified on the Council's web site www.eastriding.gov.uk and recorded on the **Licensing Act 2003 Register**.
- 13.14 In light of changes to the law regarding the EU Services Directive for on line applications the Licensing Authority must be in a position to accept online and electronic applications, however all relevant documents must be supplied together with the appropriate fee. The Licensing Authority shall continue to accept all hard copy applications which will be treated in line with the relevant regulations. All applications and relevant documentation must continue to be submitted in their entirety and not in piecemeal form to avoid the potential for any errors or confusion.
- 13.15 Electronic applications made using forms on Gov.uk link will be accepted by the Licensing Authority and the application will be deemed to have been 'given' to the LA on the day the notification is sent from Business link and the fee paid.
- 13.16 Where possible, the Licensing Authority shall aim to assist the applicant in correcting any minor factual errors in their application, however, the Licensing Authority shall not consider potential breaches of Regulations, or errors which could result in changes to

consultation dates, as a 'minor' error and the interpretation of obvious and minor factual errors shall rest with the Licensing Authority.

- 13.17 Applications received through Gov.uk link will be copied and forwarded to all Responsible Authorities no later than the first working day after the application is given to the LA. Any part of the documentation submitted in writing will remain the responsibility for the LA to copy to the Responsible Authorities.
- 13.18 Applications made and received electronically by the Licensing Authority on its own electronic online facility or by E mail to licensing@eastriding.gov.uk are deemed to be 'given' when the Applicant has submitted a complete application form and paid the appropriate fee. The Licensing Team will forward electronic copies of the forms to the Responsible Authorities within 1 working day of receipt of the application.
- 13.19 The Licensing Authority will support and encourage the submission of applications using the ERYC online application form and payment portal which can be found at www.eastriding.gov.uk/licensing.

14. THE ROLE OF RESPONSIBLE AUTHORITIES

- 14.1 Responsible Authorities under the 2003 Act are automatically notified of all new and variation applications and where relevant; minor variation applications. All responsible authorities can make representations regarding applications for licences and club premises certificates and full variation applications, it is however the responsibility of each responsible authority to determine first whether they have appropriate grounds for doing so.

14.2 REPRESENTATIONS FROM THE POLICE

The Licensing Authority recognises that the police should be its main source of advice on the promotion of the crime and disorder licensing objective but also may be able to make relevant representations with regards to the other licensing objectives, if they have evidence to support such representations. The police have a significant role in managing the night-time economy and it is expected that good working relationships will be in place with those operating in their local area.

Advice from others such as the Community Safety Partnership may also be sought at times by the Licensing Authority on crime prevention matters.

The licensing authority will accept all reasonable and proportionate representations made by the police unless it has evidence that to do so would not be appropriate for the promotion of the licensing objectives.

The licensing authority expects any police representations to be evidence based and in line with the statutory Guidance able to withstand scrutiny at hearings. It is expected that representations and supporting evidence from the Police is served at the point of representation or in some circumstances prior to the report and papers going out to the Licensing Act 2003 Sub- Committee.

14.3 **LICENSING AUTHORITIES ACTING AS RESPONSIBLE AUTHORITY**

Licensing authorities are now included in the list of responsible authorities which expands the powers of the Licensing Authority and may make representations or call reviews if it deems it appropriate to do so.

The licensing authority will determine when it considers it 'appropriate' to act or intervene in its capacity as a responsible authority.

The Licensing Authority will not normally act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups) although there may be some occasions where the authority may decide to do so for exceptional reasons for example if parties have failed to take any action and the licensing authority is aware of serious concerns and has the relevant grounds to make a representation,

Residents etc can make relevant representations to the licensing authority in their own right and it is reasonable for the licensing authority to expect them to do so.

The Licensing Authority also expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder and it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. **Each responsible authority has equal standing under the 2003 Act and may act independently.**

In cases where the Licensing Authority is also acting as responsible authority in relation to the same process, a clear separation of responsibilities within the authority has been put in place to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee

A separation of responsibilities has already been achieved in the East Riding of Yorkshire by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different licensing officers within the licensing authority. Communication between these officers in relation to any case or application will remain professional at all times and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, will be made in writing.

