



## STATEMENT OF LICENSING ACT 2003 POLICY

### Version Control

<i>Version No.</i>	<i>Amended by</i>	<i>Date</i>
1.0	Richmondshire District Council	2007
2.0	Richmondshire District Council	22 <sup>nd</sup> February 2011
2.1	Licensing Committee	6 <sup>th</sup> September 2012
2.2	Richmondshire District Council	June 2017

Richmondshire is predominantly rural in character and covers over 500 square miles. The population of 53,200 live in 100 parishes. The major centres of population are Richmond, Leyburn, Hawes and Middleham. In addition, the area around Catterick Garrison houses the largest military base in Western Europe. This group of Army personnel influences the size and the nature of premises in the area adjacent to Catterick Garrison.

In general, terms the licensed premises in the area are small and cater for the local trade and the buoyant tourist industry. Tourism is a very important factor in the economy of the District and the Council will recognise this as a relevant consideration when assessing Licensing applications.

In the area, surrounding Catterick Garrison and Richmond there is a small number of larger premises, which cater for younger adults many of whom come from the Army establishments.

It is these premises, which have the potential to open late into the night and thus create potential for conflict with the Licensing objectives particularly with respect to crime and disorder and public nuisance.

In coming to any decisions on Licensing, the Council recognises that the aim of the Licensing Act is to change the culture associated with licensed premises and to encourage flexible hours of opening. The Council will consider this, when assessing Licence applications. It will also recognise the legitimate concerns of its public, if any premises fail to adequately address the Licensing objectives.

The overriding aim of the Council will be to keep a reasonable balance between the needs of the Licensing trade and its customers and the rights of residents to have peaceful enjoyment of their homes and surroundings.

To achieve that aim, the Council will seek to consult widely with all interested parties and its statutory consultees. It will also keep its Licensing Policy under review and where new challenges appear, it will amend its Policy to meet them.

# RICHMONDSHIRE DISTRICT COUNCIL

## STATEMENT OF LICENSING POLICY

### 1.0 INTRODUCTION

1.1 Richmondshire District Council (henceforth referred to as ‘the Council’) is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.

1.2 When assessing applications, the Council must be satisfied that the measures proposed in the applicant’s operating schedule aim to achieve compliance with the Licensing Act 2003, the four Licensing Objectives within it specified below:

- ***The Prevention of Crime and Disorder***
- ***Public Safety***
- ***The Prevention of Public Nuisance***
- ***The Protection of Children from Harm***

1.3 For the purposes of the 2003 Act, the following are licensable activities:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of regulated entertainment; and
- The provision of late night refreshment.

The 2003 Act provides for four different types of authorisation or permission, as follows:

- Premises licence – to use premises for licensable activities.
- Club premises certificate – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act.
- Temporary event notice – to carry out licensable activities at a temporary event.
- Personal licence – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

This 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.

1.4 The 2003 Act requires that the Council publishes a ‘Statement of Licensing Policy’ that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

1.5 This ‘Statement of Licensing Policy’ has been prepared in accordance with the provisions of the 2003 Act as amended and having regard to the guidance issued under Section 182 of the Act and nothing in this Policy should be interpreted as being contrary to the requirements of them. It has been drafted in consultation with all Responsible Authorities and other Stakeholders and in recognition of the relevant policies further outlined in 1.13.

1.6 The Council’s Licensing Policy will remain in force for a period of not more than five years. It will be subject to regular review and further consultation prior to September 2022.

The Council recognises that, before this Policy can be amended, consultation must take place with those people and bodies mentioned in Section 5 (3) of the Licensing Act 2003. It further recognises that after consultation it must properly consider any representations prior to placing the amended Policy before Full Council for approval.

1.7.1 The Legislative Reform (Entertainment Licensing) Order 2015 has changed the licensing requirements in respect of regulated entertainment so that a licence is no longer required for the following types of entertainment in specific places and before specific sized audiences, if the entertainment detailed takes place between the hours of 08.00 and 23.00.

