



## LICENSING COMMITTEE

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MEETING TO BE HELD IN CIVIC HALL, LEEDS ON  
TUESDAY, 14TH MAY, 2013 AT 10.00 AM

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### MEMBERSHIP

#### Councillors

K Bruce - Rothwell;  
N Buckley - Alwoodley;  
R Charlwood - Moortown;  
R Downes - Otley and Yeadon;  
J Dunn - Ardsley and Robin Hood;  
B Gettings - Morley North;  
T Hanley - Bramley and Stanningley;  
G Hussain - Roundhay;  
G Hyde - Killingbeck and Seacroft;  
A Khan - Burmantofts and Richmond Hill;  
P Latty - Guiseley and Rawdon;  
B Selby - Killingbeck and Seacroft;  
C Townsley - Horsforth;  
G Wilkinson - Wetherby;  
One Vacancy

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Agenda compiled by:  
Tel No:  
Governance Services  
Civic Hall  
LEEDS LS1 1UR

Helen Gray  
247 4355

# A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p><b>RESOLVED</b> – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p><b>LATE ITEMS</b></p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p><b>DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS</b></p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-16 of the Members' Code of Conduct.</p>	
5			<p><b>APOLOGIES FOR ABSENCE</b></p>	
6			<p><b>MINUTES</b></p> <p>To approve the minutes of the last meeting held on 12<sup>th</sup> March 2013</p> <p>(Copy attached)</p>	1 - 4
7			<p><b>PRESENTATION - POLICING AND THE NIGHT TIME ECONOMY</b></p> <p>To receive a presentation from West Yorkshire Police providing the Committee with an opportunity to discuss issues relating to policing and the night time economy which fall within the remit of the Licensing Committee.</p> <p>(Report attached)</p>	5 - 6

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p><b>LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY</b></p> <p>To consider the report of the Head of Licensing and Registration on the outcome of a review undertaken by the Licensing Committee Working Group of the LCC Licensing Act 2003 Statement of Licensing Policy</p> <p>(Report attached)</p>	7 - 90
9			<p><b>INFORMATION REPORT - AN UPDATE ON THE INTRODUCTION OF THREE YEARLY DISCLOSURE AND BARRING SERVICE CHECKS ON HACKNEY CARRIAGE &amp; PRIVATE HIRE DRIVERS AND PRIVATE HIRE OPERATORS</b></p> <p>To consider the report of the Head of Licensing and Registration advising Members of the current position in respect of proposals to introduce three yearly disclosures undertaken by the Disclosure and Barring Service (DBS) on Hackney Carriage and Private Hire Drivers and Private Hire Operators</p> <p>(Report attached)</p>	91 - 108
10			<p><b>INITIAL BACKGROUND REPORT ON AN APPLICATION FOR INCLUSION ON THE APPROVED LIST OF VEHICLES LICENSED AS "NOVELTY" PRIVATE HIRE VEHICLES</b></p> <p>To consider an information report by the Head of Licensing and Registration on an application for the inclusion of a vehicle on the Approved List of Vehicles licensed as "Novelty" Private Hire vehicles.</p> <p>(Report attached)</p>	109 - 114

Item No	Ward/Equal Opportunities	Item Not Open		Page No
11			<p><b>LENGTH OF ISSUE OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES</b></p> <p>To consider the report of the Head of Licensing and Registration providing a response to previous requests from the licensed trade to issue Hackney Carriage and Private Hire Driver Licences for a three year continuous period and setting out options for Members to consider to progress the matter</p> <p>(Report attached)</p>	115 - 132
12			<p><b>LICENSING WORK PROGRAMME</b></p> <p>To note the contents of the existing Licensing Work Programme and to consider any matters to be included for the forthcoming Municipal Year</p>	133 - 134
13			<p><b>DATE AND TIME OF NEXT MEETING</b></p> <p>To note the following proposals</p> <ul style="list-style-type: none"> <li>• Tuesday 4<sup>th</sup> June 2013 at 10:00am – meeting required to deal with governance issues and establishment of the sub committees</li> <li>• Tuesday 25<sup>th</sup> June 2013 at 10:00 am – ordinary business</li> </ul>	

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## Licensing Committee

Tuesday, 12th March, 2013

**PRESENT:** Councillor G Hyde in the Chair

Councillors K Bruce, N Buckley,  
R Charlwood, J Dunn, B Gettings,  
T Hanley, G Hussain, A Khan, P Latty,  
B Selby and C Townsley

**91 Election of a Chair for the meeting**

**RESOLVED** – That Councillor G Hyde be elected Chair for the meeting

**92 Late Items**

No formal late items of business were added to the agenda, however further comments on the minutes of the last meeting had been received and these were tabled at the meeting for Member's consideration

**93 Declaration of Disclosable Pecuniary and other Interests**

There were no declarations of interest

**94 Apologies for Absence**

Apologies for absence were received from Councillors Downes and Wilkinson

**95 Minutes**

The Head of Licensing and Registration indicated several amendments to the minutes of the last meeting in respect of Minute 86. A revised copy of the minutes was tabled at the meeting

**RESOLVED** – That, subject to the amendments outlined to the Committee, the minutes be agreed as a correct record

**96 Notification of First Draft Event Management Plan for the Leeds Festival 2013**

The Head of Licensing and Registration submitted a report advising the Committee of the arrangements for the 2013 Leeds Festival to be held at Bramham Park between 23<sup>rd</sup> and 25<sup>th</sup> August 2013. The report referred to the emerging Event Management Plan and included a schedule of changes made to the EMP in the light of last year's event and comments from the multi-agency meeting held on 11 February 2013.

Mr M Benn, Festival Republic, attended the meeting and responded to Members queries in respect of capacity and site access. A large scale map showing the layout of the site was tabled at the meeting for reference.

Members expressed their continued support of the Festival and the work undertaken by the organiser with agencies to ensure the smooth running of the event

**RESOLVED** –

Draft minutes to be approved at the  
Meeting to be held 9 April 2013

- a) To thank Mr Benn for his attendance
- b) To note the summary of changes to the 2013 event and
- c) To note that a further report will be brought back to the Licensing Committee in July or August 2013 to inform Members of the final arrangements and agency comments

## **97 Sex Establishment Licensing Policy Public Consultation**

The Head of Licensing and Registration submitted a report on the review the current LCC Statement of Licensing of Policy in respect of sex establishments. A copy of the draft Policy was included at Appendix 1 of the report along with copies of the consultation document, the outcome of consultation undertaken through the Leeds Citizens Panel and the proposed public consultation document

The report also set out proposals for a 3% increase to the application fee for a sex establishment licence in line with inflation and sought the Committees' view on whether future sexual entertainment venue licence applications should be determined by members and at what level irrespective of whether there is an objection or not.

The Committee heard from Councillor Bruce, Chair of the SEV Working Group in respect of the review work undertaken by the Group in redrafting the Policy through consultation. Members discussed the following issues

- The findings of the consultation undertaken with the Citizens Panel
- The suggestion that the consultations should be publicised as widely as possible, through local radio stations, Parish Councils and Area Committees to ensure widespread media coverage and encourage public participation
- The Council's legal position in respect of the proposed changes to the Policy and the possible impact of the changes on existing operators
- The advice provided in respect of decision making having regard to the policy and Members' discretion to choose whether to apply or make exception to the policy in respect of individual applications
- The monitoring of the venues operating under the current policy

Having noted the detailed discussions, Members considered it would be appropriate that, following the conclusion of the public consultation period, the Policy be presented to the Committee at a single-issue meeting

### **RESOLVED –**

- a) That, having reviewed the proposed consultation approach, the Licensing Committee give approval for public consultation to commence on the draft revised Statement of Licensing Policy with an additional request that the consultation include Area Committees and Parish Councils and be brought to the attention of local radio stations
- b) That approval be given to a 3% increase in application fees in line with inflation
- c) That approval be given for changes to be made to the sub-delegation scheme to ensure that all applications for sexual entertainment venues are determined by Members through the Licensing Sub Committee process irrespective of whether or not objections have been received.



**98 Information Report - Taxi and Private Hire Licensing Administration Process for Driver Licence Renewals**

The Head of Licensing and Registration submitted a report for information on the administrative process for the renewal of a Private Hire or Hackney Carriage drivers licence. The report outlined the necessary control measures, the volume of renewals dealt with by the Taxi & Private Hire Section and the instances where an exception to the process could be made for drivers when appropriate.

Members discussed the following

- The measures in place to accommodate drivers unable to renew their driver licence at the appropriate time due to a period of planned absence from the country or in unforeseen circumstances
- The implications of non-renewal on the validity of vehicle insurance necessary for the transportation of fee paying passengers
- The measures employed by the Section to remind drivers of their licence renewal date
- The low numbers of drivers affected relative to the total number of licensed drivers

Members were concerned that missing a renewal date would have a financial impact on the driver but also acknowledged that hackney and private driving was a professional trade and licence renewals were the responsibility of the professional driver

**RESOLVED** – That the contents of the report and the comments made by Members be noted

**99 Licensing Work Programme**

**RESOLVED** – To note the contents of the Licensing Work Programme

**100 Date and Time of Next Meeting**

**RESOLVED** – To note the date and time of the next meeting as Tuesday 9<sup>th</sup> April 2013 at 10:00 am

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**Report of the Chief Officer Democratic & Central Services**

**Report to Licensing Committee**

**Date: 14<sup>th</sup> MAY 2013**

**Subject: PRESENTATION FROM WEST YORKSHIRE POLICE**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary of main issues**

The Committee will receive a presentation from officers of West Yorkshire Police on issues relating to policing and the night time economy in Leeds pertinent to the work of the Licensing Committee and its' Sub Committees

**Recommendations**

1. The Committee is requested to consider and discuss the information presented by West Yorkshire Police as appropriate.

**1 Purpose of this report**

- 1.1 This report is submitted by means of introduction to a presentation from officers of West Yorkshire Police on issues relating to policing and the night time economy in Leeds pertinent to the work of the Licensing Committee and its' Sub Committees. Sergeant R Fullilove will attend the meeting
- 1.2 The Committee is requested to note that Members may be provided with information that is not normally in the public arena such as information pertaining to an individual; or the financial or business affairs of any particular person (including the authority holding that information) or relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. In that case the Committee may be requested to consider a resolution to exclude any members of the public present in order that the information can be

discussed having regard to the Access to Information Procedure Rules and the Committees' own Rules of Procedure

## **2 Background information**

2.1 The Committee has previously received presentations from West Yorkshire Police and has discussed the following issues:

- 13 September 2011 – considered the Review hearing for “Gatecrasher”; the use of the Matrix system and the City Centre Cumulative Impact Area
- 14 February 2012 – received a DVD presentation, considered the Cumulative Impact Area, the importance of the Matrix system and partnership working with licensees
- 24 July 2012 - issues relating to the Matrix system were discussed and an operator of a city centre premises also attended the meeting.

## **3 Recommendations**

3.1 The Committee is asked to receive the presentation from West Yorkshire Police and consider and discuss the contents as appropriate

## **4 Background Documents<sup>1</sup>**

None

<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

## Report of Head of Licensing and Registration

### Report to Licensing Committee

**Date: 14<sup>th</sup> May 2013**

### **Subject: Licensing Act 2003 Statement of Licensing Policy**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### **Summary of main issues**

1. The Council adopted the first Licensing Act 2003 Statement of Licensing Policy in 2005 and this policy has been reviewed on a three yearly basis in line with the requirements of the legislation.
2. In April 2012 the Police Reform and Social Responsibility Act 2011 made substantial changes to the Licensing Act 2003 which prompted an early review of the policy.
3. Licensing Committee formed a working group to look at the issues in June 2012.

### **Recommendations**

4. That Licensing Committee accept the report of the Working Group (appendix 1) and consider the recommendations within it.
5. That Licensing Committee endorse the revised draft policy (appendix 2) for public consultation.
6. That Licensing Committee approve a 12 week public consultation (appendix 3) on the draft policy.

## **1 Purpose of this report**

- 1.1 To present for consideration of Licensing Committee the report of the working group (appendix 1), the revised draft Statement of Licensing Policy (appendix 2) and supporting document (appendix 3).

## **2 Background information**

- 2.1 The Police Reform and Social Responsibility Act 2011 received Royal Assent in September 2011 and brought a number of changes to the Licensing Act 2003 which were designed to give power back to local communities and to make it easier for Licensing Authorities to deal with problem premises and the problems associated with late night drinking.
- 2.2 The majority of these changes came into effect on 25th April 2012. The remaining changes (late night levy and early morning restriction orders) came into effect in October 2012. These changes make fundamental changes to the way licence applications are determined and therefore there is a need to review the Statement of Licensing Policy.
- 2.3 In the past, although Licensing Committee have been informed at all stages of the review, there has been no direct involvement in the drafting of the policy. The changes to the Licensing Act were designed to give greater control to the Licensing Committee in their determinations of licence applications and it is appropriate that members of the Licensing Committee are more involved in the policy drafting process.