The Licensing Act 2003 Committee has delegated the function of responsible authority for the Licensing Authority to the Director of Communities and Environment.

14.4 Public Health acting as responsible Authority

Where the Director of Public Health acts as a responsible authority, it is expected that officers will have gained sufficient knowledge of the licensing policy and health issues in order to properly fulfil this function.

Health bodies may hold information which other responsible authorities do not, but which would assist a Licensing Authority in exercising its functions. Such information would be relevant to the public safety objective and in some cases the crime and disorder objective and a means to share this information with Licensing Authorities should be investigated and internal protocols put in place.

In making representations, the RA will need to consider how they can collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example to inform a cumulative impact zone).

14.5 Immigration Services acting as a responsible Authority

In line with The Immigration Act 2016, made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement Service became a responsible authority under the provisions of the Act. It is recognised that Immigration Service will exercise their role as a responsible authority under the Prevention of Crime and Disorder licensing objective.

The Licensing Authority will work with the Immigration services to assist in their role of preventing illegal working or other immigration offences.

14.6 Applications and Immigration status

In line with the provisions of the Act, the Immigration services will be served with copies of new, transfer and interim authority applications.

All applicants as follows must provide evidence of their right to work in the UK, in line with The Immigration (Restrictions on Employment) Order 2007 and the Immigration (Restrictions on Employment) (Codes of Practice and Amendment) Order 2014.

- New premises licence or club premises certificate where the applicant applies as an individual or set of individuals
- New application for a personal licence

- Transfer application, where the applicant is applying as an individual or set of individuals.
- Interim Authority notice, where the applicant applies as an individual or set of individuals.

Applicants who cannot prove their right to work in UK, will have the application rejected by the Licensing Authority.

Applicants who have a time limited permission to work in the UK, will have their licence lapsed at the end of the permissive period. It will be the responsibility of the licence holder to evidence that their right to work in the UK status has been updated otherwise the licence will be lapsed in accordance with the original permission expiry date.

15. COMPLIANCE, ENFORCEMENT AND INSPECTION

- 15.1 The licensing authority will seek to work actively with the police and other responsible authorities in enforcing licensing legislation. It expects the police (subject to public interest immunity) to share relevant information about licensees and licensed premises under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the licensing authority and other responsible authorities when any enforcement action may be required.
- 15.2 It is recommended that licensing authorities establish and set out joint-enforcement protocols with the local police and the other enforcing authorities and a joint enforcement protocol is currently in place with the responsible authorities. This will clarify the division of responsibilities between licence holders and applicants, and assists enforcement bodies to deploy resources more efficiently
- 15.3 These protocols provide for the targeting of resources towards **high-risk or priority premises** and activities that require greater attention, while providing a lighter touch in respect of low/medium risk premises that are well operated. Routine inspections will not be carried out on low or medium risk premises unless complaints are received or concerns are raised on the management of the premises or there are any reports of unlawful activity.
- 15.4 **The targeting and inspection** of premises will be based upon these protocols and, in addition, driven by complaints and intelligence about specific premises.
- 15.5 The 2003 Act does not require any formal inspections to take place save at the discretion of those charged with this role. The principles of risk assessment and targeted inspection (in line with the recommendations of the Hampton review) will prevail and inspections will not be undertaken routinely but when and if they are judged necessary by the Licensing Authority.. This should ensure that licensing resources are

more effectively concentrated on high risk premises. The East Riding of Yorkshire Licensing Authority has not carried out routine annual inspections since the implementation of the Act.