1.7.2

Activity	Audience Limit	Exemption Applies to:-
Plays	500	All premises
Films	500	Community premises only
Indoor Sports	1000	All premises
Boxing and Wrestling	1000	A contest, exhibition or display Greco-Roman wrestling or Freestyle wrestling
Live Music	500 for amplified music No limit for unamplified	Alcohol licensed premises (at the time of music entertainment, the premises are open for the purpose of being used for the sale or supply for consumption on the premises) OR Workplaces OR Places of Worship OR Local Authority Premises OR Schools OR Hospitals
Recorded Music	500	Alcohol licensed premises (at the time of music entertainment, the premises are open for the purpose of being

		used for the sale or supply for consumption on the premises) OR Workplaces OR Places of Worship OR Local Authority Premises OR Schools OR Hospitals
Performance of Dance	500	All premises

1.7.3 The following activities are examples of entertainment, which is not licensable (regardless of when it happens or the size of audience): -

- Activities, which involve participation as acts of worship in a religious context;
- Activities in places of public religious worship;
- Education teaching students to perform music or to dance;
- The demonstration of a product - for example, a guitar - in a music shop;
- The rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing or similar (including any live music or playing of recorded music as an integral part of a performance of Morris dancing, or similar activity.)
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film - an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted, or held for purposes of private gain;
- Films for advertisement, information, education, or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy;
- Provision of entertainment facilities (e.g. dance floors)

1.8 Where types of entertainment are present in a performance by a travelling circus they will not be licensable provided that certain qualifying conditions are met. The qualifying conditions are that:

- the entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
  - the entertainment takes place between 08.00 and 23.00 on the same day;
  - the entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure;
- and

- the travelling circus has not been located on the same site for more than 28 consecutive days.

- 1.9 The Legislative Reform (Entertainment Licensing) Order 2015 has changed the licensing requirements in respect of Personal Licences and has extended the 10-year original licence to an indefinite licence. Once a licence is granted, therefore, there is no need to make any application to renew it. Licensees however, are still required to notify the Council of any change of address, any convictions etc.

### **Early Morning Restriction Orders**

- 1.10 Licensing Authorities can make Early Morning Restriction Orders (EMRO's), which restrict the sale of alcohol between midnight and 6am by any outlet with a Premises Licence, Club Premises Certificate temporary event notices. If it is considered, appropriate by the Licensing Authority for the promotion of the licensing objectives.
- 1.11 The aim of the EMRO's is to provide licensing authorities a way of addressing the objectives in their local area, by restricting alcohol sales between certain times (e.g. from midnight to 6am).

Richmondshire District Council does not currently have an area covered by and Early Morning Restriction Order. This Licensing Authority will, however, continue to keep this under review and may consider the introduction of an order should the evidence suggest so.

### **Late Night Levy**

- 1.12 It is possible for the Licensing Authority to charge a late night levy to help pay for the cost of policing the local night-time economy, where this is deemed necessary.
- 1.13 This would apply to premises that have a licence or certificate beyond a specified time (e.g. all premises that open after midnight on any day of the week).
- 1.14 This is not something the Licensing Authority will decide in isolation, but in consultation with our partners, in particular, North Yorkshire Police Constabulary and the Police and Crime Commissioner as the financial impact would be considerable, therefore any decision made will also be subject to a full consultation.
- 1.15 Richmondshire District Council does not currently have a Late Night Levy. The Licensing Authority will, however, continue to keep this under review and may consider the introduction of a Levy should the evidence suggest so.
- 1.16 The Designated Public Places Order (DPPO) has been replaced by the Public Spaces Protection Order (PSPO). In the Anti-social Behaviour Crime Policing

Act 2014. PSPO's can be used to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature and reasonable.

## **Temporary Event Notices**

- 1.17 The Licensing Act 2003 provides occasions when small-scale events (for no more than 499 people at a time and lasting for no more than 168 hours) do not need a licence providing that advance notice be given to the Police, Environmental Health and the Licensing Authority. When giving a temporary event notice (TEN), consideration shall be given to the four licensing objectives. If the licensing authority receives an objection the Police or Environmental Health Authority, it must (in the case of standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary)

It is not possible to modify the terms of a 'late TEN'.

The licensing authority only intervenes if the statutory permitted limits on temporary event notices would be exceeded, or the minimum notice periods are not observed.

- 1.18 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

"Ten working days" (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.

The licensing authority recommends providing at least one-month' notice.

## **Purpose of the Licensing Policy**

- 1.19 The licensing policy has four main purposes, these are:

- To reinforce, to elected Members on the Licensing Committee, the boundaries and power of the Council and to provide them with parameters under which to make their decisions. The Committee's determination should be evidence based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- To inform the licence applicants of the parameters under which the Council will make licence decisions, and therefore how a licensed premises is likely to be able to operate within an area.
- To inform residents and businesses of the parameters under which the Council will make licence decisions, and therefore, how their needs will be addressed.
- To inform a court of law how the Council arrived at its decisions when these are challenged in a court, and to support these decisions.