## **3 Main issues**

- 3.1 A working group was formed which consisted of five members of licensing committee and supported by officers from Entertainment Licensing. The working group concentrated on:
- Late night levy
  - Early morning restriction orders
  - Dispersal in the city centre
  - Cumulative impact policies
  - Zoning
  - Local licensing guidance
- 3.2 The working group invited officers and other interested persons to discuss these matters. The working group produced a report detailing these discussions and provides recommendations as follows:

### Late Night Levy

- 3.3 The working group looked at the issue of implementing a late night levy. It reviewed the potential revenue to be raised and how that revenue could be utilised. The working group instructed officers to produce a report which details the options and details in order to bring forward a proposal to Licensing Committee.

### Early Morning Restriction Orders

- 3.4 An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 3.5 It is expected that the need for an EMRO may be identified by a number of different organisations. For example the request for an EMRO may originate at an Area Committee, residents association or the local NPT. It may come via the Licensing Enforcement Group. It is likely that more than one organisation may be involved in the process.
- 3.6 The Home Office guidance issued under S182 of the Licensing Act 2013 states that the licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives.
- 3.7 The working group discussed the ability for the council to implement early morning restriction orders and the level of evidence required before an EMRO would be considered. A report was subsequently taken to Licensing Committee in January 2013 to set a process for the application of an EMRO and the minimum evidence requirements.
- 3.8 The working group recommendation is that the approved EMRO process is followed.

### Dispersal in the city centre

- 3.9 There has been concern for many years that a lack of transport provision in the city centre during the early hours of the morning may contribute to an increase in disorder incidents, especially in the Albion Street area. One of the initiatives to address this problem in the past has been to provide night buses, however these were not well used as people prefer the small luxury of getting a taxi or private hire vehicle home.
- 3.10 The working group was keen to explore this issue and to establish:
- If this is still a concern
  - If there is anything that the Licensing Committee could do in the terms of licensing that would address these issue

- 3.11 The working group heard from the Police, Traffic Management, Highways and Community Safety. They were advised of an experimental traffic order in place on Albion Street and in the Call Lane area. It is hoped that the road closures will address the majority of the concerns in this area.
- 3.12 The working group recommendation is that the issue of dispersal should be kept under review on an annual basis. This should be considered as part of the CIP review.

### Cumulative Impact Policies

- 3.13 Leeds has had five cumulative impact policies (CIPs) in place for a number of years. In 2010 officers reviewed the CIPs and made changes specifically to the city centre area to include more of the city centre, widened the scope of the Headingley CIP and increased the area covered by the Horsforth CIP.
- 3.14 The working group discussed each CIP, reviewed the area it covered, and the scope of the policy. The evidence (crime and nuisance stats) was reviewed and the group consulted with the Police, planning, highways, and Community Safety.
- 3.15 The working group recommendations are:
- To amend the city centre cumulative impact policy to reduce the size of the CIP to include just the areas of concern and to designate the Call Lane area as a **red area** in which all applications will be refused.
  - To designate an area that includes Albion Street, New Briggate, Merrion Street, Greek Street, Boar Lane as an **amber area** in which the style of the operation and proposed measures will be considered by the Police before making a representation.
  - To designate the rest of the city as a **green area**, in which good quality applications will be welcomed.
  - To increase the scope of the Headingley cumulative impact policy to include premises licensed to sell or supply alcohol for consumption off the premises after midnight..
  - To remove the Woodhouse corridor cumulative impact policy.
  - To support the continuance of the Chapel Allerton CIP and to keep it under annual review.
  - To support the continuance of the Horsforth CIP and to keep it under annual review.
  - That, in view of the move from a three yearly to five yearly policy review, that all cumulative impact policies are kept under review on an annual basis to ensure that they remain relevant.



## Hours

- 3.16 The S182 Guidance, issued by the Home Office was updated in line with the changes brought about by the Police Reform and Social Responsibility Act 2011. The amended guidance, for the first time, acknowledges that different licensing strategies may be appropriate in different areas. The working group discussed this measure but did not feel it would be appropriate to make recommendations for specific areas within the local authority area without consultation with ward members, people representing the public and the trade in those areas. No requests had been received to implement specific hours in this way.
- 3.17 However a recent licensing application had brought to the working groups attention a situation whereby an existing area, which had no current concerns could be disrupted by a licensed premises applying for much later hours than is usual for that area. In other words a premises could apply to sell alcohol until 4am, but the usual terminal hour for alcohol in that area is 1am. The concern is that if an application were granted which is so different to the area 'norm' it might lead to others seeking the same hours so as to negate a commercial advantage. In so doing the area 'norm' would be changed on an application by application basis without the matter being subject of strategic consideration as to the effect on the area and the services required to support that.
- 3.18 The working group recommendation is that a paragraph be inserted into the policy which will provide Licensing Committee with the ability to grant a licence application but bringing back the applicants hours to match those already in operation for that area if it was considered appropriate for the promotion of the licensing objectives.

## Local Licensing Guidance

- 3.19 Under the Licensing Act 2003 applicants are required to complete an 'operating schedule'. The Section 182 Guidance provides:
- 8.34 *In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.*
- 8.35 *Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate when setting out the steps they propose to take to promote the licensing objectives, that they understand:*

- *The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;*
- *Any risk posed to the local area by the applicants' proposed licensable activities ; and any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.*

8.37 *It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider how this impact upon their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.*

8.38 *The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:*

- *The Crime Mapping website*
- *Neighbourhood Statistics websites*
- *Websites or publications by local responsible; authorities*
- *Websites or publications by local voluntary schemes and initiatives; and*
- *Online mapping tools.*

3.20 In order to assist applicants in this requirement, the licensing authority will collate local information including any special policies.

3.21 In south Leeds (LS10 and LS11) there is specific concern about the life expectancy of people living in that area. Alcohol is one of the major contributory factors to a reduced life expectancy. In addition there are large number of takeaway food premises on Dewsbury Road, and a high incidence of off licensed premises, however due to the spread of premises in the area there does not seem to be compelling evidence for a cumulative impact policy at this time.

3.22 Officers from the South Leeds Alcohol and Domestic Violence group have been working with officers from Entertainment Licensing to develop guidance for applicants seeking a licence in the south Leeds area. This document includes a background, the local concerns and suggested measures that could be volunteered to address these concerns. The document also provides the evidence that has been gathered to support the concerns raised in the document.

3.23 The working group recommendation is that a similar document is developed for any area of Leeds that can demonstrate a need. The South Leeds Local Licensing Guidance (appendix 4) can be used as an example of best practice. This document is to be made available to applicants before and during the application process and to the subcommittee when considering the application.

- 3.24 Any local licensing guidance document should be devised in conjunction with the Area Management team and approved by Licensing Committee before being implemented.

#### Changes to the Statement of Licensing Policy

- 3.25 In addition to the changes required by the change in the legislation by the Police Reform and Social Responsibility Act 2011, and the changes already discussed in this report, officers have also:
- Rearranged the policy which, due to numerous revision over the last 7 years had become ordered in a way that was no longer logical.
  - Included a paragraph on usual opening hours for an area which may inform Licensing Committee when they are determining the licence's closing time and terminal hour for sale by retail of alcohol. This is in response to the tendency for licensed premises to apply for variations to add an extra hour, which when done by a number of the operators in the area can lead to a shift in the usual closing time for that area.
  - Included details of Child Friendly Initiative, and updates to the Vision for Leeds.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 In line with the licensing authority's usual practice the Statement of Licensing Policy will undergo a 12 week consultation with anyone affected by the proposed changes. In addition the council will consult with elected members, support groups, groups that have expressed an interest in this matter.
- 4.1.2 The working group has consulted with a range of interested parties and it was the information they provided that informed the policy amendments.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An Equality, Diversity, Cohesion and Integration Impact Assessment Screening has been undertaken. There are no issues that affected equality.

### **4.3 Council policies and City Priorities**

- 4.3.1 The Statement of Licensing Policy sets out the principles the council will use to exercise its functions under the Licensing Act 2003. Applicants for licences are expected to read the policy before making their application and the council will refer to the policy when making its decisions.

4.3.2 The licensing regime contributes to the following aims:

**By 2030, Leeds will be fair, open and welcoming**

- Local people have the power to make decisions that affect them
- There is a culture of responsibility, respect for each other and the environment
- Our services meet the diverse needs of our changing population
- Everyone is proud to live and work

**By 2030, Leeds' economy will be prosperous and sustainable**

- Opportunities to work with secure, flexible employment and good wages

**By 2030, all Leeds' communities will be successful**

- Communities are safe and people feel safe

4.3.3 The licensing regime contributes to the following city priorities:

**Best city... for communities:**

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

**4.4 Resources and value for money**

4.4.1 The licensing of alcohol and entertainment venues attracts a fee which can only be used to pay for the costs associated with the licence application and cannot be used to cover the cost of enforcement or investigation of unlicensed activity. As such the policy review is a cost to the council, which is not recovered by the licence fee.

**4.5 Legal Implications, Access to Information and Call In**

4.5.1 The council has a policy adopted by Council in January 2011. This policy will remain in place until a new policy is adopted. Therefore should the Licensing Committee decide to not proceed with the consultation, or to approve the draft policy for consultation, the original policy will remain in place.

4.5.2 The approval of the revised policy will be matter for Council and is therefore not available for call in.

**4.6 Risk Management**

4.6.1 The report recommends that the draft policy and supporting documentation are approved for public consultation. As there is a policy already in place, the risk of adverse effects of a negative response to any of the recommendations is low.

**5 Conclusions**

5.1 This report presents the report of the working group, the revised policy and a consultation document for Members consideration.

## **6 Recommendations**

- 6.1 That Licensing Committee accept the report of the Working Group and consider the recommendations within it.
- 6.2 That Licensing Committee endorse the draft policy for public consultation.
- 6.3 That Licensing Committee approve a 12 week public consultation on the draft policy.

## **7 Background documents<sup>1</sup>**

- 7.1 There are no unpublished background documents that relate to this matter.

### Appendices

- Appendix 1 Report of the Working Group
- Appendix 2 Draft Statement of Licensing Policy
- Appendix 3 Consultation document

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.



# Licensing Act 2003 Policy

## LA03 Working Group



### Background

In April 2012 the Government made radical changes to the Licensing Act 2003 to “rebalance” it, to allow local authorities and local people more say in the licensing of alcohol, entertainment and late night refreshment. These changes included the ability to set a late night levy to pay for the enforcement of the late night economy, the introduction of Early Morning Restriction Orders which allow licensing authorities to reduce the hours alcohol is sold in specific areas, the ability to apply zones in the licensing policy which set framework hours and the other measures.

In July 2012 the Licensing Committee formed a working group of Members and officers to consider these new measures. The group has met on a monthly basis and has heard from a number of stakeholders including:

- West Yorkshire Police
- LCC Highways Department
- City Centre Management
- Safer Leeds/Community Safety
- Planning

The group themed each meeting and has considered the following matters:

- |                                    |         |
|------------------------------------|---------|
| • Early Morning Restriction Orders | page 1  |
| • Dispersal in the city centre     | page 4  |
| • Local Licensing Policies         | page 9  |
| • Cumulative Impact Policies       | page 10 |
| • Hours of trading                 | page 16 |

The Working Group considered each of these issues and has provided recommendations.

### Early Morning Restriction Orders

#### Background

The power conferred on licensing authorities to make, vary or revoke an EMRO is set out in section 172A to 172E of the Licensing Act 2003. This power was brought into force on 31<sup>st</sup> October 2012 and the government has provided guidance as part of the S182 Guidance to Licensing Authorities.

An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.

An EMRO:

- Applies to the supply of alcohol authorised by premises licences, club premises certificate and temporary event notices;
- Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods on different days of the week;
- Applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
- Applies to the whole or any part of the licensing authority's area
- Will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January every year);
- Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars/room service; and
- Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the Licensing Act 2003.

### EMRO Request

It is expected that the need for an EMRO may be identified by a number of different organisations. For example the request for an EMRO may originate at an Area Committee, residents association or the local NPT. It may come via the Licensing Enforcement Group. It is likely that more than one organisation may be involved in the process.

It is anticipated that the request would be referred to Entertainment Licensing where a designated procedure will be applied to determine if an EMRO is appropriate. If appropriate, the request would be referred to the Licensing Committee. Members would be supplied with evidence of the issues being experienced in the area in support of the EMRO. Licensing Committee will need to decide if, on the strength of the evidence provided, that an EMRO is appropriate for the promotion of the licensing objectives and if further work is to be undertaken to support the case. Members may decide that other measures would be more effective in dealing with the problems, or that licence holders should engage with the authorities in an attempt to rectify matters before the request is considered further.

