

STATEMENT OF LICENSING POLICY



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Further copies may be obtained from the above address. The Statement of Licensing Policy is also available online at:

<http://www.harrogate.gov.uk/la2003>

“Government Guidance” notes are available from <http://www.culture.gov.uk> and are intended to be guidance only. They do not form part of this policy.

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Foreword

This Statement of Licensing Policy is intended to aid applicants, residents, local businesses, the statutory consultees, Licensing Committee and any interested party in decision-making based on local knowledge and local people.

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

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

- The introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet their customers' expectations;
- Greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
- The encouragement of more family friendly premises where younger children can be free to go with the family;
- The further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities;
- The regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night time economy can bring; and
- The necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

When reading this policy it is important to remember that it relates to a wide range of activities and not just consumption of alcohol – theatres, cinemas, late night hot food takeaways and diverse cultural entertainments.

1 Introduction

Harrogate Borough Council (the Licensing Authority) is responsible under the Licensing Act 2003 (the Act) for the licensing of the following activities:

- The sale by retail of alcohol
- The supply of alcohol by clubs
- The provision of regulated entertainment including:
 - Film exhibitions
 - Performances of a play
 - Indoor sporting events
 - A boxing or wrestling entertainment
 - Live music performances
 - Playing of recorded music
 - Dance performances
 - Provision of facilities for making music
 - Provision of dancing facilities
- The provision of late night refreshment.

There are a number of exemptions and details of these are set out in full in the legislation.

The Act makes provision for the licensing of individuals for the retail sale of alcohol (**personal licences**), the licensing of premises for the retail sale of alcohol, provision of regulated entertainment or late night refreshment (**premises licences**), the supply of alcohol or the provision of regulated entertainment in certain clubs (**club premises certificates**) and the permitting of certain licensable activities on a temporary basis (**temporary event notices**).

The Act specifies licensing objectives that the Licensing Authority's licensing function must promote and these are:

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

These objectives are the only matters to be taken into account in determining the application and any conditions attached must be necessary to achieve the licensing objectives.

The Act also requires Licensing Authorities to publish a Statement of Licensing Policy after consultation and to review the Statement of Licensing Policy at least every three years.

The purpose of this document, being the Licensing Authority's **Statement of Licensing Policy** is to set out the policies the Licensing Authority will normally apply to meet the licensing objectives when making decisions on any licence application under the Act.

In general, unless otherwise stated, a reference in this Statement of Licensing Policy to a licence will also include a club premises certificate although it is acknowledged that a "light touch" approach is required in these cases.

Any reference in this Statement of Licensing Policy to guidance or regulations includes those where the Secretary of State has used his powers contained in the Act to make regulations (Sec. 5) and issue guidance (Sec. 182).

The document addresses a number of key areas, includes the Licensing Authority's policies, and identifies issues that may be considered as part of a licence application or operating schedule. The lists documented are not intended to be exhaustive but set out considerations which may normally be taken into account by the Licensing Authority.

This document is for use by all interested parties.

Background to the Statement of Licensing Policy

The Licensing Authority recognises that the entertainment industry in the Harrogate district is a significant contributor to the local economy and attracts tourists and visitors. The industry has grown significantly in certain areas over recent years and hours of operation for entertainment premises have been lengthened.

The Harrogate district has a considerable residential population, whose rights the Licensing Authority has a duty to protect. Commercial operators have a legitimate expectation to provide a vibrant and sustainable night time economy and residents have an equal right to protection against adverse affect of these activities.

The Licensing Authority will focus on the direct impact of the activities taking place at licensed premises on members of the public living, working, visiting or engaged in normal activity in the Harrogate district.

The Licensing Committee will receive an annual report on the needs of the local tourist economy from Harrogate International Centre, cultural strategy from the

Cultural Strategy Partnership, employment for the area from the Economic Development Unit and the needs of the Crime and Disorder Reduction Strategy from Harrogate District Safer Communities Partnership.

Conditions can be attached to licences designed to ensure safety, protect children from harm, prevent crime and disorder and protect against effects on residential population and local business. For example to prevent residents being disturbed the Licensing Authority could restrict licensed hours in appropriate cases.

Clear rules need to be established and enforced to balance the interests of the public and provide sustainable economic growth. It is the role of the Licensing Authority to influence this balance.

The Licensing Authority must consider the impact of noise, crime, littering, and the ability of the police, the streets and public transport infrastructure to cope with the affects of licensable activities.

The Licensing Authority has a duty to do all that it reasonably can to prevent crime and disorder, under Section 17 of the Crime and Disorder Act 1998.

The Licensing Authority is under a duty to protect the rights of residents to privacy and family life under Article 8 of the European Convention on Human Rights. At the same time, the Licensing Authority must recognise the right of legitimate business to operate their premises without unnecessary restraint.

The Licensing Authority must make efforts to ensure the safety of people visiting and working in licensed premises.

Brahm Research was commissioned by Harrogate Borough Council in 2003 to conduct consultation on the new Licensing Act and the current situation regarding licensed premises in and around the Borough. This research covered a wide range of stakeholders including the police, residents, existing licensees, ward members, the Courts and trade bodies, to name just a few.

Several issues were at the heart of this consultation process, including crime and disorder, transport, public safety, service provision and the impact of licensed premises. More specifically, this consultation process was aimed at understanding the way in which the changes would be perceived and handled by stakeholder bodies, licensees and residents.