## **The Licensing Objectives**

- 1.20 The 2003 Act requires the Council to carry out its various licensing functions to promote the four licensing objectives specified at 1.2 of this Statement of Licensing Policy.
- 1.21 In respect of each of the four licensing objectives, applicants will need to provide evidence to the Council steps that are appropriate for the promotion of the licensing objectives, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made to whether additional measures 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 audiences.
- 1.22 The Licensing Act 2003 also supports a number of other key aims and purposes. These include:
- (i) Providing the Police and the Council with powers to effectively manage and police the night time economy and take action against any premises that are causing problems;
  - (ii) Protecting local residents and visitors to Richmondshire from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
  - (iii) Recognising the important role which pubs and other licensed premises play in the local economy by reducing, where possible the regulatory burden on businesses and supporting responsible premises;
  - (iv) Providing a regulatory framework for alcohol which enables the Council to make and enforce appropriate decisions about the most appropriate licensing strategies for the district of Richmondshire; and
  - (v) Encouraging greater involvement in licensing decisions by local residents in respect of licensing decisions, which may affect them.
- 1.23 In addition this Policy also aims to:
- Promote responsible attitudes to alcohol and responsible drinking;
  - Raise awareness of the level of alcohol related health problems;
  - Protect children and residents from the negative impact of alcohol;
  - Reduce the rate of alcohol related crime and disorder and anti-social behaviour;
  - Promote a responsible licensed trade;

## **Responsibility**

- 1.24 The Council as the Licensing Authority under the Licensing Act 2003 confers the enforcement of Licensing Act duties upon the Licensing Committee. The Licensing Committee must appoint a Hearings Panel of trained Councillors who will be responsible for conducting Licensing Hearings.

## **Consultation**

- 1.25 The Council recognises that there are a number of groups who have a stake in the sectors of the leisure and entertainment industry to whom the Licensing Act 2003 applies. These include providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.26 In developing this Policy Statement, the Council recognised the need to consult widely. Along with the Responsible Authorities, the views of existing licence holders, businesses, voluntary groups and residents have also been taken into account. Due consideration was given to the views of all those who responded to that consultation process.

## **Links to other Strategies**

- 1.27 In preparing this statement of licensing policy, the Council had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development, to ensure the proper co-ordination and integration of the aims and action of these policies. Review and amendment of these strategies will be considered for their impact on this statement of licensing policy.
- 1.28 Further, arrangements will be made where appropriate for the Licensing Committee to receive reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Committee will also be appraised of the local employment situation and the need for new investment and employment, where appropriate.
- 1.239 To ensure proper integration with the Council's planning policies, the Licensing Committee will, where appropriate, provide reports to relevant Committees of the Council on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable those Committees to have regard to such matters when making its decision.
- 1.30 The Council recognises its responsibilities under the Equality Act 2010. The impact of this policy on race relations will be monitored through the Council's Race Equality Scheme.

## **Regulated Entertainment**

- 1.31 This policy will have due regard to the Council's Local Cultural Strategy. The policy affirms that a diverse provision of cultural activities is welcomed for the benefit of communities. The Council will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances etc to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. The Council will balance the natural concern to prevent disturbance in

neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children.

## **2.0 GENERAL POLICY MATTERS**

### **Applications**

- 2.1 When considering applications, the Council, as the Licensing Authority will have regard to:
- The Licensing Act 2003 and the licensing objectives
  - Government guidance issued under Section 182 of the Licensing Act 2003
  - Any supporting regulations
  - This statement of licensing policy
- 2.2 This does not however undermine the right of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 2.3 When the Council is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be more properly achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the local planning authority. However, applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. (Other permissions may be applicable to licensed premises and applicants will be expected to ensure that such permissions are obtained where necessary.)
- 2.4 When one part of the Council seeks a premises licence from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If local residents or responsible authorities such as the police make relevant representations, for example, the Committee will consider them fairly. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the Licensing Committee are entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.
- 2.5 In all cases, applicants and those making representation in respect of applications to the Council have a right of appeal to the Magistrates' Court against the decision of the Council.
- 2.6 Details are available from the Licensing Team of the applications process, having regard to the Licensing Act 2003, the regulations, statutory guidance and local practice and procedures. It is policy that incomplete applications will

not be accepted and will be returned with an explanation of why they are incomplete.