- 15.6 The Licensing Authority aims to ensure that all licensable activities are carried out in a safe and professional manner and to reduce burden on local business. The administration and enforcement of the licensing regime is one key aspect that will assist with this aim. The Licensing Authority will provide advice, information and guidance for all those involved in the implementation of this policy.
- 15.7 Compliance will be carried out by a number of different types of activity including the provision of a programmed 'out of hours Night Time Economy' activity as considered necessary by the Licensing Manager following receipt of complaints or intelligence raising concerns.
- 15.8 The Licensing Authority will seek compliance with the licensed trade where appropriate but will take proportionate but firm action against those who commit serious offences or consistently break the law.
- 15.9 Enforcement action taken by the Licensing Authority will be in accordance with the Regulators Concordat, which the Council has adopted to ensure effective and efficient public protection services. The Licensing Authority is committed to abide by the principles of good enforcement practice by carrying out its regulatory functions, including licensing enforcement, in a fair, open and consistent manner.
- 15.10 The Licensing Authority will however carry out programmed inspections, based on a **risk based rated assessment** which will seek to visit and inspect all premises with a high risk category over time, dependent on their perceived risk. For example high capacity, late night entertainment venues selling alcohol are likely to be inspected more frequently.
- 15.11 The use of premises is not the only factor to be taken into consideration when judging the risk posed. The Licensing Authority proposes that equally (and sometimes more) important is the management of those premises i.e. the previous experience/qualifications of the licence holder and Designated Premises Supervisor, the systems and procedures in place to ensure adherence to the operating schedule and compliance with licence conditions.
- 15.12 In addition, the Licensing Authority will also carry out unscheduled evening and weekend compliance checks. At each visit the Premises License Holder and Designated Premises Supervisor will receive a copy of the record of the visit notifying them of any concerns or pointing out areas of good practice.
- 15.13 Where 'one off' events are taking place under the authorisation of either a Temporary Premises Licence or Temporary Events Notice, the Licensing Authority may carry out visits to ensure the Licensing Objectives are being promoted during the event and to offer assistance to community event organisers,

- 15.14 In addition the Licensing Authority will conduct random checks to ensure that the notices displayed on the premises by the Applicant in respect of new and varied applications are accurate and clearly visible to passers-by during the period of the representation in place.
- 15.15 Where the Licensing Authority has displayed notices relating to a Review at or near the site of the premises, Officers will make random checks within the 28 day period for representations to ensure the notice is still displayed and clearly visible to passers-by.

16 LICENSING COMMITTEE PROCESS

- 16.1 Decisions on all licensing matters under the Licensing Act 2003 shall be taken in accordance with an approved scheme of delegation to members and officers (See *Appendix 3*). Underlying this scheme are the principles of reducing burdens by use of timely, efficient and cost effective decision-making.
- 16.2 The licensing authority ensures that all council officers, advisers and members who deal with or give advice on licensing matters have received adequate training for their role under the Licensing Act 2003 prior to sitting in contested hearings, this training is regularly updated.
- 16.3 The Act itself creates a presumption that all applications will be determined and granted by an officer of the Licensing Authority where there are no relevant or valid representations or objections, unless these have been withdrawn. Most decisions made in relation to the Licensing Act 2003 will be largely administrative with no perceived areas of contention and in the interests of efficiency and effectiveness these are delegated to officers.
- 16.4 Where a function is delegated to an officer, that officer will be responsible for liaising with the applicant, interested parties and the responsible authorities to ensure that the operating schedule fulfils the licensing objectives.
- 16.5 Where valid objections and relevant representations are made the Director of Communities and Environment under delegated power, will in **appropriate cases** and where **practicable attempt to mediate** between the applicant, relevant persons and the responsible authorities to seek agreement and to overcome the objections/representations without the matter going before a Licensing Act 2003 Sub-Committee for determination. In such cases the objection/representation must be withdrawn prior to a Hearing by the person making the representation.
- 16.6 Where conditions need to be imposed on the licence, including agreed conditions, then the matter must be referred to a Licensing Act 2003 Sub-Committee Hearing for determination.