Out of this research came a strong feeling that the licensed trade should be more self-regulating and take responsibility for the impact of its activities. It is the Licensing Authority's intention that, through the Statement of Licensing Policy, trade be given the ability to become more self-regulating. The Statement of

Licensing Policy should also be robust enough to deal with those who are unable to take this responsibility.

This authority recognises its duties under Article 15 of the International Covenant on Economics, Social and Cultural Rights to take progressive measures to ensure that everyone can participate in the cultural life of the community and enjoy the arts. Artistic freedom of expression is a fundamental right and this authority is bound by s.3 of the Human Rights Act 1998 to read and give effect to all legislation, including licensing legislation, so far as possible compatibly with the right to freedom of expression. This authority will take all this into account when considering the licensing of live music, dance and theatre. Where the Licensing Act 2003 is open to interpretation which may be more or less restrictive for these activities, the authority will explain the reasons for its interpretation of the Act. In such cases, and particularly where licence conditions are proposed, the authority will set out in detail where, how and why it believes existing safety, noise, crime or disorder legislation, is inadequate such that licensing is, or licence conditions are, not only necessary, but a reasonable and proportionate means to address the risks arising from the entertainment. The authority will also monitor the impact on regulated entertainment, in particular live music and dancing, of the licensing provisions. Where it is found that such entertainment is being deterred, it will review its policy with a view to reversing that trend.

It is important to note that all the expectations contained within this Statement of Licensing Policy may not be appropriate for all sizes and type of premises, for example theatres, cinemas, hotels and restaurants.

2 Personal licences

The Licensing Authority recognises it has very little discretion regarding the granting of these licences. In general, provided an applicant has an approved qualification and does not have certain specified criminal convictions the application must be granted.

The police may make objection on the grounds of a relevant or foreign offence.

If an applicant has a relevant conviction the police can oppose the application. If an objection is sustained a hearing must be held.

Policy

At that hearing the Licensing Authority will consider carefully whether the grant of the licence will compromise the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The Licensing Authority will only grant the application if it is satisfied that doing so will not undermine this objective.

Reason: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Licensing Authority under the Crime and Disorder Act 1998. A person holding a personal licence should be a person who is not only properly qualified but a person who will assist the fight against crime. Granting a licence to a known criminal will in many cases undermine rather than promote the crime prevention objective.

3 Applications for premises licences and club premises certificates including variations

3.1 Planning (Development Control) and Building Control

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

Planning applications will be assessed having regard to national and local policies, particularly those contained in the Harrogate District Local Plan, together with any other material considerations. Section 8.2.2 of this document provides a brief outline of those policies that are likely to be most relevant.

Policy

Structural alterations will often require building control approval and the onus will be on the applicant to demonstrate that any necessary approval has been obtained.

In general, all premises to which an application is subject must normally have authorised planning permission and comply with all conditions of that planning permission, or be deemed permitted development.

3.2 The operating schedule

Policy

The Licensing Authority expects applicants to address the licensing objectives in their operating schedule, (which the Act requires them to prepare). The Licensing Authority expects the operating schedule to have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, hours of operation, operational procedures and the needs of the local community. In this respect the Licensing Authority expects the operating schedule ~~plan~~ to demonstrate how it is intended that the premises will be “good neighbours” both to residents and to other venues and businesses and promote the licensing objectives.

In particular, operating schedules should normally include practical steps to address disturbance and the environment, transport, crime and disorder, pedestrian movement, and public safety where issues can be identified.

It is important to note that private events, for example a wedding reception, held in a separate room of a public house or hotel would normally be an event which needs to be covered by the premises licence.

The Licensing Act 2003 provides that the sale of supply of alcohol from premises used primarily as a garage¹ or parts of premises primarily used as a garage shall not be authorised.

3.2.1 Disturbance and environment

Policy

The Licensing Authority will consider the following with regard to a licence application:

- Steps the applicant has taken or proposes to prevent noise and vibration arising from regulated entertainments of all kinds escaping from the premises. For example, measures may include installation of soundproofing, air conditioning, acoustic lobbies or sound limitation devices or may simply be closing of windows and doors.
- Steps taken or proposed to prevent disturbance by patrons or staff entering or leaving the premises. For example, measures may include erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors including, at appropriate times, utilising the internal PA system to make announcements to the same effect or instructing door staff to ask customers to leave the area quietly.
- Steps taken or proposed to be taken to prevent disturbance. For example, measures may include reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening/morning winds down.
- Steps taken or proposed to prevent queuing or to minimise noise or disorder caused by queuing. For example, measures may include the supervision of queues formed later in the evening to keep noise to a minimum. Door supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities - where necessary they should be adequately supervised.

¹ See glossary for the definition of garage

- Steps the applicant has taken to prevent any impact of refuse or littering on the surrounding area. For example, measures may include the use of “flyers” or trade promotional material must be carried out in a responsible manner in order to avoid littering e.g. only giving flyers to persons expressing an interest in the material. To avoid members of the public littering car parks, flyers should not be affixed indiscriminately to cars. The premises licence holder will be responsible for ensuring compliance with this condition.

The Licensing Authority will consider routes used by customers when leaving specific premises and the likely impact on residents.

Reason: Some of the greatest nuisance to residents can be the sound of music escaping from licensed premises or noise from persons or vehicles leaving. Such a disturbance might preclude the grant of a licence or if one has already been granted for it to be reviewed. Responsible applicants and licensees will wish to avoid the need for such action, as they will wish to comply with the licensing objective of preventing public nuisance.