## **Representations**

- 2.7 The Chief Officer of Police, the relevant licensing authority, the Fire and Rescue Authority, the Enforcing Authority for health and safety purposes, the local planning authority, the authority responsible for Environmental Health, Primary Care Trusts, North Yorkshire Trading Standards, North Yorkshire County Council Social Care and the Home Office (Immigration Enforcement) are all recognised as 'Responsible Authorities'. These Responsible Authorities may make representations on applications, as far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted. The Committee or its delegated officers will give full regard to such representations.
- 2.8 Local residents and businesses and other persons may make representations, which must be in writing. A representation would only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious, and in the case of reviews, it must not be repetitious.

## **Conditions**

- 2.9 Licensing is recognised as being the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where relevant representations are made, the Licensing Committee will seek to make objective judgements as to whether conditions may need to be attached to various authorisations and others in possession of relevant authorisations, to seek promotion of the licensing objectives. Any conditions arising from the operating schedule, or because of representations, will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises. This will include members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.
- 2.10 The Council acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals, once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These include:
- Planning controls
  - Positive measures to create a safe and clean environment in partnership with local businesses, transport operators and other units of the local authority

- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- The confiscation of alcohol from children and adults in designated areas
- The power of the Police, other Responsible Authorities or a local resident or business to seek a review of the licence or certificate in question

2.11 If an applicant volunteers a prohibition or restriction in their operating schedule because their risk assessment has determined such prohibition to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence or certificate and will be enforceable as such.

2.12 Requirements for advertising applications for the grant, variation or review of premises licences or club premises certificates are set out in legislation. The Licensing Authority will place a notice on the Council's website outlining details of the application as set out in legislation. The summary will set out matters such as the proposed licensable activities and the proposed hours of opening and will be displayed for the period during which representations may be made, together with information about where the details of the application may be viewed.

This is in addition to the applicant's statutory requirements of publishing a notice in a local newspaper and displaying a brief summary of the application on or outside the premises concerned.

2.13 The Council recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions, other than mandatory conditions, will be avoided and no condition will be imposed that cannot be shown to be appropriate for the promotion of the licensing objectives.

The Council recognises that in the absence of relevant representations it must grant the application subject only to any applicable mandatory conditions and conditions that are consistent with the applicant's Operating Schedule.

## **Delegation of Functions**

2.14 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved

scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. A table setting out how the Licensing Authority intends to approach its various functions can be found at Section 8 of this Statement of Licensing Policy.

### **The Need for Providing Licensed Premises**

2.15 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a Licensing Authority in discharging its licensing functions or for its statement of licensing policy.

### **Cumulative Impact of a Concentration of Licensed Premises**

2.16 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The Council recognises that the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in discharging its responsibilities under the Licensing Act 2003.

2.17 The Council acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases, the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.

2.18 The Council will not impose quotas of premises or licences in given areas and will only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area is resulting in unacceptable levels of crime and disorder or public nuisance.

2.19 The Council, having regard to the evidence currently available, considers that there is no particular part of the district causing a cumulative impact on any of the licensing objectives.

2.20 The Council recognises that the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. The onus will be on the objector to provide evidence that additional licences or the variation of existing licences will produce the cumulative impact claimed. If the evidence is proven the policy of consultation referred to in 1.6 of this Statement of Licensing Policy will be invoked.

## **Advice and Guidance**

- 2.21 The Council recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. In respect of new businesses and developments involving licensable activities, the Council welcomes an early opportunity to offer advice and guidance; this also includes consultation prior to seeking planning permission. At this early stage, it is often easier and more cost effective to integrate issues such as crime and disorder, transport and public safety into the design. Discussions will be encouraged to assist applicants of existing businesses to develop their operating schedule prior to submitting amendments to licences under the Licensing Act 2003. The Council, North Yorkshire Police and other Responsible Authorities will offer as much advice and guidance to applicants, as resources permit.
- 2.22 The Council will seek to liaise with applicants and/or mediate between applicants and others who may make representations in order to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended, that the applicant discuss his proposal with the Licensing Team and those from whom they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussion, liaison and mediation.
- 2.23 The Council will offer a minor variation process that allows applicants to apply for a variation of the licence which will have no adverse effect on the four licensing objectives through a streamlined process.