- 16.7 The Licensing Authority has established a **Licensing Act 2003 Committee**, comprising **9 elected members** to administer its licensing functions. One of the principal functions of the Licensing Act 2003 Committee will be to advise the Licensing Authority on a Statement of Licensing Policy and its subsequent review and to approve a scheme of delegation for the exercise of the licensing functions.
- 16.8 A Licensing Act 2003 Sub-Committee comprising three elected members will hear any relevant representations from responsible authorities and relevant persons and determine applications which are subject to representations or objections and which have not been resolved by officers through mediation or were not appropriate cases to go to mediation on its own merits. .
- 16.9 All applications, which need determination by a Licensing Act 2003 Sub-Committee, will be heard in public although decisions will be made in private in the presence of the committee clerk and council's legal adviser. Any legal advice given in private deliberations to the sub- committee will be reported in public to all parties before the final determination is made known.
- 16.10 In some cases, the contested hearing will be an 'authority led discussion' to keep the proceedings as informal as possible. However, some formality will be required to ensure that all parties receive a fair hearing.
- 16.11 An application may be heard in the absence of the applicant or other parties where the required notice of the date on which the application is to be heard has been given. The Sub-Committee will give reasons for the decision to proceed in the absence of any party.
- 16.12 Where the sub-committee believe that additional information or evidence is necessary to consider relevant matters relevant to their decision making then it has the power to adjourn the hearing until that information/evidence has been provided.
- 16.13 The procedure is inquisitorial rather than adversarial and whilst applicants, individuals and businesses who may be affected and responsible authorities are entitled to bring legal representation with them if they wish, this is not a requirement.
- 16.14 A Licensing Act 2003 Sub-Committee may determine that it is appropriate to attach conditions to a licence or certificate. Such conditions will be proportionate to the direct activity to be controlled and will only be imposed in the interests of promoting the licensing objectives
- 16.15 The Licensing Act 2003 Sub- Committee will announce the decision in public. The Sub-Committee's decision shall be accompanied by clear, cogent reasons for the decision, which will be sent out with the determination notice having due regard to the Human Rights Act 1998 and all other relevant legislation including the Act, Guidance and Statement of Licensing Policy.

- 16.16 In the interests of transparency a summary of the Hearing decision will be posted on the Council's web site as soon as reasonably possible after the meeting. Hearings procedures will also be available on the web site to ensure that have the most current information.
- 16.17 CCTV or DVD, photographic or audio evidence will be admitted into the Hearing in line with the procedures See *Appendix 3*.
- 16.18 It is recognised by the Licensing Authority that local Members play a significant role in their local communities. Members can:
- **Make representations in writing or at hearings on behalf of any other person if specifically asked to do so.**
 - **Make representations as any other person**
 - **Make representations as an elected Member of the Licensing Authority if they have concerns about any premises, regardless of whether they live or run a business in the vicinity of those premises - eg Councillors may apply for a review of a licence if problems at a premises, which justify intervention are brought to their attention.**

Members with a prejudicial interest in an application must withdraw from the meeting immediately after addressing the Committee.

- 16.19 Members have a duty to act in the interests of **all of their constituents** and they will need to balance their role as a community advocate with their ability to represent specific interests.
- 16.20 The **code of conduct** applies to all members whether or not they are a member of the Licensing Act 2003 Committee. **If in doubt, Members are advised to contact the Monitoring Officer for guidance.**
- 16.21 The Licensing Authority shall provide annual performance reports on the progress of all licensing applications including statistics setting out enforcement action and reviews, etc., the impact of the licensing regime on the community.

17 APPEALS AND COMPLAINTS SYSTEMS

APPEALS

- 17.1 Where an applicant is aggrieved with any condition, relevant representation or the decision, there is a **right of appeal**. This appeal must be lodged **within a period of 21 days** from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to the Chief Executive to the Justices for East Yorkshire Magistrates Court, Champney Road, Beverley, HU17 9EJ.

- 17.2 Where an appeal has been made against a decision of the Licensing Authority, the Licensing Authority will in all cases be the respondent to the Appeal and may call as witnesses relevant parties who made representation against the application if it so chooses to do.
- 17.3 In respect of personal licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. All other appeals must be made to the Magistrates' Court where the premises or event is situated.
- 17.4 The Act provides for **no further appeal** against the determination of the Magistrates' Courts.