### Evidence

The Section 182 Guidance to Licensing Authorities states that

*"The licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premise licences. The licensing authority should consider the evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine when an EMRO would be appropriate for the promotion of the licensing objectives."*

Licensing Committee decided that the level of evidence it will consider to support an early morning restriction order is:

- Police evidence of reported alcohol related crime
- Nuisance statistics compiled from complaints made to Environmental Health in relation to noise, odour and litter nuisance
- Data gathered from complaints made the Entertainment Licensing on matters which affect the licensing objectives.
- Anecdotal evidence from residents organisations, ward members and other representatives of people living in a specific area
- Evidence obtained during the public consultation and associated public meetings



In addition the Guidance suggests other sources of evidence such as

- Health related statistics such as alcohol-related emergency attendances and hospital admissions

This should, in part be provided by the organisation or group who are proposing an EMRO should be in force.

Once the Licensing Committee is satisfied that an EMRO is required to address the issues in an area, and all other measures have been tried and failed to address these issues, the formal process of implementing an EMRO will begin. The licensing authority should decide on the design of the EMRO. The design should include:

- The days (and periods on those days) on which the EMRO would apply
- The area to which the EMSRO would apply
- The period for which the EMRO would apply
- The date from which the proposed EMRO would apply

### Consultation

The proposed EMRO must be advertised for at least 42 days. The proposal must be published on the council's website and in a local newspaper. A notice must be sent to all affected people in the area who hold a premises licence or club premises certificate, or people who use TENs or who hold a provisional statement. A notice must be displayed in the area, and sent to responsible authorities and adjacent licensing authorities.

Anyone affected by the EMRO has 42 days in which to make a representation on any aspect of the EMRO design. If relevant representations are received then a hearing must be held to consider them. If there are a number of representations, the licensing authority may consider whether to hold the hearing over several days. The hearing must be commenced within 30 working days of the end of the notice period.

As a result of the hearing the licensing authority has three options:

- To decide that the proposed EMRO is appropriate for promotion of the licensing objectives
- To decide that the proposed EMRO is not appropriate and therefore the process should be ended
- To decide that the proposed EMRO should be modified. In this case it may be necessary to advertise again.

### Formal Decision

Once the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination must be put to full Council for its final decision. Once the EMRO is made, the authority must send a notice to all affected persons and make it available for 28 days on the website.

A variation of a revocation of an order must follow the same process, i.e. gather evidence, advertise, hold a hearing and send the final order to full Council. However an order could be applied for a specified time and in this case the order ceases to apply on the final day.

Once an EMRO is in place, the licensing authority should update its Statement of Licensing Policy as soon as possible to include reference to the EMRO.

### Recommendation from Working Group

- That the approved EMRO process is followed.

## Dispersal in the City Centre

There has been concern for many years that a lack of transport provision in the city centre during the early hours of the morning has led to an increase in disorder incidence, especially in the Albion Street area. Initiatives to address this problem in the past have been to provide night buses, however these were not well used as people prefer the small luxury of getting a cab home.

The working group was keen to explore this issue and to establish:

- If this is still a concern
- If there is anything that the Licensing Committee could do in the terms of licensing that would address these issues

The working group met with representatives from:

- Leeds City Council Traffic Management
- West Yorkshire Police
- City Centre Management
- Leeds City Council Community Safety
- Leeds City Council Planning
- Leeds City Council Taxi and Private hire Licensing
- Leeds City Council Entertainment Licensing

### Disorder and Crime

Sgt Rob Fullilove and PC Cath Arkle who represent West Yorkshire Police Licensing Team, suggested that the problems of dispersal in the city centre that were being experienced in the early hours of the morning are not as prevalent as they once were. West Yorkshire Police have provided the reported crime statistics for the city centre over a five year period:

	2008	2009	2010	2011	2012
Assault	1126	1239	1298	1133	966
Drunk and disorderly	560	562	649	639	670
Public order	235	269	279	223	184
Affray	60	61	118	73	46
Total	1981	2131	2344	2068	1866

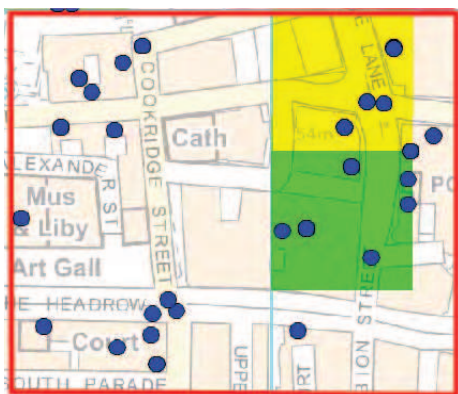
2012 assault and affray reported crimes in 2012:



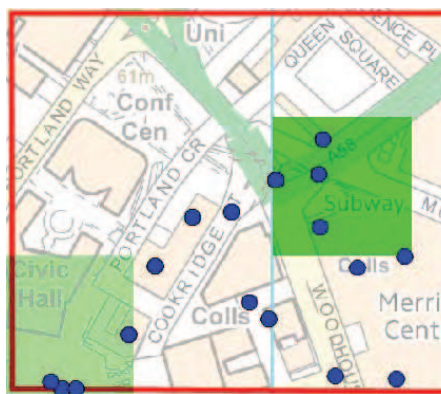
*Area A1 – Briggate and Call Lane*  
*Total – 14 Affray & 249 Assault*  
*Temporal – 00:00 – 05:00*  
*Location – 159 on premises/104 on street*



*Area A2 – New Briggate*  
*Total – 4 Affray & 66 Assault*  
*Temporal – 01:00 – 04:00*  
*Location – 38 on premises/ 32 on street*



*Area A3 Albion Street*  
*Total – 2 Affray & 97 Assault*  
*Temporal – 00:00 - 04:00*  
*Location – 87 on premises/12 on street*



*Area A3 Merrion*  
*Total – 3 Affray & 49 Assault*  
*Location – 30 on premises / 22 on street*

This clearly shows a current issue with assault and affray in the Call Lane area between midnight and 5am, however the yearly figures show that this problem may be reducing.

### Experimental Traffic Order

Nick Hunt, from Traffic Management spoke at length about an experimental traffic order that has been in place since before Christmas. This was to address concerns relating to congestion, public disorder and road safety along Call Lane during the weekend night time periods. The Police demonstrated their concerns through a series of video camera recording they made over several weekends to demonstrate the problems being experienced.

These problems consisted of:

- public disorder – drunken revellers
- Indiscriminate parking by private hire and hackney carriage vehicles, causing physical obstructions of the carriageway, resulting delays to Police incidents.
- Over spilling of pedestrians from the footways into the carriageway

- Over spilling of pedestrians into the hackney carriage ranks, resulting in conflict between drivers and pedestrians.
- Mass congregation of both revellers and vehicles at closing time from some of the local establishments, which all adds to the road safety and public disorder concerns.

Investigation in relation to road safety concerns identified that there had been 7 recorded injury accidents within the last 5 year period during the weekend night time period, all of which were pedestrian and vehicular conflict situations. These resulted in 5 injury accidents being recorded as slight and the other 2 injury accidents resulting in a serious injury rating.

The Police asked for assistance in resolving the various concerns and after a joint meeting between the Police, City Centre Management and Traffic Management on site, the options available were discussed, which led to the development of an experimental traffic order.

The only sensible and viable option to remove this conflict is to physically remove one of the conflict variables, which in this case would be vehicles. It was therefore proposed to ban all vehicles along Call Lane between Duncan Street and The Calls on a Friday, Saturday and Sunday night between 11:30pm and 5:00 am. This would then remove the conflict situation which has resulted in injury accidents and would also address the indiscriminate and obstructive parking and would enable pedestrians to walk and congregate in this area more safely.

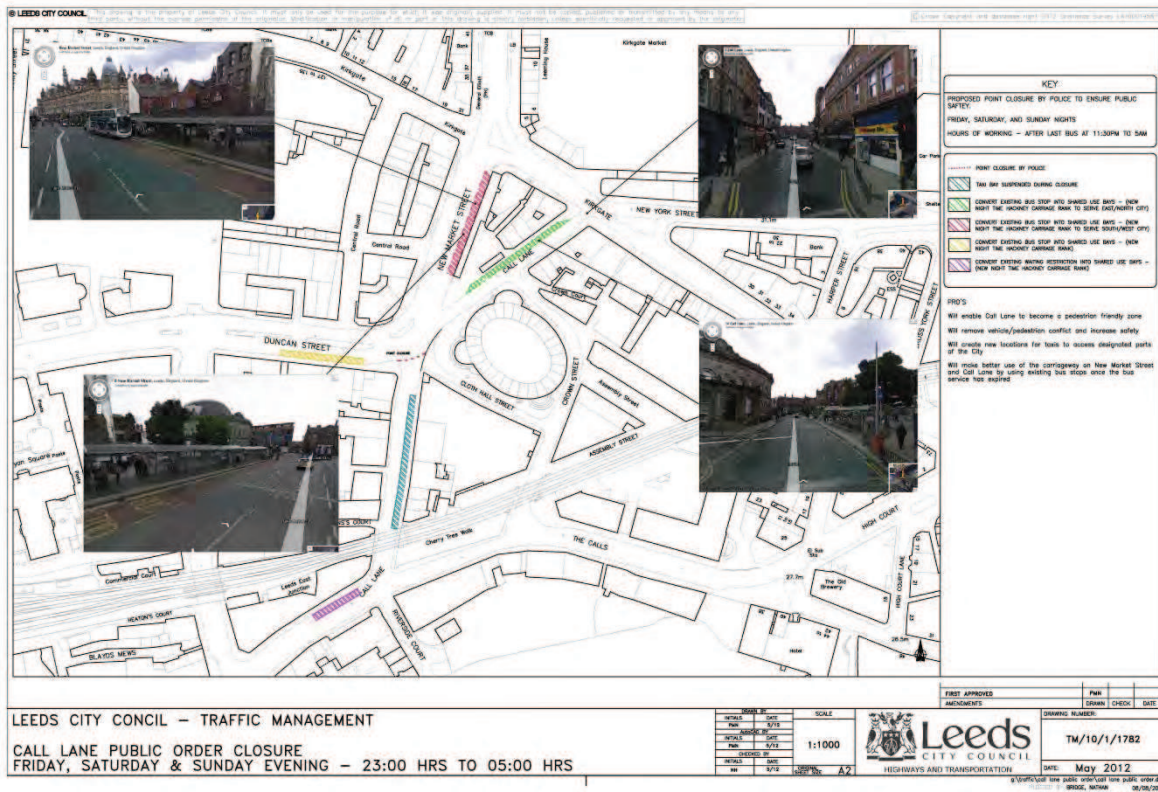
The scheme enables better displacement of pedestrians from the various establishments, therefore minimising conflict situations. The scheme also created additional night time hackney carriage ranks at both extents of Call Lane to ensure that revellers demands are catered for, when wanting to go home from the pubs and clubs safely. This required converting the existing un-utilised bus stops in close proximity during this period, into night time taxi ranks, which includes:

- Extension of the existing hackney carriage rank on Duncan Street
- The create of a night time rank on The Calls
- The conversion of the Bus Stops on New Market Street and Call Lane to be utilised by Hackney Carriage Vehicles outside the operating times of the bus services (23:00hrs to 05:00hrs).

As these proposals were introduced as part of an experimental traffic regulation order it enables Leeds City Council to monitor the effects of these proposals and should unforeseen problems arise, to be able to react very quickly to resolve any unforeseen problems.

In the initial stages, a joint partnership approach was adopted with Leeds City Council Enforcement Teams and the Police. The scheme has been deemed very successful so far, although the local businesses were not keen on the use of police vehicles to affect the closure as they felt the siting of the vehicles inferred that there was an incident in the area and would be off putting to customers. Other options are now being explored to provide this closure on a more permanent basis without the use of police vehicles.





The other area of concerns relating to congestion, public disorder and road safety is along Albion Street during the weekend night time periods. Again the Police demonstrated their concerns through a series of video camera recording they made over several weekends to demonstrate the problems being experienced.