Also people queuing to get into or leaving the premises, particularly late at night or in the early hours of the morning, can be a significant problem when background noise levels are lower and residents are more likely to be in bed. Customers may be less inhibited about their behaviour and may be unaware of the noise they are creating.

North Yorkshire Police report that noise and petty crime are perceived to be a problem when customers are leaving premises by pedestrian routes. People under the influence of alcohol, statistically, are more likely to be involved in criminal behaviour including violence and damage to property.

3.2.2 Transport and pedestrian movement

Policy

The Licensing Authority expects that applicants will address the following points in the operating schedule:

- Steps taken to reduce the impact of any parking near local residents or businesses where appropriate.
- Where appropriate, partnerships formed with local transport providers to ensure customers and staff are taken away without delay and that transport can be booked at the licensed premises for collection from those premises at all opening times. Staff car parking should not compromise their safety when leaving the premises late at night.
- Direction of customers away from noise sensitive areas.

Reason: Removal of customers without delay will reduce the number of people on the streets and therefore reduce noise.

Statement of Licensing Policy research (Brahm October 2003) has highlighted that taxi and bus services may not be available at later hours. This was seen of greater concern in Ripon and Knaresborough.

The police report that disorder will occur where crowds gather after leaving licensed premises, especially when waiting for transport or food.

3.2.3 Crime and disorder

Policy

The Licensing Authority will expect the following to have been addressed in the operating schedule:

- Where appropriate, and normally at town centre premises where alcohol is sold and late night takeaways, use of CCTV both within and outside the premises. Where needed internal CCTV should be fitted and operated in accordance with the North Yorkshire Police code of practice. (Whilst recommended this requirement would not normally be applied to community halls, rural pubs, restaurants or similar premises).
- Procedures for risk assessing sale of alcohol promotions and events such as “happy hours” for the potential to cause crime and disorder, and plans for minimising such risks
- Whether a “vertical drinking”¹ concept is to be adopted and appropriate controls to be put in place to reflect the nature of this high volume, high capacity method of trading. Controls may include capacity limits and increased use of SIA registered security staff.
- Where appropriate measures to prevent the use or supply of illegal drugs such as searching of customers for offensive weapons or drugs on entering the premises.
- Where appropriate employment of SIA registered door supervisors and other appropriately trained staff particularly where there is the sale of alcohol in urban areas and alcohol sales later than 11pm. SIA registered door staff would not normally be required in hotels, restaurants, and community buildings etc.
- Steps taken to prevent under age drinking in licensed premises or supply of alcohol intended to be consumed by underage persons off the premises.

¹ See glossary for definition of “vertical drinking”

- “Drinking up time” and how customers will be managed after sale of alcohol ceases. The Operating schedule shall specify how long customers will be allowed to drink on the premises once sale of alcohol has ceased (otherwise premises will have to close at the terminal hour for service of alcohol).
- Where queuing is likely the operating schedule should specify how this is to be managed. Customers should not be allowed to drink whilst queuing.
- Customers must normally be given a reasonable period of time after sales of alcohol have ceased to use toilet facilities and arrange transport.
- If available, town centre premises should normally incorporate the use of the “RadioLink” scheme into the operating schedule. “Ring round” and similar schemes may also be considered.
- Town centre premises should consider the provision of “safe zones” in their premises where members of the public could resort to if feeling threatened or in need of assistance.

Responsibilities under the Crime and Disorder Act 1998

The licensing decisions taken by the Licensing Authority will be focussed on matters within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Therefore the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. In taking its decisions the Licensing Authority will take into account the fact that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual club or business holding the licence, certificate or permission concerned.

It should be noted however, that in order to achieve these objectives the Local Authority will use a full range of measures including its planning controls, crime and disorder policies and powers, and it will work closely with the Police, Fire Authority, local businesses, community representatives and local people.

General

Under Section 17 of the above Act the Licensing Authority must have due regard to the likely effect on the exercise of its various functions, and the need to do all it reasonably can to prevent crime and disorder in its area. This policy recognises the requirements of the Act, and the Licensing Authority will liaise closely with the Police, Fire Authority, North Yorkshire County Council and other relevant organisations to keep abreast of relevant crime and disorder issues.

Policy

If a designated premises supervisor is not present, the Licensing Authority would sometimes regard it as appropriate for a personal licence holder to be on the premises at all times when alcohol is sold and particularly where alcohol is sold after 11pm.

Where the premises are used for the sale of alcohol the premises licence holder would normally be expected to be a member of the local Pubwatch group where it exists or similar and attend all meetings wherever possible.

Drinks discounting should normally be over extended periods, with a minimum of one whole afternoon or evening to avoid fast and excessive (or binge) drinking. The Portman Group or British Beer and Pub Association codes of practice on drinks discounting are recognised as good alternative methods of demonstrating compliance with the licensing objectives in this area.

Open drinking vessels should not be taken off the premises by customers. Plastic glasses or bottles should be considered for outdoor drinking or where large crowds are expected.

“Banned from one, banned from all” schemes operated by and for licensees are recognised by the Licensing Authority as a highly successful tool in reducing crime and disorder on premises, including banning people who regularly leave in a noisy fashion. The Licensing Authority views such schemes as by no means compulsory but any application will be strengthened by participation.

Industry codes published by groups such as Portman Group or British Beer and Pub Association are recognised ways of demonstrating the licensing objectives.

Applications involving late night take away food should, if appropriate be accompanied by a crowd management plan. The plan should demonstrate steps to be taken to avoid build up of queues and to reduce the likelihood of disorder or violence. The Licensing Authority views ineffective management of crowds as a key reason to refuse an application involving late night take away food.