18. COMPLAINTS AGAINST PREMISES CARRYING OUT LICENSABLE ACTIVITIES

- 18.1 The Licensing Authority will investigate and triage all complaints received against premises or private members clubs licensed by the Licensing Authority under the provisions of the Act where those complaints relate to an **alleged breach of licence conditions** or **unlicensed activities** taking place on the premises or serious matters relating to the management of the premises. This could be by telephone or email conversations, or where matters are of concern and complex through visits to the premises concerned.
- 18.2 Complainants are advised in the first instance to raise the complaint directly with the licensee or business concerned so that they are aware of the issue and to give them the opportunity to address the issue.
- 18.3 Where there is a valid complaint the Licensing Manager will investigate the circumstances and seek to find a solution through informal means wherever possible prior to taking any legal action. Complaints in the first instance should be addressed to the Licensing Manager at County Hall, Beverley or by email to [**licensing@eastriding.gov.uk**](mailto:licensing@eastriding.gov.uk)
- 18.4 If the licence holder /TEN user has failed to follow previous advice given by the Licensing Authority relating to compliance of licence conditions or unauthorised activities being carried out without an authorisation being in place then legal action may be taken against the licence holder or a review of the licence/certificate may be considered.
- 18.5 Where it is considered appropriate the Licensing Authority will pass any complaint on for investigation by a relevant Responsible Authority under whose enforcement responsibility the complaint falls or where a number of issues are involved will work in partnership with the agencies concerned to resolve the complaint.

19 REVIEW OF LICENCE

- 19.1 The Act provides a mechanism for reviewing Premises Licences or Club premises certificates where problems associated with achieving the licensing objectives occur. The Licensing Authority expects that reviews take place when other proposed action has failed to address problems on the premises or a serious crime has occurred on a premises for which a Summary Review may be more appropriate.
- 19.2 A Summary Review enables Licensing Authorities, on the application of a senior police officer **in cases of serious crime and disorder** to attach interim conditions to licences pending a full review.
- 19.3 No more than one review from relevant persons will normally be permitted within any 12 month period on similar grounds, except in exceptional and compelling circumstances or where it arises following a Closure Order by the Police.
- 19.4 Review applications must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives.
- 19.5 Following the grant or variation of a licence or certificate, complaints regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 19.6 **Responsible authorities** or any other person can request a review of an existing Premises Licence but must provide written evidence to the Licensing Authority to substantiate any allegations that one or more of these objectives are not being met.
- 19.7 Licensing Officers or local authority officers when acting as the Responsible Authority are able to bring their own Review to the Licensing Act 2003 Committee, in these circumstances the Committee will treat the review application no more favourable than any other application made and will have regard to the evidence and merits of the case when making its determination.
- 19.8 Requests for reviews may be rejected from any other person where, in the opinion of the Licensing Manager they are considered to be frivolous, vexatious or repetitive.
- 19.9 All reviews of a licence or certificate issued under the Act will take place before a Licensing Act 2003 Sub-committee who have a range of powers which it may exercise

on determining a review where it is considered appropriate to promote the licensing objectives.

- 19.10 The Licensing Authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives or that the Licensing Authority should consider the issuing of an informal warning to the licence holder and/or to recommend improvement within a particular period of time. The Licensing Authority regards such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and where warnings are given these will be issued in writing to the licence holder

20 Suspension of Licences and Certificates for Non-Payment of Fees

- 20.1 The Licensing authority **must** suspend a premises licence or club premises certificate if the licence holder fails to pay their annual fee, on the anniversary of the grant of the licence. The Licensing Authority will work with licence holders to ensure that notification is given in good time prior to the suspension of any licence.

The licence/certificate will be re-instated in writing once the outstanding fee has been paid.