These problems were broadly the same as the Call Lane area but also included:

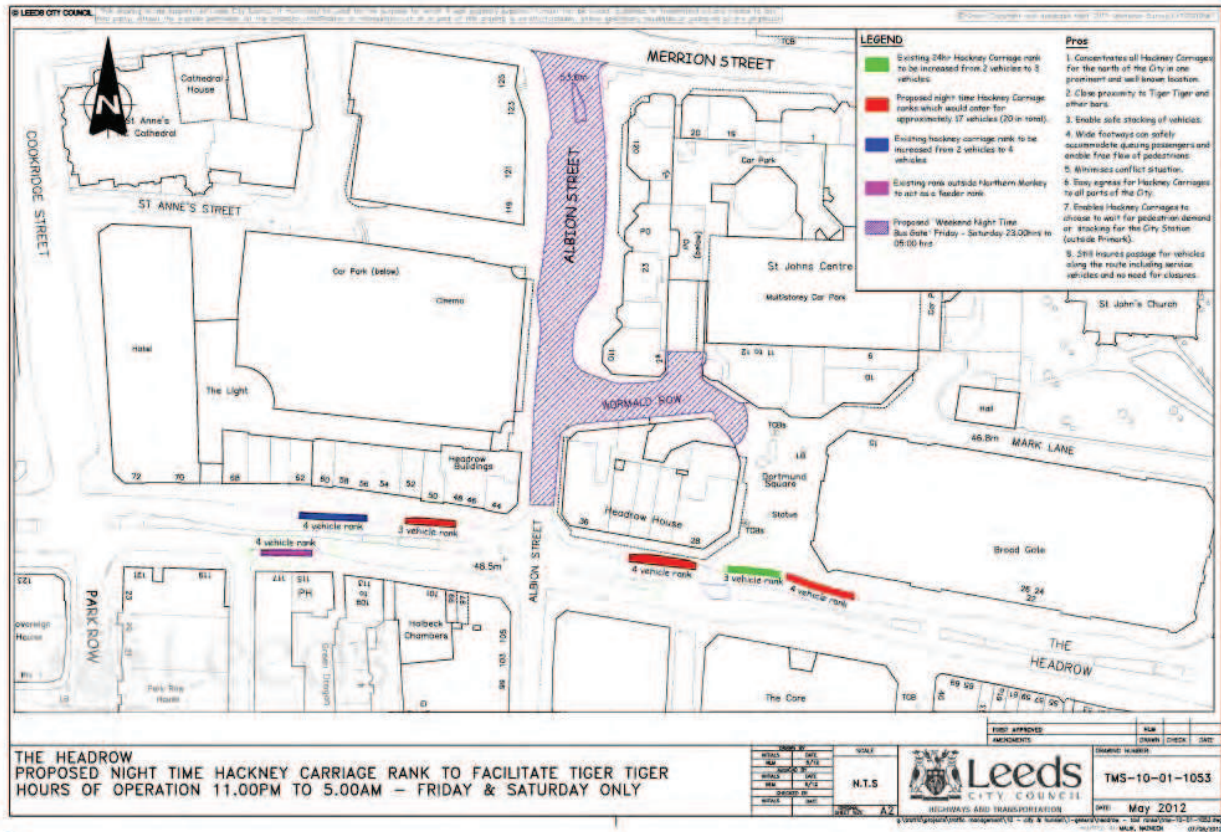
- Indiscriminate parking by private hire and hackney carriage vehicles within the bus stop clearways, resulting in buses having to collect passengers from the live running lanes.
- Conflict between drunken revellers and vehicle manoeuvres (U-turns, plying for hire vehicles suddenly stopping without notice, etc.)

In this case it was suggested to ban all vehicles along Albion Street between The Headrow and Merrion Street on a Friday and Saturday night between 11:00pm and 5:00 am. This would then remove the indiscriminate and obstructive parking and would enable pedestrians to walk this area more safely. It enables the only night time bus service to operate more safely and effectively along the Headingley corridor.

The scheme enables better displacement of pedestrians from the various establishments, therefore minimising conflict situations. This scheme also creates a 'north' of the city night time taxi hub at Dortmund Square. This requires the existing un-utilised bus stops in close proximity during this period to be converted into night time taxi ranks to feed the hackney carriage rank at Dortmund square.

These proposals were introduced as part of an experimental traffic regulation order, which enables Leeds City Council to monitor the effects of these proposals and should unforeseen problems arise, it enables LCC to be able to react very quickly to resolve any unforeseen problems.

In the initial stages, a joint partnership approach was adopted with Leeds City Council Enforcement Teams and the Police. The scheme was successful however it is very labour intensive for the Police to maintain the road closure so camera enforcement may be introduced. This will enable the various enforcement teams and the Police to manage their resources more effectively at other problematic locations throughout the City Centre.



### Night Bus

Gwyn Owen, who represents the council at a number of meetings with local transport providers including bus companies discussed the need and use of night buses. There is one night bus currently operating to the Headingley area, however buses to other areas of Leeds have not been successful. In the current austerity climate it is unlikely that a bus company will provide any bus service that does not meet its running costs, and it is unlikely that a night bus service to elsewhere in the area would be economically viable.

Clare McCall was able to confirm this by providing details of the survey that was carried out with young people on the provision of night buses.

### Recommendation from Working Group

- It is hoped that the road closures in the Call Lane area and on Albion Street will address the majority of the concerns in this area.
- The issue of dispersal should be kept under review on an annual basis. This should be considered as part of the CIP review.

## Cumulative Impact Policies

There is no legislative basis for a Cumulative Impact Policy. It is not specified in the Licensing Act 2003, however the concept of special policies based on cumulative impact is introduced in the Section 182 Guidance. The purpose of the cumulative impact policy is to ensure that any licences granted in these areas do not add to the cumulative impact of licensing in the area.

A cumulative impact policy is not a blanket ban on the grant of licences and the council can only consider using the CIP to refuse an application if relevant representations are made. Where no representation is received the council must grant the licence.

In addition applicants are advised to provide information, if they can, which demonstrates how the operation of the licence would not adversely impact on the area in relation to crime and disorder and public nuisance. If the applicant can prove that their application does not add to the cumulative impact of licensed premises in the area their application cannot be refused on the basis of cumulative impact.

In the majority of cases the cumulative impact policy encourages negotiation with applicants which leads to the agreement of additional measures between the applicant and responsible authorities. These can then lead to representations being withdrawn and the application being granted.

### Background

In 2005 Leeds City Council consulted upon a licensing policy which was researched and written by an external company. During the consultation the council received a number of requests for cumulative impact policies and the evidence was gathered for a CIP in the City centre and in Headingley. A third CIP was considered, Woodhouse corridor. The concern was that by restricting the availability of licences in the city centre and Headingley, applicants would instead apply for licences in the area between the two. Therefore Area 2 – Woodhouse Corridor was also proposed.

During the consultation there was also strong support for a fourth CIP for Chapel Allerton. Evidence was gathered and a CIP proposed on the basis of public nuisance.

In 2007 Horsforth ward members requested a CIP due to nuisance issues on Town Street. This was consulted upon and included in the policy.

In 2010 officers reviewed all five cumulative impact policies with West Yorkshire Police, Ward Members and residents. Officers attended a number of community meetings, and area committees to ensure that the current CIPs were still supported. The outcome of this review was a number of changes to the scope of the current CIPs:

1. City centre changed from named streets to an area
2. Headingley increased to include Hyde Park
3. Horsforth increased to include New Road Side
4. Variation applications included in all five CIP areas
5. Late opening restaurants and takeaways added to city centre, Headingley, Chapel Allerton and Horsforth.



## City Centre

In 2010 the CIP area for the city centre was changed from named streets to a wide area which encompassed the entire city centre area. It was expected that West Yorkshire Police would only make representations for premises which were of concern to them. This more pragmatic approach was suggested due to the dynamic nature of the city centre hot spots. It was felt that the Police would be more able to adjust their representations taking into consideration up to date crime statistics. Although this approach worked well to begin with, as time went on, applicants were able to present information to licensing committee which showed that some premises had not received representations despite being in a hot spot area. This weakened the CIP and allowed an element of doubt about the integrity of the CIP.

The city centre CIP has been the subject of a number of appeals in the last 12 months. Players Bar applied for an additional hour to bring them in line with the neighbouring premises. The licensing subcommittee refused the application on the grounds of cumulative impact as illustrated by police evidence which supported staggered closing times. The appeal was dismissed.

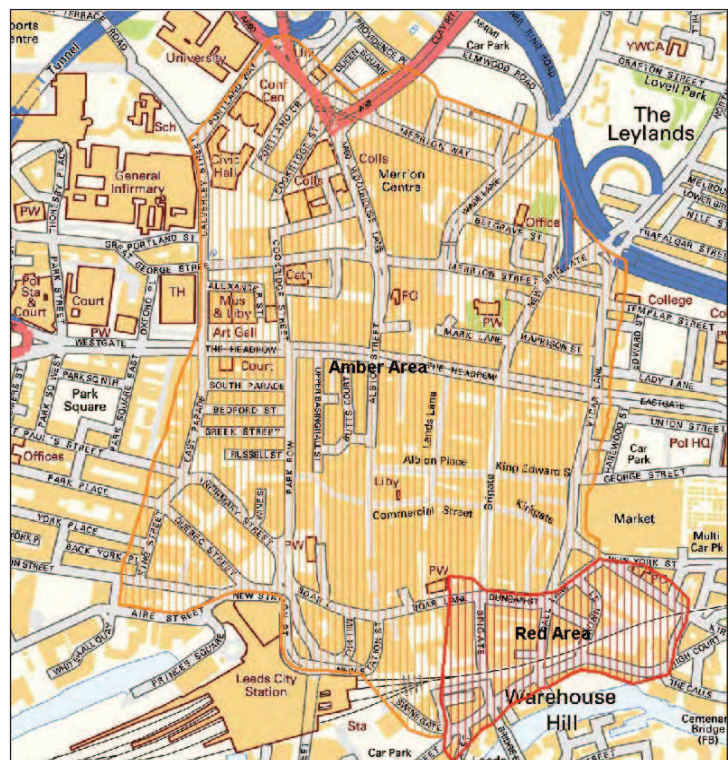
Brewdog applied for a new premises licence in the Call Lane area which is an area of concern to the police. The police objected and the application was refused. The applicant appealed but also changed their application between hearing and appeal. The original application was for the sale by retail of alcohol to 1am but the revised application showed the terminal hour for alcohol at midnight. The Court upheld the appeal and the application was granted.

The rationale for allowing the appeal was that the Judge determined that a cumulative impact policy could not be used as a blunt tool and that the council must take into consideration the style of operation of the premises when making its decision.

In the latest review, West Yorkshire Police have provided the crime statistics in the city centre which show a decrease in crime in the city centre year on year. However the Call Lane area still has significantly more crimes reported than any other area in the city centre. The evidence report is attached at Appendix 1.

The working group discussed a number of solutions but felt that reducing the size of the CIP to include just the areas of concern would allow the Police to raise a representation to just those applications that are of concern, without this then being used on appeal to weaken the integrity of the CIP. The Police were very concerned that no more licences be granted in the Call Lane area until alcohol related crime is reduced, however they were open to considering applications in other hotspot areas if those applicants offered something different which could improve the area.

The working group considered splitting the city centre into two areas and to designate the Call Lane area as a red area in which all applications will be refused and to designate an area that includes Albion Street, New Briggate, Merrion Street, Greek Street, Boar Lane as an amber area in which the style of





the operation and proposed measures will be considered by the Police before making a representation. The rest of the city centre should be designated green, where good quality applications are welcomed, but this does allow the council to move the red and amber areas as required.