Reason: Prevention of crime and disorder is both an objective of the Licensing Act 2003 and an important responsibility of the Licensing Authority under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective.

The Licensing Authority will have particular regard to the likely impact of licensing on related crime and disorder in the Harrogate district, particularly when considering the location and impact of the operation and management of all proposed licence applications and variations of conditions.

Door staff have received a lot of praise for their actions in reducing crime and disorder and helping the police with their investigations. The Licensing Authority therefore sees SIA registered door staff as key players in crime and disorder control.

Research (Brahm, October 2003) has shown that the Police, Magistrates, Restaurateurs and Taxi associations consider gathering and queuing around take-aways late at night/early in the morning can contribute to disorder and violence.

Policy

Late night take away food premises should, if appropriate, consider ways to control the litter generated by their premises and may need to identify these procedures in the operating schedule that supports their application. This could include printing their name on the wrappings in order to identify premises that are contributing to littering.

Reason: Littering is an offence and has been identified as a serious problem in the district through evidence presented by the Licensing Authority's Street Cleansing Division and CCTV monitoring.

3.2.4 Public safety and fire safety

The licensing system should protect the safety of those visiting and working in licensed premises, while also protecting residential and business amenity and guarding against crime and disorder.

Policy

The following will normally apply in all cases:

- Premises must be constructed or adapted so as to minimise any risk of injury, including fire, to those using or working in the premises before the Licensing Authority will grant any licence. Applicants should satisfy relevant fire safety and health and safety legislation. All existing and proposed fire safety features should be denoted on the floor plan accompanying the licence application.
- The Licensing Authority will expect the operating schedule to detail how the premises will be properly managed and maintained to ensure public safety at all times.

- In the case of premises with music and dancing an operating schedule should normally give a maximum occupancy, broken down into specified areas where appropriate. Calculations should be provided on application in order that verification can be carried out. Maximum occupancy limits are not always appropriate, particularly in shops. Whether an occupancy limit is needed should be judged by the fire authority on a case by case basis.
- Safety glass in windows should be used wherever the risk of breakage and personal injury is likely. This requirement is particularly important when considering glass frontages in late night food take away.

Reason: Public safety is an important licensing objective. It is the wish of the Licensing Authority that anyone visiting a licensed venue in the Harrogate district can do so in safety in premises that are well managed and maintained.

The Fire Authority have expressed concerns that businesses need to reflect their operating style in their fire safety risk assessments, particularly where new activities may be taking place.

There are a number of key publications in the context of regulated entertainment providing guidance to applicants and interested parties:

- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE1999)(“The Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0 7176 1580 4
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2
- Safety Guidance for Street arts, Carnivals, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through www.streetartsnetwork.org.uk/publications/index.php

3.3 Consultation

In addition to the requirements as stated in legislation, the Licensing Authority will notify applications to city, town and parish councils.

3.4 Evacuation for persons with disabilities

Policy

The operating schedule should normally include physical and managerial methods for safe evacuation of disabled persons. This should include clearly identified and trained members staff and clarify whether equipment such as lifts are safe to be used.

Reason: Disabled people have the right to access services wherever reasonably practicable to do so. There are clearly legal responsibilities under the Disability Discrimination Act 1995, which came fully in to effect in October 2004. These people should be able to safely leave the premises on the event of emergency.

4 Determination of applications

4.1 General principle for determination

Policy

In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its individual merits with reference to this policy, statutory guidance and legislation.

Human rights

The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights which is incorporated into the Human Rights Act 1998:

- Article 6; that in determination of the civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law.
- Article 8; that everyone has the right to respect for his or her home and private life.
- Article 1 of the First Protocol; that every person is entitled to the peaceful enjoyment of his or her possessions, including the possession of a licence.
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4.2 Location and impact of licensed activity

Policy

- In the event of a representation being made, when considering whether any licensable activity should be permitted, the Licensing Authority will assess the likelihood of it causing unacceptable adverse impact, particularly on local residents. The following factors would normally be considered (although other relevant matters may be considered as the individual case dictates):
- The type of use, the numbers and type of customers likely to attend the premises;

- The adequacy and impact of car parking on local residents or businesses.
- The proposed hours of operation;
- The level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers (to be considered on the merits of each application – transport arrangements will not always be necessary);
- The scope for mitigating any impact;
- How often the activity occurs.

and, in considering any application which relates to an existing activity, the Licensing Authority will take into account any evidence:

- Of past demonstrable adverse impact from the activity especially on local residents or businesses;
- That, if adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact.

Reason: The purpose of this part of the Statement of Licensing Policy is to achieve the licensing objectives of preventing public nuisance and crime and disorder. In furtherance of this aim the Statement of Licensing Policy lists particular matters that the Licensing Authority will take into account in considering whether a licensed activity is likely to cause an adverse impact, particularly to local residents.

In making its decisions the Licensing Authority accepts the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However, the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in activities to the detriment of nearby residents or businesses.

The Licensing Authority encourages consideration of staggered closing to reduce the numbers of people on the street at any one time.

Furthermore the Licensing Authority has a responsibility under the Crime and Disorder Act 1998 to prevent crime and disorder.

The aim of the Statement of Licensing Policy is, therefore, to achieve a balanced approach to these difficult issues.