- 20.2 This does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, a grace period of **21 days** will be given. This period will be used by the licensing authority to attempt to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence or certificate will be suspended

- 20.3 The Licensing Authority will notify the licence /certificate holder of the suspension in writing and will specify the date on which the suspension takes effect. This date will be seven working days after the day the authority gives the notice. The Police and other responsible authorities will be notified that the licence or certificate has been suspended.

- 20.4 The Licensing Authority recognises the serious implication of taking this action which will restrict trade until the fee/s are paid and will only take this action once it is fully satisfied that the fee has not been received by the Council.

21. LATE NIGHT LEVY

- 21.1 The late night levy enables the Licensing Authority to charge a levy to persons who are licensed to sell alcohol late at night as a means of raising a contribution towards the costs of policing the late night economy. The levy would relate to a late night supply period beginning after midnight and ending at or before 6am.

- 21.2 The levy is a power and the Government has recognised that some licensing authorities will not consider that it is appropriate to exercise it.
- 21.3 The decision on whether to introduce a levy is for the licensing authority to make. However the licensing authority will keep the need for a levy under review in consultation with the chief officer of police and police and crime commissioner (PCC) for the police area.
- 21.4 When considering whether to introduce a levy the licensing authority notes that any financial risk (for example lower than expected revenue) rests at a local level and this will be fully considered prior to making any decision about local implementation.
- 21.5 The licensing authority will decide whether or not it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process.
- 21.6 If the licensing authority decides to give further consideration to the introduction of a levy in the future, it will do so in accordance with the relevant regulations and with reference to any relevant guidance issued by the Home Office.
- 21.7 Any decision to introduce, vary or end the requirement for the levy will be made by full Council. Other decisions in relation to the introduction and administration of the levy would be delegated to the Licensing Act 2003 Committee.

22. Early Morning Alcohol Restriction Orders (EMRO's)

- 22.1 The power to introduce an EMRO enables a licensing authority to prohibit the sale of alcohol for a specified period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 22.2 EMRO's are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 22.3 Before introducing an EMRO the licensing authority must be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement will be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The licensing authority will consider evidence from partners, including responsible authorities and the Community Safety Partnership, alongside its own

evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

- 22.4 The licensing authority will normally only consider the use of EMRO's as a last resort in dealing with recurring problems and will always consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives.
- 22.5 It is recognised that there are other measures that could be taken instead of making an EMRO, including
- Introducing a special policy on cumulative impact
 - Reviewing licences of specific problem premises
 - Encouraging the creation of business-led best practice schemes in the area
 - Using other mechanisms as set out in the Home Office statutory guidance

23. Sexual Entertainment Venues

- 23.1 The Council may adopt a policy in relation to sex establishments, including sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. This policy may include standard conditions attached to such licences.
- 23.2 The exemption under the Act 1982 allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Any concerns related to the provision of occasional sexual entertainment may still lead to a review of the relevant premises licence or club premises certificate and the imposition of conditions.
- 23.3 Any premises which wants to provide sexual entertainment under the exemption must still be authorised under the Licensing act 2003 for the performance of dance and the playing of recorded music between 23.00 and 05.00 hours.

24. STATUTORY OBLIGATIONS AND LINKS WITH OTHER POLICIES, STRATEGIES, LEGISLATION AND GUIDANCE

- 24.1 The Licensing Authority will normally expect that all applicants for premises licences, club premises certificates, variations and provisional statements will, where relevant, participate in the matters set out in the following as they relate to achieving the licensing objectives.