### Headingley

In 2010, when the council reviewed and amended the Headingley CIP, at the very end of the process a request was received from Ward Members to include off licences in the CIP. Unfortunately it was too late to do this as the CIP had been consulted upon, and was already part way through the approval process. The Cumulative Impact Policy works well, and we believe that the level of applications is reduced because of the existence of a CIP in the area:

Year	New Apps Received	New Apps Granted	New Apps Refused	Var Apps Received	Var Apps Granted	Var Apps Refused
2008	7	6	1	2	1	1
2009	5	2	2	3	1	1
2010	5	3	1	6	3	2
2011	6	6	0	4	3	1
2012	3	2	0	1	1	0

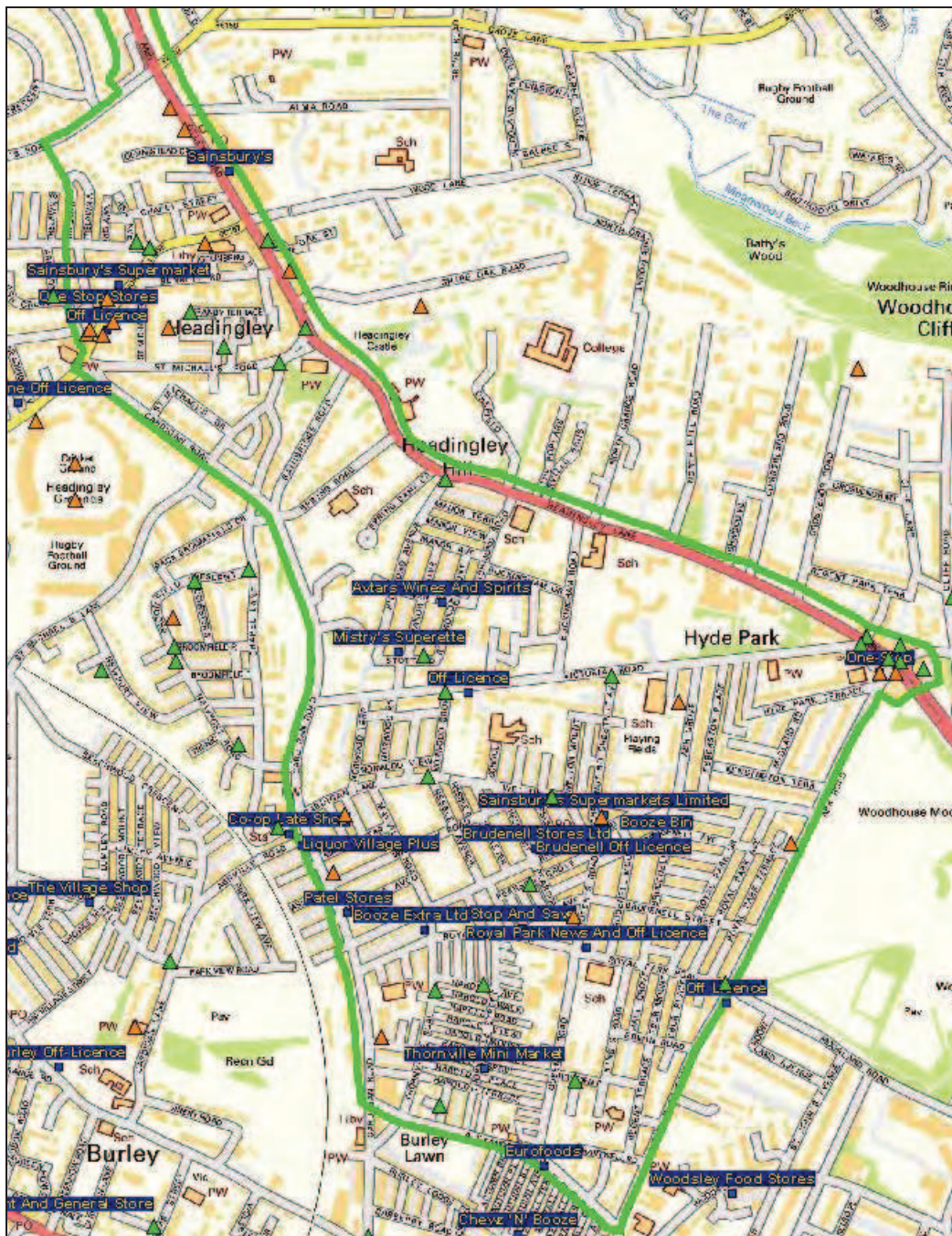
The statistics show that the level of new applications is steadily decreasing. The number of variation applications increased in 2010 and 2011 but the CIP was changed from 2011 to include variation applications. We believe that this has also led to decrease in these types of applications in 2012 although more time is needed to provide a confirmed link.

In order to establish if there is a link between premises licensed for the sale of alcohol for consumption off the premises, we have looked at the location of off licensed premises and noise and litter nuisance statistics. There are 27 premises which are authorised to sell alcohol for consumption off the premises. These include two large Sainsbury's supermarkets, and a large Co-op. Three of the premises open 24 hours:

One-Stop	265 Hyde Park Road, Woodhouse, Leeds, LS6 1AG,	Band B	00:00
Off Licence	146 - 148 Hyde Park Road, Woodhouse, Leeds, LS6 1AJ,	Band A	23:00
Mistry's Superette	68 Manor Drive, Headingley, Leeds, LS6 1D	Band B	23:00
Off Licence	119 Victoria Road, Headingley, Leeds, LS6 1D	Band A	23:00
Avtars Wines & Spirits	11 Raven Road, Headingley, Leeds, LS6 1DA,	Band A	23:00
Sainsbury's	70 - 74 Brudenell Road, Headingley, Leeds, LS6 1E	Band B	24 hrs
Brudenell Stores Ltd	86 - 88 Brudenell Road, Headingley, Leeds, LS6 1EG,	Band A	22:30
Booze Bin	77 Brudenell Grove, Headingley, Leeds, LS6 1H	Band A	23:00
Royal Park News	26 Royal Park Road, Headingley, Leeds, LS6 1H	Band A	23:00
Pizza Cano	Pizza Cano, 92 Queens Road, Headingley, Leeds, LS6 1HU,	Band A	23:00
Stop And Save	42A Royal Park Road, Headingley, Leeds, LS6 1HX,	Band B	00:00
Booze Extra Ltd	63A Thornville Road, Headingley, Leeds, LS6 1J	Band B	23:00
Co-op Late Shop	132 Cardigan Road, Headingley, Leeds, LS6 1L	Band C	24 hrs
Patel Stores	127 Cardigan Road, Headingley, Leeds, LS6 1L	Band B	23:00
Liquor Village Plus	134 Cardigan Road, Headingley, Leeds, LS6 1LU,	Band B	00:00
Hyde Park Newsagents	7 Hyde Park Road, Woodhouse, Leeds, LS6 1PY,	Band A	22:00
Eurofoods	19 - 21 Alexandra Road, Woodhouse, Leeds, LS6 1Q	Band A	24 hrs
Chewz 'N' Booze	26 Burley Lodge Road, Burley, Leeds, LS6 1QP,	Band A	23:00
Off Licence	61 Pennington Street, Woodhouse, Leeds, LS6 2J	Band A	23:00
Tiger Wines Limited	55 - 57 Pennington Street, Woodhouse, Leeds, LS6 2J	Band B	23:00
Parmars Licence	193 Woodhouse Street, Headingley, Leeds, LS6 2N	Band A	23:00
Woodhouse Street PO	129 - 133 Woodhouse Street, Headingley, Leeds, LS6 2P	Band B	23:00

Sainsbury's	12 - 16 Arndale Centre, Otley Road, Leeds, LS6 2UE,	Band E	23:00
Kirkstall Lane Off Licence	201 Kirkstall Lane, Kirkstall, Leeds, LS6 3E	Band B	23:00
One Stop Stores	52 North Lane, Headingley, Leeds, LS6 3H	Band B	00:00
Sainsbury's	North Lane, Headingley, Leeds, LS6 3H	Band E	23:00
Off Licence	31 North Lane, Headingley, Leeds, LS6 3HW,	Band B	23:00

The green triangles on this map show litter complaints and amber triangles show noise complaints received in the area since 2011.



The proposal is to increase the scope of the CIP to include premises licensed to sell alcohol for consumption off the premises after midnight. This would be appropriate for the prevention of public nuisance as it would discourage premises from opening after midnight and therefore reduce noise nuisance from residents able to continue purchasing alcohol after midnight in largely residential areas.

### Woodhouse Corridor

This CIP has been in existence since the start. It was put in place because there was concern that premises unable to get a licence in Headingley or the city centre would migrate into the area in between. The CIP has never been used and it is suggested that it is removed.

Year	New Apps Received	New Apps Granted	New Apps Refused	Var Apps Received	Var Apps Granted	Var Apps Refused
2009	3	3	0	0	0	0
2010	2	2	0	1	1	0

### Chapel Allerton

Although the area this CIP relates to has not changed since its inception, takeaways were added to the scope of the CIP in 2011. The statistics show that the level of new and variation application remains low.

Year	New Apps Received	New Apps Granted	New Apps Refused	Var Apps Received	Var Apps Granted	Var Apps Refused
2008	1	1	0	3	3	0
2009	0	0	0	2	1	0
2010	1	1	0	0	0	0
2011	3	3	0	1	1	0
2012	2	2	0	1	1	0

Other than a small rephrasing to bring it in line with the amended Headingley CIP, no further changes are proposed.

### Horsforth

The Horsforth CIP was radically altered in size in 2011 to include New Road Side. This area elicited a number of complaints, mostly from the housing estates in between New Road Side and Horsforth Town Street. This increase in area is shown in the increase in applications for the Horsforth, however as can be evidenced the level of applications remain low.

Year	New Apps Received	New Apps Granted	New Apps Refused	Var Apps Received	Var Apps Granted	Var Apps Refused
2008	1	1	0	3	3	0
2009	1	1	0	1	1	0
2010	0	0	0	1	1	0
2011	1	1	0	0	0	0
2012	3	3	0	1	0	0

Other than a small rephrasing to bring it in line with the amended Headingley CIP, no further changes are proposed.



## Recommendation from the Working Group

- To amend the city centre cumulative impact policy to reduce the size of the CIP to include just the areas of concern and to designate the Call Lane area as a red area in which all applications will be refused.
- To designate an area that includes Albion Street, New Briggate, Merrion Street, Greek Street, Boar Lane as an amber area in which the style of the operation and proposed measures will be considered by the Police before making a representation.
- To designate the rest of the city as a green area, in which good quality applications will be welcomed.
- To increase the scope of the Headingley cumulative impact policy to include premises licensed to sell or supply alcohol for consumption off the premises after midnight..
- To remove the Woodhouse corridor cumulative impact policy.
- To support the continuance of the Chapel Allerton CIP and to keep it under annual review.
- To support the continuance of the Horsforth CIP and to keep it under annual review.
- That, in view of the move from a three yearly to five yearly policy review, that all cumulative impact policies are kept under review on an annual basis to ensure that they remain relevant.

## Hours

The S182 Guidance, issued by the Home Office was updated in line with the changes brought about by the Police Reform and Social Responsibility Act 2011. The amended guidance, for the first time, acknowledges that different licensing strategies may be appropriate in different areas.

### ***Hours of trading***

*10.11 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.*

*10.12 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.*

*10.13 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.*

The working group discussed this measure but did not feel it would be appropriate to make recommendations to limit licensed opening hours in specific areas within the local authority area without consultation with ward members, people representing the public and the trade in those areas. No requests had been received to implement restrictive opening hours in this way.

However a recent licensing application had brought to the working groups attention a situation whereby an existing area, which had no current concerns could be disrupted by a licensed premises applying for much later hours than is usual for that area. In other words a premises could apply to sell alcohol until 4am, but the usual terminal hour for alcohol in that area is 1am.

#### Recommendation from the Working Group

- that a paragraph be inserted into the policy which will provide Licensing Committee with the ability to grant a licence application but bringing back the applicants hours to match those already in operation for that area if it was considered appropriate for the promotion of the licensing objectives.

### Local Licensing Guidance

Under the Licensing Act 2003 applicants are required to complete an 'operating schedule'. The Section 182 Guidance provides:

- 8.34 *In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.*
- 8.35 *Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate when setting out the steps they propose to take to promote the licensing objectives, that they understand:*
- *The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;*
  - *Any risk posed to the local area by the applicants' proposed licensable activities ; and any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.*
- 8.37 *It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider how this impact upon their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.*

8.38 *The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:*

- *The Crime Mapping website*
- *Neighbourhood Statistics websites*
- *Websites or publications by local responsible; authorities*
- *Websites or publications by local voluntary schemes and initiatives; and*
- *Online mapping tools.*

In order to assist applicants in this requirement, the licensing authority will collate local information including any special policies.

#### The concern in South Leeds

It is a fact (Joint Strategic Needs Assessment 2012, NHS Leeds) that if you live in LS10 or LS11 you can expect your life expectancy to be lower than that of residents in other areas of Leeds. The three contributory factors to a reduced life expectancy are alcohol, obesity and smoking. The Licensing Act 2003 authorises the activity of the sale or supply of alcohol and the provision of late night refreshment and therefore the question is whether reducing people's access to alcohol and high fat content takeaway food will have a positive outcome on life expectancy in LS10 and LS11.

The South Leeds Alcohol and Domestic Violence group was formed in 2010 to address this important issue. It developed a South Leeds Alcohol Harm Reduction Strategy. This group considered key reports from NHS Leeds that identified people from inner south as having the largest numbers of alcohol related concerns using Leeds hospital services.

The Joint Strategic Needs Assessment (JSNA) is key to understanding health and wellbeing needs and inequalities across and within Leeds. Leeds has just published the JSNA for 2012 which included information from previous JSNA in 2009 and on the recently published locality profiles for different geographies. The findings suggest South Leeds as having the highest levels of alcohol related hospital admissions (LS11 has the highest number with an average of 36 people admitted three or more times per year). Of particular concern in South Leeds are the postcode areas of LS10/11 covering Beeston, Holbeck and Middleton.

The Leeds Alcohol Needs Assessment 2012 is a further key document that outlines the cost and impact of alcohol for the city of Leeds. This needs assessment recommends a focus on interventions especially targeted towards the most deprived communities in Leeds. Key areas where the impact and cost to services is of concern correlate with the findings from the area profiles within the JSNA, which include: alcohol related admissions to hospital, high percentage of cases of alcohol related domestic violence and alcohol related crime and anti-social behaviour.