## **Reviews**

- 2.24 Where possible and appropriate, the Council, North Yorkshire Police and/or North Yorkshire Fire and Rescue Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 2.25 Responsible authorities and any other person can trigger a review of a premises licence but an evidence-based and relevant representation in writing would be required to be presented to the Council.
- 2.26 No more than one review from a person other than a responsible authority will be normally permitted within any 12-month period on similar grounds except in exceptional and compelling circumstances.

## **Enforcement**

- 2.27 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and is committed to providing fair and proportionate enforcement measures, which are readily understood by business. The administration and enforcement of the licensing regime is one of these services. The Authority has adopted the Government's Regulators' Compliance Code designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner. A copy of the Council's Enforcement Policy is available on request.
- 2.28 The Council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law. The Council has set clear standards of service and performance that the public and businesses can expect. In particular this Statement of Licensing Policy has been created to explain how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy is freely available from the Licensing Team as are details of the Council's corporate complaints procedures. These documents are also accessible on the Council's website: [www.richmondshire.gov.uk](http://www.richmondshire.gov.uk)
- 2.29 The Council has established effective liaison with North Yorkshire Police and North Yorkshire Fire and Rescue Service on enforcement issues. This was established with the aim of targeting resources towards high-risk premises and activities, which require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

### **3.0 LICENSING OBJECTIVES**

- 3.1 The following sections set out the Council's Policy relating specifically to the four licensing objectives:
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 3.2 In each section relating to the objectives, the Council has defined its intended outcome. Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.
- 3.3 Advice on possible control measures for the guidance of applicants are available from the Licensing Team, but these are not intended to be exhaustive or prescriptive and will not be used by the Licensing Authority to

create standard conditions. Where any control measure is not relevant, the Licensing Authority will not require it to be mentioned in the Operating Schedule. Many control measures achieve more than one objective. Similarly, applicants will not be required to mention a control measure more than once in their operating schedule.

- 3.4 The selection of control measures, referred to in 3.3 above, must be based upon a risk assessment of the premises, events, activities and the customers expected to frequent the premises (e.g. their age, number, etc). The Council cannot require such risk assessments to be documented (other than where required by other legislation), but it commends formal documentation and also considers such documentation to be good, sound basis for review by the licence holder, in the event of requiring to make application for variation or in response to changing practice and a useful tool in the instruction and training of staff. It forms circumstances/conditions at the premises.
- 3.5 Additional measures may be necessary on an occasional or specific basis, such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives. Reference must be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to promote the licensing objectives.
- 3.6 The Council considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of Industry Best Practice to be the most essential control measures for the achievement of all the licensing objectives. The Council will not seek to impose standard conditions in respect of these matters. It does however commend consideration of them by applicants in order to properly address the Licensing Objectives.

#### **4.0 PREVENTION OF CRIME AND DISORDER**

- 4.1 Richmondshire District Council as a partner in The Richmondshire Community Partnership has produced a Crime and Disorder Strategy which has the aim 'To make Richmondshire a safer place by working with partners and communities to reduce crime, disorder and fear of crime ensuring all people enjoy a good quality of life.'
- 4.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures from preventing crime and disorder and imposed a duty on Richmondshire District Council, North Yorkshire Police, North Yorkshire County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.
- 4.3 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 in their operating schedule that they have considered the issues at their licensed premises, which could impact on crime and disorder. Suitable and sufficient control measures must have been identified and be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.

- 4.4 In developing Operating Schedules in respect of Crime and Disorder, applicants should when appropriate seek advice from either the Council's Licensing Team or North Yorkshire Police Licensing Officer. Applicants should take into account Richmondshire's Crime and Disorder Reduction and Community Strategies as appropriate, when planning and preparing Operating Schedules.
- 4.5 Wherever door supervisors are identified as being essential, due to a relevant representation from North Yorkshire Police, it is policy that the number of Door Supervisors will be determined by North Yorkshire Police, subject only to the applicant demonstrating adequately why an exception should be made for their particular premises.
- 4.6 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. Every sale of alcohol must be authorised by a personal licence holder, these authorisations are normally granted by means of a written delegated authority.
- 4.7 The system of permitted temporary activities is intended as a light touch process. The carrying on of licensable activities does not need to be authorised by the Licensing Authority; a person wishing to hold an event at which licensable activities are proposed to be carried on gives notice to the licensing authority of the event.