In undertaking its licensing function the licensing authority will have regard to the legislation shown below:

- Licensing Act 2003 and statutory guidance issued under Section.182. Both documents are available from the Department of Culture, Media and Sports or Home Office web site www.culture.gov.uk or www.homeoffice.gov.uk
- European Convention on Human Rights, which is given effect by the Human Rights Act 1998 and which places a duty on public authorities to protect the rights of individuals in a variety of circumstances.
- Local Government (Miscellaneous Provisions)Act 1982
- Gambling Act 2005
- Crime and Disorder Act 1998
- Environmental Protection Act 1990
- The Noise Act 1996
- Anti-Social Behaviour Act 2003
- Health and Safety at Work etc Act 1974
- Data Protection Act 2018
- Equality Act 2010
- Regulation of Investigatory Powers of Act 2000
- Freedom of Information Act 2000
- Violent Crime Reduction Act 2006
- Private Security Industry Act 2001
- Health Act 2006
- Clean Neighbourhoods and Environment Act 2005
- The EU Services Directive
- Policing and Crime Act 2009
- Policing and Crime Act 2014
- Policing and Crime Act 2017
- Crime and Security Act 2010
- Regulatory Reform (Fire Safety) Order 2005
- Immigration Act 2016
- Deregulation Act 2015
- Regulators' Code under the Legislative and Regulatory Reform Act 2006

Links with Other Policies, Objectives and Guidance

- 24.2 The Council regards its licensing function as the most appropriate tool in ensuring that the licensing objectives are promoted and will avoid, as far as possible, any duplication with other regulatory regimes and legislation.
- 24.2 The Licensing Act 2003 Committee will be informed of relevant local strategies and policies where appropriate and consultation will also take place with Humberside Police and the, Community Safety Partnership Group on local crime prevention strategies.

- 24.3 Links to other Council strategies that maybe relevant to licence holders and applicants can be found on the Councils website: <https://www.eastriding.gov.uk/business/licences-and-registrations/available-licences/alcohol-entertainment-and-food/premises-licences/>

Equality Act 2010

- 24.3 The council is committed to eliminating unlawful discrimination, harassment and victimisation, advancing equality of opportunity and fostering good relations within and between our communities.
- 24.4 It is recommended that licensees make themselves familiar with the requirements of this Act for the access and provision of services for persons within the protected groups identified by the legislation.

The Act makes it unlawful to discriminate against anyone because of:

- age
 - being or becoming a transsexual person
 - being married or in a civil partnership
 - being pregnant or on maternity leave
 - disability
 - race including colour, nationality, ethnic or national origin
 - religion, belief or lack of religion/belief
 - sex
 - sexual orientation
- 24.5 In order to promote equality, and to fulfil its statutory duties under the Equality Act 2010, the council asks that applicants aim to achieve inclusive access to their venues and events. For example discrimination will be experienced if access to the venue is denied due to lack of a ramp or if the venue does not provide means for someone to book a ticket who cannot speak. Further guidance is available at <https://www.gov.uk/guidance/equality-act-2010-guidance#guidance-on-the-equality-act>
- Further guidance on how the Equality Act effects pubs is available from the British Beer and pub association.
- <http://beerandpub.com/wp-content/uploads/2017/Briefings/BBPA-guidance-accessibilityin-pubs.pdf>
- 24.6 The council cannot enforce the Act but those who experience discrimination may take legal action following a complaints procedure. Where complaints are received by the council we advise the complainant of their rights under the Equality Act.

APPENDIX 1

LICENSABLE ACTIVITIES FALLING WITHIN THE PROVISIONS OF THE ACT (subject to the exemptions in Appendix 2 and 4)

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of 'regulated entertainment' - to the public, to club members or with a view to a profit (Live Music and deregulation provisions may apply)
- The supply of hot food and/or drink from any premises between the hours of 11.00p.m and 05.00 a.m.

APPENDIX 2

DELEGATION OF FUNCTIONS

The following sets out the agreed delegation of functions in relation to licensing matters: -

Matter To Be Dealt With	Full Committee/ Cabinet/ Council	Sub Committee	Officer Delegation- Director of Communities and Environment
Application for personal licence		If the police or home office give an objection notice and not withdrawn	If no police/home office objection notice is given by the police
Application for premises licence/club premises certificate		If a relevant representation is made and not resolved through mediation and representation not withdrawn.	If no relevant representation is made or matter resolved through LA mediation and representation withdrawn.
Application for provisional statement		If relevant representations are made and not resolved through mediation and representation not withdrawn.	If no relevant representation is made or the matter is resolved through LA mediation and representation is withdrawn.
Application to vary premises licence/club premises certificate		If relevant representations are made and not resolved through	If no relevant representation is made or matter resolved through LA mediation and representation withdrawn.