The group set an outcome that people will live their lives free from the negative effects of alcohol. The Key Performance Indicators are:

- Reducing the number of repeat incidents of domestic violence.
- Reducing the number of alcohol related hospital admissions.

The plan has three key priority work strands for 2011/15:

1. Partners work together to achieve the Vision for Leeds by tackling the impact of alcohol on local people and communities.
2. Fewer people experience alcohol related violent crime and anti-social behaviour in communities.
3. Fewer people experience alcohol related ill health.

#### How can Licensing help?

Under the Licensing Act 2003 applicants are required to complete an 'operating schedule'. Applicants are expected to have regard to the council's Statement of Licensing Policy. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.

In order to assist applicants, Leeds City Council has collated information on this area including any special policies that relate to the area. Applicants should make their own enquiries as well and demonstrate how they have considered the following in their operating schedule:

- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children and young persons may congregate.
- Any risk posed to the local area by the applicants' proposed licensable activities; and
- Any local initiatives (for example, local crime reduction initiatives or voluntary schemes such as local taxi-marshalling schemes, street pastors and other schemes, which may help mitigate potential risks.

Officers from the South Leeds Alcohol and Domestic Violence group have been working with officers from Entertainment Licensing to develop guidance for applicants seeking a licence in the south Leeds area. This document includes a background, the local concerns and suggested measures that could be volunteered to address these concerns. The document also provides the evidence that has been gathered to support the concerns raised in the document. The draft guidance is attached at Appendix 1.

#### Recommendations from the Working Group

- that a similar document is developed for any area of Leeds that can demonstrate a need. The South Leeds Local Licensing Guidance (appendix 4) can be used as an example of best practice. This document is to be made available to applicants before and during the application process and to the subcommittee when considering the application.

## Background

Under the Licensing Act 2005 applicants are required to complete an 'operating schedule'. Applicants are expected to have regard to the council's Statement of Licensing Policy. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.

Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- Any risk posed to the local area by the applicants' proposed licensable activities ; and any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider how this impact upon their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

Publicly available sources which may be of use to applicants include:

- The Crime Mapping website
- Neighbourhood Statistics websites
- Websites or publications by local responsible; authorities
- Websites or publications by local voluntary schemes and initiatives; and
- Online mapping tools.

In order to assist applicants, Leeds City Council has collated information on this area including any special policies that relate to the area. Applicants should make their own enquiries as well.

This information is available to applicants during the application process and will be made available to Members of the licensing subcommittee should the application receive representations and be determined by a licensing subcommittee hearing. In addition Entertainment Licensing can assist applicants with their operating schedule and strongly suggests that an early conversation in the licensing process can cover a lot of these requirements and so reduce the likelihood of representations.

Applicants are strongly advised to read the council's Licensing Act 2003 Statement of Licensing Policy and utilise the Proforma Risk Assessment. Both documents are available on the council's website, and from Entertainment Licensing.



## Scope

The scope of this guidance includes all premises licensed under the Licensing Act 2003 in post code areas LS10 and LS11 which mainly comprises of three wards, City and Hunslet, Middleton and Beeston & Holbeck. This covers the localities of Beeston, Middleton, Belle Isle, Holbeck and Hunslet.

It is a fact (Joint Strategic Needs Assessment 2012, NHS Leeds) that if you live in LS10 or LS11 you can expect your life expectancy to be lower than that of residents in other areas of Leeds. The three contributory factors to a reduced life expectancy are alcohol, obesity and smoking. The Licensing Act 2003 authorises the activity of the sale or supply of alcohol and the provision of late night refreshment and therefore the question is whether reducing people's access to alcohol and high fat content takeaway food will have a positive outcome on life expectancy in LS10 and LS11.

This information will be provided to anyone applying for a licence to sell alcohol or provide late night refreshment in LS10 or LS11. It may be used to by residents or other interested people who make a representation against an application. It will be provided to the Licensing subcommittee at any subsequent licensing hearing.

## Local Concerns

*"The late licensing of local shops and the sale of alcohol to underage persons or to adults who buy it for underage persons has had a negative impact on our community. It has led to large groups of people (largely under 30) congregating around these shops and displaying intimidating behaviour, fighting and creating noise. It means residents sometimes feel they don't want to go there in an evening due to this behaviour. We value our young people and everyone in our community and want to ensure there are positive and safe activities for people, which don't harm their health or result in other's feeling intimidated. We feel that late licensing and underage drink sales undermine this."*

*Christine Jenkinson, Middleton Community Group, Committee Member*

In the LS10 and LS11 area there is concern about:

### Alcohol

- The wide and obvious availability of alcohol in convenience stores, newsagents, corner shops and off licences.
- The contributory factor in possible link between violent crime and domestic violence and exacerbated by the availability of alcohol in the area due to the numbers of premises which sell alcohol for consumption off the premises in the area.
- The higher proportion of premises licensed for alcohol for consumption off the premises
- The ability for persons with mental health or alcohol problems to easily obtain alcohol
- The ability for persons who are already intoxicated to easily obtain more alcohol

### Protection of children

- The normalisation of alcohol abuse and the effect this has on children living in the area
- The sale and supply of alcohol to young persons and children and the impact this has on their behaviour in the community and impact on their health.

### Nuisance

- The accumulation of premises providing takeaway food and off sales of alcohol in the Dewsbury Road area
- Littering of food wrappers and waste food originating from takeaways

## Measures to address local concerns

The availability of alcohol is a major concern, as harmful and hazardous drinking being a contributory factor in many of the concerns mentioned in this document. As such the licensing authority would expect any applicant wishing to open or extend premises that sell alcohol, or sell hot food to provide extra measures to ensure these problems are not exacerbated.

It is highly likely that any application which includes the sale by retail of alcohol or the sale of hot food and drink will attract representations from a number of interested people. In order to mitigate the concerns stated in this document, applicants are encouraged to contact Entertainment Licensing, West Yorkshire Police, Environmental Health and Health to see if there are any specific measures that can be adopted. Contact details for agencies are included in the application packs and on the council website.

Entertainment Licensing provides a Proforma Risk Assessment which is a list of suggested measures prospective licensees may like to include in their operating schedule. In addition applicants may wish to consider if any of the following measures would be appropriate for their business to adopt. These measures could be offered as part of an operating schedule.

### Crime and disorder

- All areas of the premises to be used for the display of alcohol will be marked on the plan submitted with the application. The display of alcohol will not change without the consent of the licensing authority by way of a minor variation application to the licence.
- The display of alcohol will be in a designated area of the premises which is capable of being supervised from the counter area.
- The display of spirits shall be in an area accessible only by staff
- All areas where alcohol is displayed shall be covered by CCTV

### Protection of children

- There will be a check 25 proof of age system
- No alcohol will be displayed near the public entrance/exit of the premises.
- The name of the premises will not depict alcohol
- There will be no window display posters or similar advertising on the premises containing alcohol
- All alcohol sale refusals will be recorded in a register

### Prevention of public nuisance

- Staff will make hourly checks around the premises and remove any litter, including takeaway wrappers, cans and bottles.

## Responsible Retailing

In 2010 the Government introduced a new Mandatory Code for Alcohol Retailing. This was brought into law by the implementation of 5 new mandatory conditions. Further details can be found on the Home Office website: <http://www.homeoffice.gov.uk/drugs/alcohol/alcohol-licensing-conditions/>

However responsible retailing, including age related sales of alcohol, has long been promoted by West Yorkshire Trading Standards. In particular West Yorkshire Trading Standards have been working with alcohol retailers in south Leeds and working together the failure rate for underage sales of alcohol has dropped from 45% to 13%. More information can be found on their website at <http://www.ts.wyjs.org.uk/wyjs-trading-underage-sales.asp>

Other sources of information can be found at:

<http://www.brc.org.uk/Downloads/FCSG0475ResponsibleRetailingofAlcohol.pdf>

<http://biiab.bii.org/qualifications/qualification-ARAR>

When considering responsible retailing, applicants should to consider what they would do about:

- The sale of large quantities of alcohol
- The sale of alcohol to people who are already drunk
- How to address selling alcohol to people who are pregnant
- How to refer someone who appears to have a drinking problem
  
- How to display alcohol
- What to name the premises
  
- Healthy takeaway options available for example low fat versions of popular dishes
- Nutritional information on all takeaway foods.

It may be useful for premises licence holders to make themselves aware of organisations in the area that can help people with alcohol addiction, and to acquaint themselves with their local West Yorkshire Police Neighbourhood Policing Team.

## Appendix 1 - Local Information

### Area Profile

Postcode areas LS10 and LS11 mainly comprises of three wards, City and Hunslet, Middleton and Beeston & Holbeck. This covers the localities of Beeston, Middleton, Belle Isle, Holbeck and Hunslet. Data source 2011 Census.

#### City and Hunslet



Size 1,059 hectares  
No of household spaces 16,774 of which  
15,207 are occupied

Population 33,705  
BME 39.2%

Religion (top 3)  
Christian 13,925 (41.3%)  
No religion 11,058 (32.8%)  
Muslim 4,791 (14.2%)

#### Middleton Park



Size 997 hectares  
No of household spaces 11,719, of which  
11,397 are occupied

Population 26,228  
BME 11.5%

Religion (top 3)  
Christian 14,984 (57.1%)  
No religion 8,984 (34.3%)  
Religion not stated 1,761 (6.7%)

#### Beeston and Holbeck



Size 700 hectares  
No of household spaces 10,483, of which  
9,830 are occupied

Population 22,187  
BME 27.4%

Religion (top 3)  
Christian 11,811 (53.2%)  
No religion 6,202 (28%)  
Religion not stated 1,556 (7%)

## Leeds Observatory

The Leeds Observatory is a tool for everyone to explore strategic data, information and intelligence about Leeds' communities and geographies. The observatory provides a clear evidence base for communities and professionals to determine the needs of people in Leeds which will shape decision making and services.

The following links provides statistical data on demographic profile, economic activity, education and skills, community safety, housing and health in this area.

[Inner South Area](#) (combined data on the following three wards)

[City and Hunslet](#)

[Middleton Park](#)

[Beeston and Holbeck](#)

## Neighbourhood Plans

The Localism Act 2011 introduced major reforms to the planning system that gives local communities new rights to shape and plan their neighbourhood. The Act introduces a new initiative called the neighbourhood plan. These plans are optional – if local communities choose, they can be used to set out policies for the development or use of land but they must be 'pro development'.

The Act also includes new powers for local communities to prepare a Neighbourhood Development Order (NDO) for their area, which will be able to promote a particular type of development. Related to the NDO, is the Community Right to Build Order (CRtB) and this will provide for community-led site development.

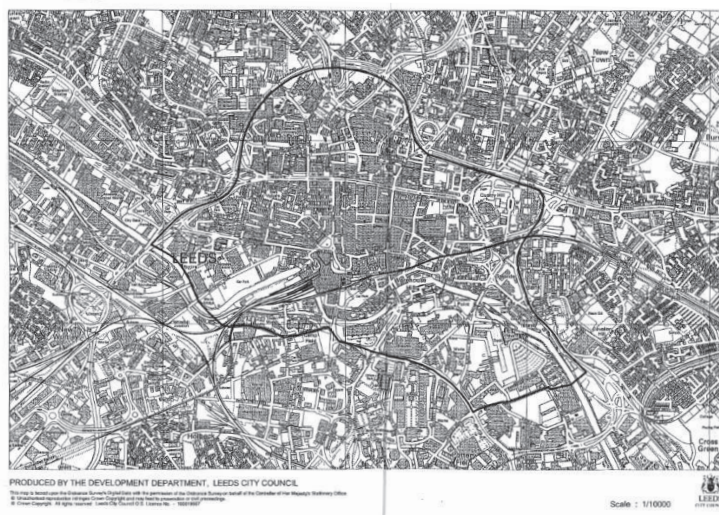
Local communities may also be interested in applying to the Council to have a valued area designated as a Local Green Space.

For regular updates on neighbourhood planning check

<http://www.leeds.gov.uk/council/Pages/Neighbourhood-planning.aspx>

## Additional measures already in place

A designated public places order is in place in the following area:



Designated Public Place Orders (DPPOs) give police officers discretionary powers to require a person to stop drinking and confiscate alcohol or containers of alcohol in public places. Failure to comply with alcohol restrictions in DPPOs can result in arrest and/or a fine of up to £500. DPPOs are implemented by local councils in order to address alcohol-related crime and disorder in public places under section 13 of the Police and Criminal Justice Act 2001.

## Licensing Profile

As of October 2012, Inner South Leeds (LS10 and LS11) has a total of 223 licensed premises. 116 are “on licensed” premises (pubs, restaurants, hotels, clubs) and 79 are off licensed premises (off licences or takeaways that sell alcohol). There are 28 licensed takeaways in the area that sell hot food after 11pm. Before 11pm takeaways do not require a licence.