There are two types of TEN; a standard TEN and a Late TEN. These are subject to different processes; a standard notice is given no later than ten clear working days before the event to which it relates; a late notice is given not before nine and not later than five working days before the event.

Ten working days exclude the day the notice is received and the first day of the event.

The Council recognises that, save for certain administrative reasons, they cannot refuse such a notice and that only the Police and the Council's Environmental Health Service have the power to prevent such an event taking place.

The Council does however; recognise that such events have the capability to seriously impinge on the licensing objectives. In recognition of this fact, organisers of Temporary Activities are encouraged to submit their applications

to the Police and the Council's Environmental Health Service at the earliest possible opportunity to enable them to work together with the common aim of reducing the working against the licensing objectives.

- 4.8 The Council will take all reasonable steps and consult all relevant organisations in order to secure the Crime and Disorder objective.

## **5.0 PUBLIC SAFETY**

- 5.1 The Council is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. Applicants will be expected to demonstrate in their operating schedule, that they have considered the issues at their licensed premises, which could affect public safety. Suitable and sufficient control measures must have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

- 5.2 The Council will take all reasonable steps and consult all relevant organisations in order to secure the public safety objective.

## **6.0 PREVENTION OF PUBLIC NUISANCE**

- 6.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Council wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.

- 6.2 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

- 6.3 The Council recognises that longer licensing hours and staggered closing times are important factors in reducing Public Nuisance by ensuring that concentrations of customers do not leave premises simultaneously, however it will not seek to engineer closing times to seek to fulfil this objective.

- 6.4 The Council will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises, which can demonstrate that they have effective measures planned to prevent public nuisance, may be considered suitable for 24-hour opening subject to their ability to promote all other licensing objectives.

- 6.5 In the case of shops, stores and supermarkets selling alcohol, the Council will normally permit the hours during which alcohol is sold, to match the normal

trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder.

- 6.6 Applicants will be expected to demonstrate in their operating schedule that they have considered issues at their licensed premises, which could affect their ability to prevent public nuisance. Suitable and sufficient control measures must be identified, implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.
- 6.7 The Council will take all reasonable steps and consult all relevant organisations in order to secure the Prevention of Public Nuisance objective.

## **7.0 PROTECTION OF CHILDREN FROM HARM**

- 7.1 The Council is committed to encouraging family friendly premises, but in doing so, it recognises that the protection of children from harm is of paramount consideration when determining licensing applications. It recognises the Director of Children and Young Peoples Service at North Yorkshire County Council as the Responsible Authority and encourages prospective licence holders and licence holders to consult with them on matters relating to the Protection of Children from Harm.
- 7.2 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. The Council recognises that this relaxation places additional responsibilities upon licence holders. It also recognises that parents and others accompanying children have responsibilities.
- 7.3 The Council recognises that the protection of children from harm. This includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language, sexual expletives and any portrayal or display of sexual or violent conduct, which is unsuitable for them. This vulnerability also extends to their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age, the lack of understanding of danger and any other significant matters, which may pose a threat to them. The Council will not accept the presence of children in licensed premises when there is any activity-taking place, which compromises the protection of children from harm objective.
- 7.4 The Council has determined that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access, to licensed premises. The Council does not intend to impose conditions requiring the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.

- 7.5 Applicants will be expected to demonstrate in their operating schedule that they have considered issues at the licensed premises, which could affect their ability to Protect Children from Harm. Suitable and sufficient control measures must be identified, implemented, and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.
- 7.6 In the case of film exhibitions, the Council will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Council. In the case of a film exhibition that has not been classified, the Council will expect the licensee to assess the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.
- 7.7 The Council may require adult supervisors who work with children to undergo a Disclosure and Barring Service check.
- 7.8 The Council will rarely consider imposing a complete ban on access to children. It will however do so if it considers that there are exceptional circumstances by which it is the only way to secure the Protection of Children from Harm objective.
- 7.9 The Council will take all reasonable steps and consult all relevant organisations in order to secure the Protection of Children from Harm objective.