4.3 Saturation and cumulative effect

In determining an application the Licensing Authority, in the interests of prevention and dealing with crime and disorder and the avoidance of nuisance, may take into account the cumulative effect of premises or high capacity levels in one area may have. The difference between “need” and “cumulative impact” should not be confused. “Need” concerns commercial demand and does not fall within the remit of this policy.

Policy

The Licensing Authority has not recognised any specific areas as saturated with licensed premises but will consider the evidence available should representation be raised on individual applications on this basis.

Reason: A saturation of licensed premises can attract relatively high numbers of customers and impact on the surrounding area beyond the control of individual licence holders or the police. The impact from licensed premises increases considerably in areas where there are significant levels of such premises or capacities already in existence.

4.4 Licensing hours

More flexible opening should help address the mass exodus of patrons at a fixed time and where premises serve alcohol, “binge” or excessive drinking and as such will reduce disorder and disturbance whilst helping promote business and cultural development. This Statement of Licensing Policy is not intended to impose unnecessary control or restriction.

Any activity involving public entertainment, eating, or drinking on the premises has the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. Customers may also be noisy when leaving, leave litter or use on-street car parking space needed by residents. The impact of noise generated by these activities, especially customers departing are particularly intrusive at night when ambient noise levels are much lower.

Much of the Harrogate district is very sensitive to the impact of licensed activities because it is either residential in character or close to residential areas or hotels and other such premises.

However, some areas in the Harrogate district may be more suitable locations for licensed activities, especially for those that have late opening hours or attract significant numbers of people. In town centres, more customers are likely to travel by public transport and the activities may help bring vitality to the area after normal shopping hours. The ambient noise levels are also likely to be higher in the evening particularly when compared with predominantly residential areas so that additional noise may be less objectionable.

It is important that transport facilities are available to move customers away without delay to keep disorder and disturbance to a minimum. The police have presented clear evidence that disorder is most likely where crowds gather to queue or wait after leaving licensed premises. Transport is therefore a relevant consideration in licensed hours.

The difference between rural and urban premises are recognised by the Licensing Authority and appropriate consideration will be given in all cases.

It is not the Licensing Authority's role to automatically set licensed hours for premises but to consider those requested and challenged by representation.

The Licensing Authority accepts this view but believes that full consideration should be given to the risk of disturbance to local residents and possibly to businesses when licensable activities continue particularly late at night and into the early hours of the morning or are involving a significant number of patrons, i.e. large scale concerts, performances etc.

It should normally be possible for applicants for premises licences and club premises certificates to anticipate special occasions that occur regularly each year, such as bank holidays, and to incorporate appropriate variations to normal opening hours into operating schedules.

Policy

It is the policy of the Licensing Authority to strike a fair balance between the needs of a licensed business and the risk of disturbance to local residents and businesses. The Licensing Authority may restrict the hours of operation where it feels necessary to avoid unreasonable disturbance to local residents or businesses.

Where a number of licensed premises exist in one area the normal policy of the Licensing Authority will be to encourage licensees to stagger their closing times. Where voluntary arrangements are not successful and problems arise the Licensing Authority will consider whether it is appropriate to set licensed hours for individual licensed premises. This will be particularly the case where disturbance of local residents or businesses or higher than normal levels of crime and disorder have been demonstrated.

The Licensing Authority will consider the impact of noise and vibration, litter, access and egress of vehicles, parking, pedestrian movement, crowds and queuing. In certain circumstances, e.g. when unusually late hours are requested and where appropriate at one off events, it is normally expected that the applicant demonstrate the availability of transport and put in place arrangements for booking of transport and picking up of customers from the licensed premises.

Late night food take away premises applications will be considered with reference to the opening hours of existing licensed premises. The impact of people gathering at takeaways after other premises have closed will be given careful consideration.

- Unless representations are made the closing time indicated on the operating schedule will be granted. Where relevant representation is made the following matters will be considered:
- Anticipated impact or disturbance to local residents or businesses, including discarding of bottles and waste after closing
- Effects on crime and disorder
- Any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area
- The amount of car parking readily accessible to the premises in places where vehicular movement will not cause demonstrable adverse impact to local residents
- The agreed operating schedule demonstrates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance.
- The reasons for any limits on opening times imposed by planning controls

In all cases, the licensing objectives must not be compromised. Restrictions may be made to the closing time applied for where it can be demonstrated that the licensed activities would be likely to cause adverse impact on local residents and businesses or on crime and disorder or public safety or measures have not put in place to prevent such adverse effects.

The Licensing Authority encourages and supports the extension of trading hours to cover lunchtime through to early evening in order that a smooth transition is made between day time and night time economies.

Reason: To achieve the licensing objectives relating to public nuisance, crime, and disorder that have been eroded by fixed licensed hours. To achieve the licensing objective of “preventing public nuisance”.

This part of the Statement of Licensing Policy dealing with opening hours is based on a broad distinction between the approach to be taken in certain predominantly commercial areas like parts of the town centres and the rest of the district. Opening hours have real potential to impact on the licensing objectives.

4.5 Entertainments of a sexual nature

Where the activities proposed under the licence include those of a sexual nature (e.g. topless waiters, striptease, table dancing, lap dancing) the Licensing Authority will take into account the increased risk to the licensing objectives. Any reference to entertainments of a sexual nature in this part of the Statement of Licensing Policy should be taken to refer to any entertainment or service involving nudity or partial nudity or the sexual arousal of patrons.

Policy

Where “striptease” or “lap dancing” are to be provided, this should clearly be stated in the operating schedule.

Where such licences are granted the Licensing Authority may impose conditions designed to ensure that children are not admitted to and cannot witness these activities and to control crime and disorder problems.