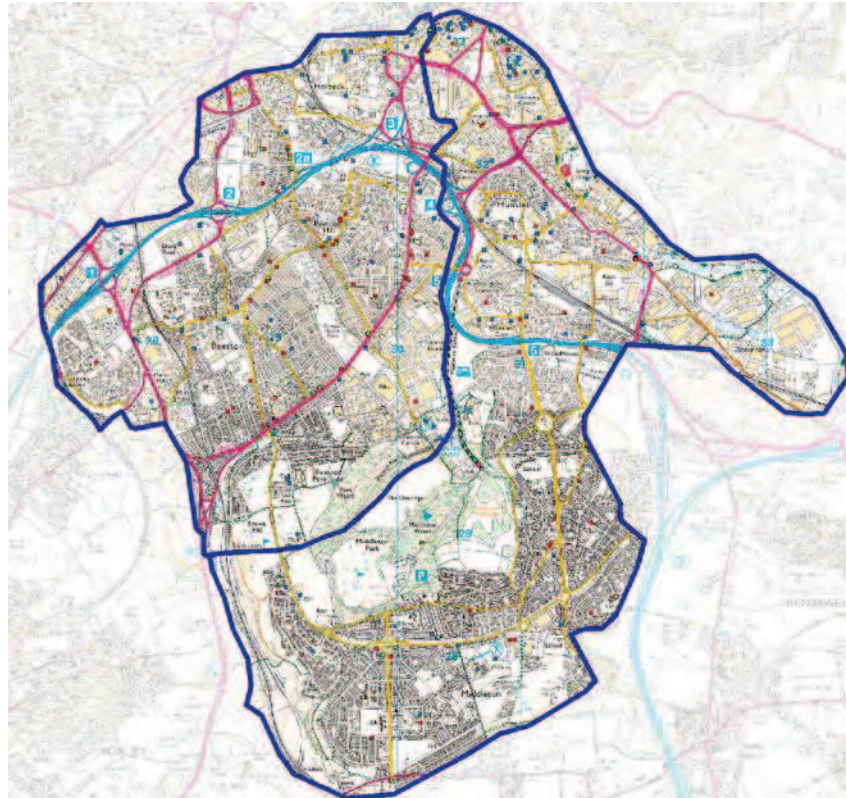
LS10 and LS11	Event Space	Hotels	Takeaways	Off licences	Pub and Bars	Registered club	Restaurant	Sports or social clubs	Total
Ardsley & Robin Hood	0	0	0	0	1	0	0	0	1
Beeston & Holbeck	2	1	10	23	13	8	1	6	64
City & Hunslet	0	3	12	31	37	7	8	10	108
Middleton Park	0	0	6	21	4	6	0	7	44
Morley North	1	0	0	4	0	0	1	0	6
<b>Total</b>	<b>3</b>	<b>4</b>	<b>28</b>	<b>79</b>	<b>55</b>	<b>21</b>	<b>10</b>	<b>23</b>	<b>223</b>

The majority of “on licensed” premises cease selling alcohol at 11pm with a smaller number ceasing alcohol sales at midnight or 1am. This is significantly earlier than the city centre, but in keeping with other residential areas. In the main late night refreshment premises (takeaways) are open until 2am, with a number closing at 11.30pm or midnight.

There has been a steady increase in the number of premises selling alcohol for consumption off the premises in LS10 and LS11.

2005	2006	2007	2008	2009	2010	2011	2012	Current
65	66	72	74	76	74	76	77	79





Red – Off licence

Green – On licences

Blue – Takeaway

### On-licensed premises

There are a number of areas where there is an accumulation of licensed premises. Top Moor Side in Holbeck, Dewsbury Road and Hunslet all have a number of licensed premises, but not in the concentrations found elsewhere in the city. The accumulation of licensed premises is localised. This, in itself, prevents the council from applying a formal cumulative impact policy in south Leeds. However any application in this area will be scrutinised and cumulative impact will be considered if the application is for premises in an area that already has an accumulation of similar premises.

### Off licensed premises

The number of premises licensed for the sales of alcohol for consumption off the premises (off licences) is high in comparison to other wards in the city. On a city wide ranking Beeston and Holbeck sits at 7<sup>th</sup> while Middleton Park is ranked 10<sup>th</sup> out of 33 wards. In contrast when looking at pubs, Beeston and Holbeck is ranked 16<sup>th</sup> and Middleton Park is ranked 32<sup>nd</sup>.

Trading Standards has worked with premises licensed to sell alcohol for consumption off the premises to reduce the number of failed test purchase attempts over the last two years. This has meant an overall improvement in this area to a level below that experienced across Leeds.

### Late night takeaways

Dewsbury Road is an area of special concern with a total of 31 late night takeaways operating from this busy area of Beeston. Not all the takeaways are licensed for the sale of hot food after 11pm and most are not controlled by conditions relating to litter nuisance. This has led to this area becoming of concern on the grounds of public nuisance caused by the amount of litter accumulations in the area.



This is a back street in Beeston Hill.



Once the clean-up crews, the area looks a lot better. However within a week, litter is starting to accumulate again.



The littering around takeaway and off licence premises is a much bigger concern.



## Health and Community Safety Information

There is clear evidence that some areas of south Leeds have high levels of problems associated with alcohol misuse. These include:

- During 2011, there were almost 14,000 domestic related *incidents* reported to the police across Leeds with approximately 4,000 of them in City and Holbeck Division.
- There were approximately 4,000 domestic related *crimes* in the same period across Leeds. Domestic Violence accounted for 33.6% of violent crimes in City and Holbeck Division.
- There were 5 domestic homicides and 192 MARAC cases in Leeds during 2011.
- Children were present at 4,966 incidents of domestic violence during 2011 which is an increase of 24% compared to the previous twelve month period. As some households have more than one child, each incident is potentially witnessed by more than one child. So the number of children recorded as being present is 6,145. This has changed significantly compared with 4,233 children present at the time of the last profile.
- The age group for victims most likely to be assaulted appears to be between the ages of 18 and 24.
- Alcohol was the most frequently cited contributing factor, accounting for 49% of incidents and 46% of crimes in the most recent period compared with 52% incidents at the time of the last profile. Drugs contributed to about 8% of incidents and 7% of crimes, which is an increase of around 5% from the time of the last profile.

Source: West Yorkshire Police crime data

### Hospital Admissions

In Leeds there were a total of 53,910 all-age alcohol related admissions between April 2009 and March 2010 of people registered with a Leeds GP and living in Leeds. Of these admission 48% were male and 52% were female. This is an increase from 37,709 in 2007/08 and 42,538 in 2008/09.

Of the 48 postcode districts in the Leeds area, LS11 has the highest number of people being admitted to hospital with an average of 36 people admitted three or more times per year, followed by LS9 with 29 people.

10 postcode districts have one or more residents who had been admitted on 10 or more occasions per year (2007-09 average). LS11 had the highest number with an average of 3.3 people admitted, followed by LS13 with 2.3 people.

In comparison the overall hospital admission rates for alcohol specific and alcohol attributable admissions in Inner South Leeds are much higher than the rest of Leeds:

	Holbeck	South Leeds	Leeds Average
Alcohol specific admissions (/1000)	17.6	10.9	6
Alcohol attributable admissions (/1000)	30.8	24.6	18.7

## Fires

Most alcohol related fires in Leeds happen between 21:00 and 03:00 at night with 90% of incidences occurring in residential properties. The majority of incidences are related to cooking. 52% of the injuries occurred in an area of Leeds ranked in the 10% most deprived nationally. Between 2008/09 and 2010/11 56 people suspected of being under the influence of drink or drugs were injured by fires and of these 31 were suspected to be under the influence of alcohol.

## Drinking while pregnant

The UK Chief Medical Officers' advice to women is:

'Women who are pregnant or trying to conceive should avoid alcohol altogether. However, if they do choose to drink, to minimise the risk to the baby, we recommend they should not drink more than 1-2 units once or twice a week and should not get drunk.'

The National Institute for Health and Clinical Excellence (NICE) advises healthcare professionals (GPs and nurses):

- Pregnant women and women planning to become pregnant should be advised to avoid drinking alcohol in the first three months of pregnancy, because there may be an increased risk of miscarriage.
- Women should be advised that if they choose to drink alcohol while they are pregnant, they should drink no more than 1-2 units of alcohol once or twice a week. There is uncertainty about how much alcohol is safe to drink in pregnancy, but at this low level there is no evidence of any harm to their unborn baby.
- Women should be advised not to get drunk or binge drink (drinking more than 7.5 UK units of alcohol on a single occasion) while they are pregnant because this can harm their unborn baby.
- If women want to avoid all possible alcohol-related risks, they should not drink alcohol during pregnancy because the evidence on this is limited.

## Obesity

Tackling obesity is one of the most significant public and personal health challenges facing our society. Obesity is a serious threat to health with 22% of men and 23% of women now classed as clinically obese (BMI greater than 30kg/m<sup>2</sup>). Among people aged 55 – 74 years two thirds of women and three quarters of men are overweight or obese.

The Leeds Joint Strategic Needs Assessment (JSNA) outlines key lifestyle behaviours that are of significance, which includes obesity. The findings suggest obesity levels are rising. The JSNA describes obesity as the second most important preventable cause of death after smoking. The cost to NHS in Leeds was £205m in 2010.

In relation to children, 1 in 10 in reception class and this rises to 1 in 5 for those children in Year 6 (primary school) are obese.

The recent MSOA health area profiles produced by NHS Leeds 2012, suggests Middleton and Westwoods as one of four neighbourhoods in the south east area with significant numbers of cases classed as obese. The profiles highlight linked factors such as deprivation and alcohol.

An overview of the area, in relation to obesity in the areas known as Middleton and Westwoods shows a number of indicators and highlighted below are those that directly show an impact on people's health:

- 7,535 people live in the area.
- The population is predominately white British.
- There is a higher than average proportion of children and young people
- 55% of residents rent their homes from the local authority
- The number of JSA claimants is 9.2% compared to 4.5% in Leeds
- Secondary school absenteeism is 19.4% compared to 11.3% for Leeds
- There are a higher number of young persons classified as NEETS (not in education, employment or training) - 14.2% compared to 7% for the rest of Leeds
- Educational attainment at key stage 4 = 5+ A-C including English & Maths is 31.5% compared to 53.4% for the rest of Leeds
- Obesity is higher than the Leeds average
- Smoking rates are almost double the Leeds average
- Diabetes is higher than the Leeds overall figure
- COPD is much higher than the Leeds average and the age standardised rate is also high
- CHD is higher than the Leeds average
- Admissions for alcohol related conditions are high
- Cancer rates are slightly lower than the Leeds average however when standardised against age it is in line with the Leeds average
- Mortality rates for under 75 are much higher than the Leeds average

The National Obesity Observatory's Report on Obesity and alcohol states that the relationship between obesity and alcohol consumption is complex. Associations between the two are heavily influenced by a number of factors including: patterns and levels of drinking; types of alcoholic drinks consumed; gender; body weight; diet; genes; physical activity levels and other lifestyle factors.

Some of the key points from the report include:

- Many people are not aware of the calories contained in alcoholic drinks
- The effects of alcohol on body weight may be more pronounced in overweight and obese people
- Alcohol consumption can lead to an increase in food intake
- Heavy, but less frequent drinkers seem to be at higher risk of obesity than moderate, frequent drinkers
- The relationships between obesity and alcohol consumption differ between men and women
- Excess body weight and alcohol consumption appear to act together to increase the risk of liver cirrhosis
- There is emerging evidence of a link between familial risk of alcohol dependency and obesity in women

All of this leads to a concern about the availability of alcohol and unhealthy foods.

#### Sources

Local information	provided by <a href="http://openlylocal.com">http://openlylocal.com</a>
Additional data	provided by <a href="http://www.westyorkshireobservatory.org/home">http://www.westyorkshireobservatory.org/home</a>
Licensing information	provided by Entertainment Licensing (extracted October 2012)
Crime data	provided by West Yorkshire Police
Health information	provided by NHS Leeds (Leeds Alcohol Harm Reduction Action Plan 2011-2015, Alcohol Needs Assessment Info 2011 & Tackling Alcohol and Community Safety in South Leeds – Summary Findings) Joint Strategic Needs Assessment 2012, NHS Leeds

## Contact Details

Entertainment Licensing Section	Phone:	0113 247 4095
Leeds City Council	Fax:	0113 224 3885
Civic Hall	Website:	<a href="http://www.leeds.gov.uk/licensing">www.leeds.gov.uk/licensing</a>
Leeds LS1 1UR	Email:	<a href="mailto:entertainment.licensing@leeds.gov.uk">entertainment.licensing@leeds.gov.uk</a>

This document should be used as a guidance tool. Only the courts can give an authoritative opinion on statute law. Every effort has been made to ensure this document is both comprehensive and accurate but in an attempt to simplify the law omissions have been made. Please refer to the Licensing Act 2003 and associated regulations for full details of the law. You should seek your own legal advice on the matters raised in this guidance note.