## **8.0 ADMINISTRATIVE MATTERS**

### **APPEALS**

- 8.1 There is a right of appeal where any decision aggrieves an applicant. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Council of the decision and must be made to the Justices' Chief Executive, Northallerton Magistrates' Court, Racecourse Lane, Northallerton, and North Yorkshire. In hearing an Appeal against the Council's decision, the Court will have regard to this Policy and the National Guidance issued under Section 182 of the Licensing Act 2003. However, the Court would be entitled to depart from both of these documents if it considers it justified so to do.
- 8.2 Where an appeal has been made against a decision of the Council, the Licensing Authority will in all cases be the respondent to the appeal and may call as witnesses Responsible Authorities or other persons who made representations against the application if it so chooses. In addition, and provided the court considers it appropriate, the Licensing Authority may also call as witnesses any individual or body it considers may assist in their response to an Appeal.

- 8.3 In respect of Personal Licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other licences must be made to the Magistrates' Court where the premises or event is situated.

## **COMPLAINTS AGAINST LICENSED PREMISES**

- 8.4 Where there are complaints against licensed premises, complainants are advised, whenever possible, to raise their complaint directly with the licensee in order to resolve the matter. Where this is not possible, complaints should be addressed to The Environmental Health Manager, Richmondshire District Council, Mercury House, Station Road, Richmond, North Yorkshire, DL10 4JX. However, it is expected that all noise-related complaints be initially raised with the Council's Environmental Health Service. Complaints regarding unlicensed activities and operating outside the permitted hours should be raised with the Council's Licensing Officer.
- 8.5 On receipt of a complaint, the Council Licensing Officer will investigate the circumstances, discussing the complaint with the Designated Premises Supervisor of the licensed premises and the complainant. Where it is a valid complaint, the Council shall endeavour to seek a resolution through informal means prior to taking any legal action.
- 8.6 The Environmental Health Manager is responsible for considering complaints in the context of this Policy and will determine whether it is a relevant complaint. The Environmental Health Manager authorises suitably qualified officers via the Council's Scheme of Delegation to discharge duties as appropriate to their seniority, professional qualifications and/or experience.
- 8.7 Where there is a serious complaint, then the Environmental Health Manager and Council Licensing Officer shall ensure that it is investigated and enforcement action taken where necessary. The Council shall act in accordance with its Enforcement Policy.
- 8.8 With regard to whether or not a representation is relevant, the Environmental Health Manager in consultation with the Council Solicitor shall decide on whether it is vexatious, frivolous, repetitive or not relevant (that is, in line with one or more of the four Licensing Objectives). Aggrieved objectors should take their own legal advice. The exclusion of a representation because it is repetitious does not, however, apply to Responsible Authorities. The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.. Where the decision is made that a complaint is vexatious, frivolous, repetitious or irrelevant, the complainant will be informed of this in writing with full reasons being given for the decision.
- 8.9 The Council recognises that this Policy and the promotion of the Licensing Objectives rely on partnership between all the parties. Therefore, where there are any concerns identified at the premises, or there is need for improvement,

the Council shall work closely with the parties at an early stage to address these concerns.

## **ENFORCEMENT**

- 8.10 In order to ensure compliance with the law and licensing conditions, the Council's Licensing Staff will carry out unscheduled inspections. Where one off events are taking place, they may also carry out inspections to ensure the Licensing Objectives are being promoted. Inspections shall be carried out in accordance with the principles of risk assessment and targeting problem premises.
- 8.11 In addition, the Council's licensing staff shall conduct random checks to ensure pale blue notices for new and varied applications are accurate and clearly displayed and that notices for reviews are displayed at or near the site of the premises, are randomly checked.
- 8.12 Section 57 of the Licensing Act, requires a licensed premises to ensure that the Premises Licence, or certified copy of that licence, is kept at the premises and in the custody, or under the control of, either the licence holder or a person who works at the premises and whom the licence holder has nominated in writing to have custody of that licence. In addition, the Act requires that a summary, or certified copy, be prominently displayed at the premises together with a notice specifying the name and person nominated to have custody of the licence. Where a premise does not display both notices or does not have the licence, or certified copy, on the premises, then the Council's Licensing Staff will write to the licence holder giving them an initial warning. Any subsequent failure will lead the Council to consider taking legal action.
- 8.13 The Council operates in accordance with the principles of consistency, transparency, proportionality and targeting set out in the Regulators' Compliance Code. A graduated response is taken, where offences against licensing legislation are found or where licensing conditions have been contravened. Further, the Council will undertake its enforcement responsibilities to promote the four licensing objectives and will aim to ensure enforcement is consistent, fair, balanced and co-ordinated.
- 8.14 Where official warnings are given, prior to any decision to prosecute for an offence, the Council's Licensing Staff shall ensure that all Responsible Authorities are informed of these warnings and the result of any action taken.
- 8.15 Any decision to instigate legal proceedings will take account of the criteria set down in the Code for Crown Prosecutors.