To prevent the possibility of children seeing unsuitable advertisement the policy of the Licensing Authority will be to attach a condition to the effect that “Except with the consent of the Licensing Authority there shall be no external advertising of entertainment of a sexual nature either at the premises or in its vicinity.”

The Licensing Authority may attach such conditions deemed necessary to protect performers from harm and to deter the risk of sex related crimes.

Reason: These policies are designed to further the licensing objective of protecting children by preventing them being exposed to unsuitable material or acts and for the protection of performers from risk of crime or assault.

4.6 Protection of children

The protection of children from harm is one of the four licensing objectives. Nevertheless the Licensing Authority will not normally impose conditions requiring or prohibiting the admission of children to any premises believing this should remain a matter of discretion of the licence holder having taken account of any risks in the operating schedule. However, the Licensing Authority will impose conditions designed to protect children where necessary.

It is recognised that rural pubs often provide valuable community facilities for children, e.g. Internet access.

A Councils Residents Panel survey of March 2003 confirmed that 85% of respondents saw underage drinking as a problem in the Harrogate district.

It is important to remember that the Licensing Act 2003 makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on the premises.

Applicants will need to give considerations to the “exclusive” or “primary” use of the premises at times when children are admitted.

Policy

Where alcohol is to be sold, including “off licences”, all applicants should outline, in their operating schedule, their plans for control of underage drinkers. This could include use of ID cards. The ID card schemes will be those schemes recognised by the Licensing Authority.

Examples of premises where the introduction of additional controls are likely to be necessary are:

- Where there has been a conviction for serving alcohol to a minor.
- Where the police have objections on the grounds of existing drug problems
- Where there is a strong element of gambling on the premises (not including the small number of amusement with prizes (AWP) machines in traditional pubs and bars).
- Where entertainment of an adult or sexual nature is provided

In such circumstances the Licensing Authority may impose a complete prohibition on entry of children or condition the licence if satisfied that problems would be adequately controlled.

Where there is provision of entertainment specifically for children (e.g. under 18's or children's disco or a large play area) the Licensing Authority will require the presence of sufficient adults to control the access and egress of the children and assure their safety. Where this is the case, staff employed to supervise children should first satisfy a standard Criminal Records Bureau (CRB) check. No staff should be employed with a history of child or sex offences.

These premises should have an appropriate child protection policy that includes the level of checks made on staff working with children.

Exemptions to this requirement are:

- The public showing of film where all ages are invited to attend.
- Play areas where children must be accompanied by their own adult supervision and staff are not provided by the venue to carry out this function.

Where the exhibition of films is permitted the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited should be complied with. Only in exceptional cases will variations of this general rule be granted by the Licensing Authority and then only with appropriate safeguards.

Reason: These policies are designed to allow flexibility for the licensee, to ensure that where appropriate licensed premises are suitable for children but to ensure children are adequately protected.

The policy does not attempt to anticipate every issue of concern that could arise in respect of children so general rules have been avoided.

4.7 Controlled drugs

It has long been recognised that use and sale of controlled drugs occurs in some licensed premises. Documented cases of injury and death demonstrate the need for control of such substances in licensed premises.

Drugs alter the way people behave, so their distribution and possession is controlled by law. Controlled drugs are usually manufactured and supplied illegally, which attracts criminal involvement in their distribution. Drugs manufactured illegally often vary in quality and strength. People taking such drugs are at a significantly increased risk.

The Licensing Authority recognises that many premises already have good drug control procedures in place and have assisted police significantly in detection of related crime.

Controlled queuing involving SIA licensed door staff and external CCTV can also help stop drug dealers from passing on drugs during the queuing process.

It is hoped that licensees will follow the recommendations contained in the “Safer Clubbing” guide where both alcohol and entertainment is provided. Failure to do so could lead to responsible authorities/interested parties requesting the Licensing Authority review the licence with the possibility of revocation. In appropriate cases the Licensing Authority will consider imposing the recommendations detailed in this guide by way of licence conditions.

Policy:

The Licensing Authority will expect licensees to take all reasonable steps to prevent the entry of drugs into licensed premises and to take appropriate steps to prevent drugs changing hands within the premises.

The Licensing Authority may expect licensees to have undertaken training in drug related matters through a recognised provider. The Licensing Authority may also expect licensees to be able to demonstrate implementation of the principles contained in the “Safer Clubbing” guide issued by the London Drugs Policy Forum and endorsed by the Home Office where entertainment and alcohol are provided.

In the event of evidence of controlled drug related problems on the premises being presented the Licensing Authority may require a written drugs policy.

Reasons: The purpose of this Statement of Licensing Policy is to further the crime prevention objective and to ensure public safety by controlling drug abuse.

4.8 Conditions

Policy

Conditions may be attached to licences. The Licensing Authority will not issue or vary any licence unless these conditions are capable of being complied with. In special circumstances and to meet particular licensing objectives different licence conditions may be tailored to the individual application. Licence conditions will not be imposed where the Licensing Authority considers other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.

When considering conditions there should be openness, transparency and reasonableness. Officers will seek to discuss proposed conditions in advance with the applicant and/or representative with the aim of achieving an agreement whilst fulfilling the licensing objectives.

Conditions will always be tailored to the individual application.

Reason: Licence conditions are a key method of achieving the Licensing Act objectives and give clear goals and standards to licensees and persons who may wish to make relevant representations.

When considering the variation of a licence, the Licensing Authority will take account of current levels of compliance with standard conditions before determining any application.