		mediation and representation not withdrawn.	
Application to vary designated premises licence holder		If a police objection notice is made and not withdrawn	All other cases
Request to be removed as designated premises licence holder			All cases
Application for transfer of premises licence		If a police/home office objection notice is given and not withdrawn	All other cases
Application for interim Authorities		If a police/home office objection notice is made and not withdrawn	All other cases
Determination of Clubs acting in good faith			All cases
Determination if a Garage (petrol station) meets the criteria to make an application to sell alcohol			All cases
Application to review premises licence/club premises certificate or Summary Review		All cases	
Decision on whether a representation or objection is relevant, valid, frivolous, vexatious etc			All cases
Decision to make representation when local authority is a consultee and not the lead authority			All cases

Determination of a police or environmental health objection to a temporary event notice		If a police/EH objection notice has been received and the notice has not been withdrawn	All other cases
Issue a Notice under Paragraph 11 of the Licensing Act 2003 (Hearings) Regulations 2005			All cases
Determination of a Minor Variation application			All cases
Decision on whether to consult other responsible authorities on minor variations			All cases
Decision to Suspend and re instate a Premises licence or certificate following non payment of the annual fee			All cases
Decision for Licensing authority to act in their capacity as a responsible authority			All cases
Application for the mandatory alcohol condition under the LA 2003 requiring a Designated Premises Supervisor in respect of a premises licence to be disappplied			All cases
Decision to lapse a premises licence or personal licence following the expiry of the licence holders right to			All cases

work in UK.			
Decision to revoke or suspend a personal licence following relevant conviction, foreign offence or civil immigration penalty		All cases	
Decision to exempt categories of premises from the need for a LNF licence.		All cases	
Decision on implementation of Early Morning Restriction Order	Recommendation to Council		
Decision on implementation of Late night levy	Recommendation to Council		

USE OF CCTV/VIDEO/DVD/PHOTOGRAPHIC/DIGITAL EVIDENCE IN COMMITTEE HEARINGS

- (a) Where CCTV, DVD, Video or other digital evidence is provided as evidence for Licensing Act 2003 Sub-Committee hearings the following applies : -
- (i) the responsible Authority or any other person provide the video, DVD , CCTV or other digital images in a format that can be shown at the Licensing Act 2003 Sub-Committee hearing,
 - (ii) the responsible Authority or any other person supplies sufficient copies for the other parties to the hearing to the Licensing Authority with any other evidence, within the timescales set out under the Act or Regulations, it is expected that cctv/dvd/ video evidence is supplied in good time to enable all parties to consider and respond to the matters raised
 - (iii) Steps will be taken to protect the privacy of individuals of people not subject to the hearing, where persons have not consented to their image being shown or images are not anonymised by the Responsible Authority or other party wishing to produce the evidence then a request be made for the recording be shown in private. This will need the agreement of the Licensing Act sub- committee on a case by case basis.
 - (iv) the video, DVD , CCTV or digital evidence be kept to relevant issues only and not be excessive in relation to time spent watching the recordings unless the Sub-Committee hearing the matter decides that, in the interests of a fair hearing, a longer period of time should be allowed or the full unedited tapes should be shown, and
 - (v) where video, DVD, CCTV or digital evidence is submitted late or on the day of the hearing, it will be dealt with as with any other evidence in accordance with the Licensing Act 2003 (Hearing) Regulations 2005, or any other regulations as from time to time may govern hearings, and in some cases the hearing may have to be adjourned to allow sufficient time to consider the evidence
- (b) Steps will be taken to protect the privacy of individuals, any photographic evidence showing individuals whose consent has not been obtained or children will be anonymised by the Responsible Authority or any other person wishing to produce that evidence.