## **ADMINISTRATION AND DELEGATION**

- 8.16 The Council is involved in a wide range of licensing decisions and functions and has established the Licensing Committee to administer them. The powers under the Act also allow for delegation of powers/functions to Licensing Sub-Committees or to one of more officers. Appreciating the need to provide a

speedy, efficient and cost effective service to all parties involved in the licensing process, the Licensing Committee will take advantage of these powers and establish a Hearing Panel. The Licensing Committee will consist of a minimum of ten Members. The Hearing Panel will consist of three Committee Members, who will hear any relevant representations from Responsible Authorities and interested parties. Any of these individuals or groups may specifically request a representative to make representations on their behalf.

- 8.17 Decisions on all licensing matters shall be taken in accordance with an approved scheme of delegation. This is aimed at underlining the principles of timely, efficient and effective decision-making. The table given in 8.23 below sets out the agreed delegation of decisions and functions of the full Licensing Committee, Hearing Panel and officers. The various delegations include delegation to impose appropriate conditions. This scheme of delegation is without prejudice to the right of relevant parties to refer an application to a Hearing Panel or full Licensing Committee if considered appropriate in the circumstances of any particular case.
- 8.18 Many of the decisions and functions of the Council as the Licensing Authority are largely administrative in nature, such as the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made. These will be delegated to officers.
- 8.19 The Hearing Panel will deal with applications where there are relevant representations, unless such representations are considered irrelevant, frivolous or vexatious or unless the Licensing Authority, the applicant and everyone who has made representations agree that a hearing is not necessary (usually after mediation/negotiations).
- 8.20 The decision determined by the Hearing Panel will be accompanied with clear and cogent reasons, having had due regard to the Human Rights Act 1998 and all other legislation. Unless there are compelling reasons to the contrary, the Council will require the Licensing Committee or its Hearing Panel to meet in public, although Members can retire into private session to consider their decision.
- 8.21 Ward members may make representations in their own right. However, local Councillors are subject to the Local Authorities (Model Code of Conduct) Order 2007, which restricts their involvement in matters and participation in meetings to discuss matters in which they have a prejudicial interest. (An interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest). However, the latest version of the Code, which came into force on the 3<sup>rd</sup> May 2007 and which was adopted by this Council on the 1st of September 2007 has relaxed the rules on prejudicial interest. This has the effect of allowing Councillors with a prejudicial interest in an application to attend relevant meetings to make representations answer questions or give evidence if the public are also allowed to attend for the same purpose. Licensing legislation or otherwise and as long as they withdraw from the meeting immediately afterwards. It must be emphasised that Councillors have a duty to act in the

interests of all their constituents. Councillors' role as a community advocate must therefore be balanced with their ability to represent specific interests. The Code applies to any Council member whether or not they are a member of the Licensing Committee. A member of the Licensing Committee, representing others or acting in their own right, would need to consider carefully at a Committee meeting whether they had a prejudicial interest in any matter affecting the licence of the premises in question, which would require them to withdraw from the meeting when that matter is considered. Members with a prejudicial interest in a matter should not seek to influence improperly a decision on the licence in any other way.

8.22 Ward Councillors may wish to be kept informed of licensing related matters within the area, such as applications and reviews. The Act does not prevent the Council as a Licensing Authority from providing this information to Councillors, for instance by way of regular updates, as long as it done in a neutral way that could not be seen as "soliciting" representations. It should be remembered, that the "Licensing Authority" in most cases is the full council including all ward councillors, and each is therefore entitled to information required to inform that role.

**8.23 Scheme of Delegation:**

<b>Delegation of Functions:</b>			
Matter to be dealt with	Full Licensing	Licensing Hearing Panel	Officers
Application for Personal Licence		If a Police objection	If no objection made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for Transfer of Premises Licence		If a Police objection	All other cases
Application for Interim Authorities		If a Police objection	All other cases
Application to review Premises Licence/Club		All cases	

Premises Certificate			
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police or Environmental Health Service objection to a Temporary Event Notice		All cases	
Determination of a minor variation application			All cases
Determination of application to vary premises licence at community premises to include alternative licence condition		All cases	
Decision whether to consult other responsible authorities on minor variation applications		All cases	

L.G.la2