6 Application approvals, refusals, appeals and complaints

6.1 Application approvals & refusals

Applications must be determined as soon as reasonably practicable from the date of receipt of a properly completed application form, associated paperwork and fee.

Applicants will be advised in writing of the Licensing Authorities decision regarding the determination of their licence.

6.2 Appeals

Appeals may be made in writing to:

Harrogate Magistrates Court
PO Box: 72
The Court House
Victoria Avenue
HARROGATE
HG1 1LS
Tel: 01423 722000

6.3 Complaints

Complaints regarding this Policy, the application process or the final decision regarding licensing applications can be made in writing to:

Head of Public Protection
Department of Community Services
Harrogate Borough Council
Springfield House
Kings Road
Harrogate, HG1 5NX

7 Enforcement

Where necessary, enforcement action will be taken in accordance with the principles of the Enforcement Concordat that the Licensing Authority adopted in 1999 and the Licensing Authority's Licensing Enforcement Policy.

In particular regard will be had to the fundamental principles recommended by the Better Regulation Task Force for good enforcement:

- Targeting - i.e. focusing on activities that give rise to the most serious risks or where hazards are least well controlled.
- Consistency - i.e. similar approaches in similar circumstances to achieve similar ends.
- Transparency - i.e. helping duty holders to understand what is expected and distinguishing between statutory requirements and guidance.
- Proportionality - i.e. action taken should be proportional to the risk presented.

Enforcement protocols and close liaison between Responsible Authorities are established to ensure efficient enforcement.

8 Policy review

8.1 Policy determination and review

The Licensing Authority determined and published its first “Statement of Licensing Policy”

The Licensing Authority will keep the Statement of Licensing Policy under constant review and make such revisions it feels appropriate. Where revisions are made, the licensing authority shall publish a statement of revisions or a revised Statement of Licensing Policy.

When reviewing the policy the Licensing Authority will undertake consultation with the following bodies before the final determination of its Statement of Licensing Policy:

- Chief officer of police
- Fire authority
- Such persons as the licensing authority considers to be representative of holders of premises licences issued by the authority
- Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by the authority
- Such persons as the licensing authority considers to be representative of holders of personal licences issued by the authority
- Such other persons as the licensing authority considers to be representative of businesses and residents in its area

Reviews of the Statement of Licensing Policy that involve more than simple correction, i.e. spelling, will always follow legislative requirements.

8.2 Reports to the licensing committee and links to other strategies & policies

8.2.1 Tourism and employment

Arrangements will be made for the licensing committee to receive reports on the needs of the local tourist economy and the cultural strategy for the area. This is to ensure that these are reflected in the considerations of the licensing panels and committee.

The Licensing Authority will similarly make arrangements to keep the licensing committee apprised of the employment situation in the area and the need for new investment and employment where appropriate.

Links where possible will be made to the Economic Development Program and Tourism Strategy.

8.2.2 Planning

Arrangements are in place to ensure that proper integration with the planning function is achieved. This will include, where appropriate, providing reports on licensed premises in the area.

In assessing application for premises licences, section 4.1 of this document makes clear that relevant planning permissions will normally be a pre-requisite. Applications for planning permissions will be assessed having regard to national and local planning policies particularly those of the Harrogate District Local Plan, together with any other material considerations. Those provisions of national and local policy that are likely to be most relevant are as follows:

Planning Policy Guidance N6: Town Centres and Retail Developments (1996) and Draft Planning Policy Statement 6: Planning for Town Centres

- Diversity of uses in town centres to be encouraged as this makes an important contribution to their vitality and viability.
- Primary shopping frontages in town centres should contain a high proportion of retail uses, while secondary frontages provide the greatest opportunities for flexibility and a diversification of uses, including licensed premises.
- However, consideration should be given as to whether a development proposal would result in concentrations of single uses resulting in cumulative effects that can cause local problems, such as a loss of retail outlets, traffic parking and local residential amenity.
- Where there is a need for uses such as public houses and restaurants, a sequential approach to their location must be adopted, meaning that first preference should be for town centres, followed by edge of centre sites, district and local centres and only then out of centre sites in locations that area accessible by a choice of means of transport.

Harrogate District Local Plan 2001

Policy S5 refers to non-shopping uses for main centres:

Within the core shopping streets of the district's main shopping centres the primary shopping frontages will be protected from the introduction of non-

shopping uses, such as licensed premises, to maintain the continued shopping character of the centre.

The opportunity for diversification and provision of non-shop uses is provided for in the secondary shopping frontages provided that the increase of non-A1 shop use does not cause local problems, such as loss of residential amenity or adversely affect the character and vitality of the shopping street particularly where they become over concentrated.

This is especially the case close to the primary shopping area, where a preponderance of non-A1 shop uses would be likely to deter visitors into the secondary shopping street, and thereby lead to its subsequent decline as a shopping street with a possible deterioration of property condition.

Under **Policy CF9**, proposals for community facilities such as public houses will be expected to be provided within the development limits of the main settlements and larger villages, or within the built up confines of smaller villages. Sites for public houses must be easily accessible for the community to be served, there must be no adverse impact on residential amenity and there should be no significant loss of industrial, business or housing land or buildings, recreational land or important amenity open space.

Policy A1 concerns the impact of development on the environment and amenity. This policy does not permit proposals that have an unacceptable effect on residential amenity and surrounding land uses, cause significant adverse environmental impact, or result in a detrimental effect on the visual amenity and character of the area.

8.2.3 Transport

Arrangements are in place for the relevant committee or portfolio holder to receive reports on the need to disperse people away from town and city centres swiftly and safely.

8.2.4 Cultural strategies

The Licensing Authority will keep under review the impact of licensing on regulated entertainment, and particularly live music and dancing. Where there is any indication that licensing requirements is deterring such events, the policy may be revisited with a view to investigating how the situation might be reversed. Links where possible will be made to the Harrogate District Cultural Strategy and Cultural Strategy for North Yorkshire County Council.

8.2.5 Community safety: crime and disorder

Arrangements are in place to ensure that proper integration with the Harrogate District Community Safety Partnership and CCTV is achieved. This will include where appropriate providing reports to the Community Safety Partnership. Links where possible will be made to the Community Safety Partnership, Crime and Disorder Reduction Strategy, North Yorkshire Police Drug Policy and any other relevant strategies e.g. Alcohol Strategy.

8.2.6 CCTV

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

The Licensing Authority will endeavour to ensure that the Licensing Function meets its responsibility under Section 17, Crime and Disorder Act 1998.

9 Glossary

Alcohol

Includes beer, wine, cider, spirits or other fermented, distilled or spirituous liquor of or exceeding 0.5% strength.

Authorised officers

Those employees of the Licensing Authority authorised by this Policy or by the Council's Constitution.

Cumulative effect

Where the number, type and closeness of premises selling alcohol, combined together can create serious problems from people using or leaving the premises.

Designated premises supervisor

The individual for the time being specified in the premises licence as the premises supervisor, this can include the premises licence holder but he or she must have a personal licence.

Entertainment

Includes:

- The performance of a play.
- An exhibition of a film.
- An indoor sporting event.
- Boxing or wrestling entertainment.
- A performance of live music.
- Any playing of recorded music.
- A dance performance.
- Facilities for people to take part in:
 - Making music.
 - Dancing.
 - Other entertainment of a similar description.

Doesn't include:

- Films if the sole or main purpose is to demonstrate a product, advertise goods or services or provide information, education or instruction.
- Films as part of exhibitions in museums galleries etc.
- Music incidental to something other than a regulated entertainment.
- Live TV and radio broadcasts.

- Religious meetings or services.
- Places of public religious worship.
- Garden fetes unless for private gain.
- Vehicles in motion.

Entertainment Facilities

Entertainment facilities are defined as facilities for enabling persons to take part in entertainment of a description falling within those mentioned above for the purpose, or for purposes which include the purpose, of being entertained. The descriptions of entertainment are making music, dancing, and entertainment of a similar description to that falling within those mentioned above. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).

Garage

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

- The retailing of petrol
- The retailing of derv
- The sale of motor vehicles and
- The maintenance of motor vehicles

Hot Food and Drink

Hot food or drink supplied on or from any premises is “hot” if the food or drink, or any part of it is above ambient temperature:

Interested Party

Interested Party is defined as:

- i) a person living in the vicinity of the premises
- ii) a body representing persons who live in that vicinity
- iii) a person involved in a business in that vicinity
- iv) a body representing persons involved in such businesses

Late-night refreshment outlets

Places serving hot food or hot drink (or the means to heat it, for example a microwave oven) to eat in the premises or takeaway, between the hours of 11 pm and 5 am.

Late night refreshment

Provision of late night refreshment is defined as the provision of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises between 11pm and

5am or at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises for payment.

Licensable activities

Licensable activities and qualifying club activities are defined in the Licensing Act as

- i) the sale by retail of alcohol
- ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- iii) the provision of regulated entertainment
- iv) the provision of late night refreshment

for those purposes the following licensable activities are also qualifying club activities;

- i) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place
- ii) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place
- iii) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests

Licensing Committee

A committee of 10 to 15 Councillors, appointed by the Licensing Authority.

Licensing objectives:

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

Regulated entertainment:

Provided to the public or exclusively to members of a qualifying club and their guests or if neither of the above for money or monies worth and with a view to profit and the premises on which the entertainment is or entertainment facilities are provided are made available for that purpose.

Regulated Entertainment is defined as:

- (a) A performance of a play
- (b) An exhibition of film
- (c) An indoor sporting event
- (d) A boxing or wrestling entertainment
- (e) A performance of live music
- (f) Any playing of recorded music
- (g) A performance of dance
- (h) Entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).

Responsible Authority

Responsible Authority is defined as:

- i) the Chief Officer of Police for any Police area in which the premises are situated
- ii) the Fire Authority for any area in which the premises are situated
- iii) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated
- iv) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated
- v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- vi) a body which:
 - (a) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
 - (b) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters

- vii) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated
- viii) in relation to a vessel:
 - (a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57)) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities
 - (b) the Environment Agency
 - (c) the British Waterways Board, or
 - (d) the Secretary of State
 - (e) a person prescribed for the purpose of this subsection
- ix) Trading Standards

Saturation

Where imposing conditions is unlikely to make a difference to controlling large groups of people in an area we may consider the refusal of some new licences because the area could already have enough licensed premises.

Subcommittee(s)

One or more committees of three members appointed from the Licensing Committee to whom the functions of the Licensing Committee can be delegated under the Act.

Temporary Event

Temporary Event is defined as the use of premises for one or more of the licensable activities during a period not exceeding 96 hours usually where a premises licence covering the licensable activity is not in place.

Vertical Drinking

A trading concept which forces majority of customers to stand and drink rather than sitting down. Chairs and tables are often cleared later in an evening to achieve this.