# Statement of Licensing Policy 2013 - 2015

Licensing Act 2003

Draft v2

**Further copies of this document can be obtained from:**

Entertainment Licensing  
Leeds City Council  
Civic Hall  
Leeds  
LS1 1UR

Tel: 0113 247 4095

Fax: 0113 224 3885

Email: [entertainment.licensing@leeds.gov.uk](mailto:entertainment.licensing@leeds.gov.uk)

Web: [www.leeds.gov.uk/licensing](http://www.leeds.gov.uk/licensing)

**Please note:**

The information contained within this document can be made available in different languages and formats including Braille, large print and audio cassette.

## CONTENTS

Executive Summary	
Section 1 The purpose and scope of the licensing policy	6
Section 2 The Leeds district	8
Section 3 Integrating other guidance, policies, objectives and strategies	10
Section 4 Promotion of the licensing objectives	12
Section 5 General principles	16
Human Rights	16
Impact of licensed activity	16
Special events	17
Community applicants	17
Other regulatory regimes	18
Application process	18
Licensing committee	18
Representations	18
Reasons for decisions	19
Section 6 Premises Licences and Club Premises Certificates	20
Planning	20
Licensing hours	20
Local, national and international events	21
Drinking up time	21
Operating schedules	22
Risk assessments	23
Local Licensing Guidance	23
Dispersal	23
Excessive consumption of alcohol	24
Conditions	24
Designated premises supervisors	24
Staff training	25
Club Premises Certificates	25
Community halls	25
Minor variations	25

Section 7	Cumulative Impact Policy	26
	Applications	26
	Cumulative Impact Policies	27
	Area 1 – City Centre	27
	Area 2 – Headingley and Hyde Park	28
	Area 3 – Chapel Allerton	29
	Area 4 – Horsforth	30
	Rebutting the presumption against grant in a CIP area	30
	Representations on cumulative impact outside CIPs	31
Section 8	Early Morning Restriction Orders	32
	EMRO Request	32
	Evidence	32
	Consultation	33
	Formal Decision	34
Section 9	Personal Licences	35
Section 10	Temporary Event Notices	36
	Police and HEAS Intervention	37
	Additional limits	37
Section 11	Enforcement and reviews	38
	Prosecution of breaches	38
	Reviews	38
	Matters	39
	Violent Crime Reduction Act 2006	39
Appendix 1	Further reading and useful information	40



The Licensing Act 2003 came into effect in 2005.

Under Section 5 of the Licensing Act 2003 the Licensing Authority is required to prepare a statement of principles that they propose to apply in exercising their functions under this Act. This process is to be repeated every three years from 31<sup>st</sup> January 2005. In 2011 the Government made changes to the Licensing Act 2003 which requires a review of this policy every five years.

Any decision taken by the Council in regard to determination of licences, certificates and notifications should aim to promote the licensing objectives which are:

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

The policy covers the licensable activities as specified in the Act which are:

- Sale by retail or supply of alcohol
- Regulated entertainment
- Late night refreshment

The policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. Additionally the council has regard for a number of other local strategies such as Vision for Leeds and the Leeds Community Safety Strategy.

The council has the ability to grant licences for premises and certificates for club premises. It also grants personal licences and accepts temporary event notices.

Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. In addition to this policy the council has prepared local licensing guidance specific to certain areas of the city to assist applicants in preparing their applications and operating schedules.

Where relevant the council consults with the responsible authorities as described in the Act.

Local people and Members of the council are able to have their say and their opinion heard through public consultation on this policy and by making representations about applications for premises licences or requesting reviews of licences for problem premises.

The policy includes four special policies which seek to limit the cumulative effect of licensed premises in certain areas.

Enforcement of the legislation is a requirement of the Act that is undertaken by the council. This policy describes the council's enforcement principles and the principles underpinning the right of review.

## Section 1 The purpose and scope of the licensing policy

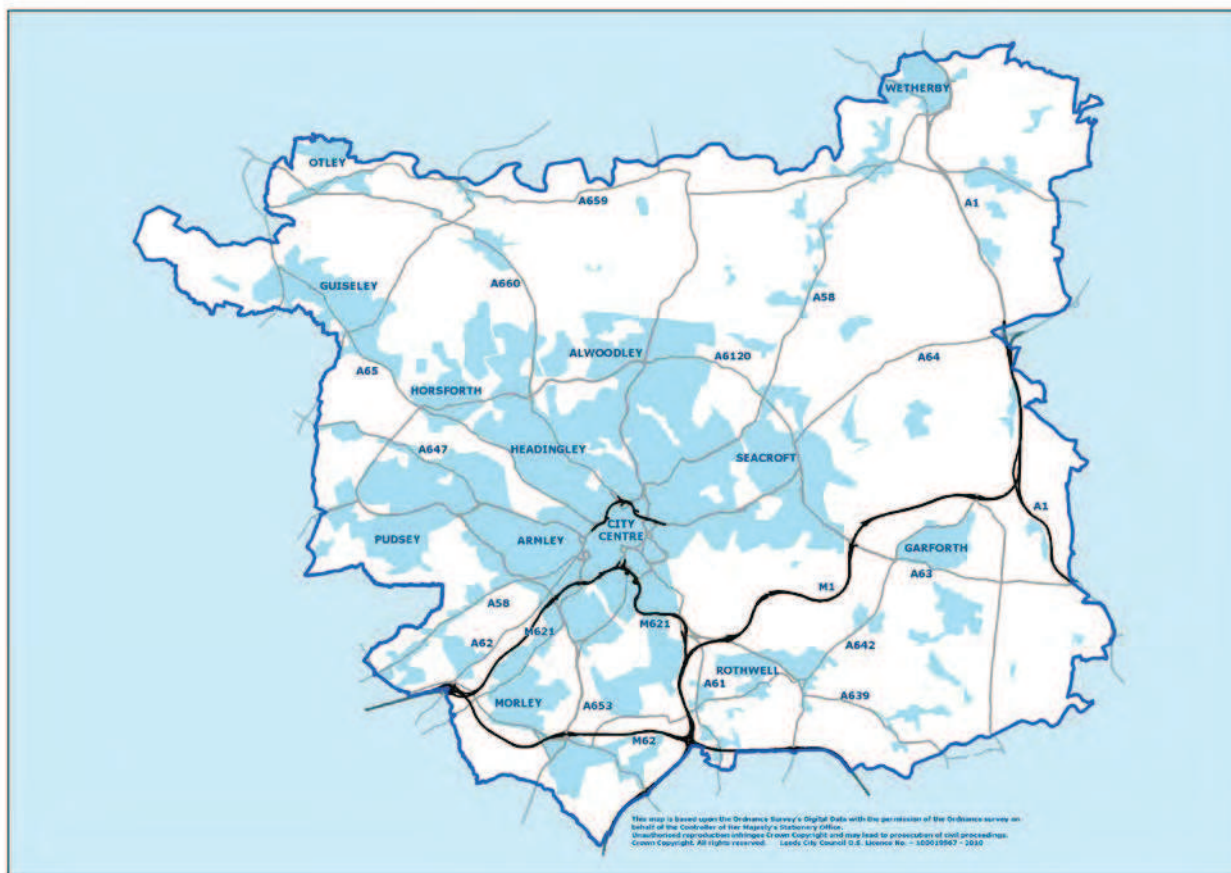
### Purpose of the policy

- 1.1 This policy is prepared under Section 5 of the Licensing Act 2003 and was approved by Leeds City Council as Licensing Authority in xx. It will be reviewed no later than xx, unless statute changes. Unless otherwise stated any references to the council are to the Leeds Licensing Authority.
- 1.2 In preparing this policy the council has consulted with and considered the views of a wide range of people and organisations including:
- Representatives of local business
  - Local residents and their representatives
  - Parish and town councils
  - Local members of parliament
  - Representatives of existing licence holders including
    - The British Beer and Pub Association
    - Licensing solicitors
  - The responsible authorities namely:
    - West Yorkshire Police
    - West Yorkshire Fire and Rescue Service
    - Leeds City Council – Health and Environmental Action Service
    - Leeds City Council – Children and Young People Social Care
    - Leeds City Council – City Development
    - Leeds City Council – Director of Public Health
    - West Yorkshire Trading Standards
  - Charitable organisations that deal with the social impact of alcohol misuse
  - Other charitable organisations including Mencap and Victim Support Leeds
- 1.3 This policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 1.4 The council will carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives namely:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 1.5 The council adopts the overall approach of encouraging the responsible promotion of licensed activities. However, in the interests of all its residents, it will not tolerate irresponsible licensed activity. Following relevant representations the council will refuse applications, restrict hours and activities or impose conditions where it is appropriate to do so to promote the licensing objectives and/or use effective enforcement to address premises where there are problems, in partnership with key agencies such as West Yorkshire Police, West Yorkshire Fire and Rescue Service, Health and Safety Executive, Crime and Disorder Reduction Partnerships, Director of Public Health and West Yorkshire Trading Standards

- 1.6 This policy is concerned with the regulation of licensable activities on licensed premises, by qualifying clubs and at temporary events. The conditions that the council attaches to the various licences will focus on matters that are relevant to the four licensing objectives and will centre upon the premises that are being used for licensable activities.
- 1.7 The council is aware however that the prevention of public nuisance is not narrowly defined in the Act and can include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of other people 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.
- 1.8 The council will monitor the effect of this policy throughout the period it covers through licensing liaison meetings with representatives of licence holders such as PubWatch meetings and also by way of regular meetings with the responsible authorities.

### **Scope of the policy**

- 1.9 This policy covers licensable activities within the Leeds district as defined by the Licensing Act 2003. These are:
- The sale of alcohol
  - The supply of alcohol by or on behalf of a club, or to the order of a member of the club
  - The provision of regulated entertainment
  - The provision of late night refreshment
- 1.10 Advice on whether a licence is required for premises or an event can be obtained from Entertainment Licensing, Leeds City Council.
- 1.11 Throughout this policy the wording will refer to ‘applicants’ for licences. However it should be noted that the principles set out within this policy apply equally to new applications, applications for variations and consideration of any request to review a licence.
- 1.12 The scheme of the Licensing Act is that applicants should make applications and assess what matters, if any, need to be included within the operating schedule to address the licensing objectives. If an application is lawfully made and no relevant representations are received then the council must grant the application. Only if relevant representations are made will the council’s discretion be engaged.
- 1.13 Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. This policy seeks to provide advice to applicants about the approach they should take to making applications and the view the council is likely to take on certain key issues where representations have been made.



- 2.1 Leeds City Council has sought to establish Leeds as a major European City and cultural and social centre. It is the second largest metropolitan district in England and has a population of 2.2 million people living within 30 minutes drive of the City Centre.
- 2.2 The Leeds metropolitan district extends over 562 square kilometres (217 square miles) and has a population of 751,500 (taken from the 2011 census). It includes the City Centre and the urban areas that surround it, the more rural outer suburbs and several towns, all with their very different identities. Two-thirds of the district is greenbelt (open land with restrictive building), and there is beautiful countryside within easy reach of the city.
- 2.3 Over recent years Leeds has experienced significant levels of growth in entertainment use within the city coupled with a significant increase in residential development. The close proximity of a range of land uses and the creation of mixed-use schemes has many benefits including the creation of a vibrant 24-hour city.
- 2.4 Leeds is a city with many cultures, languages, races and faiths. A wide range of minority groups including Black Caribbean, Indian, Pakistani, Irish and Chinese as well as many other smaller communities make up almost 11% of the city population.
- 2.5 Each area of the district has its own character and challenges. The council has provided general advice in this policy to assist applicants in preparing applications. Applicants are also expected to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. To assist them the council has collated information specific to localities in Leeds in which there is concern relating to impact of licensed premises on the four licensing objectives.

These are published on the website ([link](#)) Applicants may also consult with Entertainment Licensing to ensure they have as much information as possible before making their application. Further information is provided in Section 9.

### **Cultural Activities in Leeds**

- 2.6 Leeds has strong artistic and sporting traditions and has the best attended outdoor events in the country. The success of arts and heritage organisations including the Grand Theatre, West Yorkshire Playhouse, Opera North, Northern Ballet Theatre, Phoenix Dance Theatre, Harewood House and the Henry Moore Institute, has helped to attract other major arts and heritage investments such as the award winning Royal Armouries and the Thackeray Medical Museum. The city also boasts a wealth of community based sports heritage and recreational facilities. There is a vibrant voluntary sector including thousands of groups and societies.
- 2.7 Leeds City Council (in common with other local authorities) is a major provider of facilities for public recreation. The Council has a tradition of promoting a wide range of cultural activity for the benefit of the city and district.
- 2.8 Leeds Town Hall is the dedicated public concert hall/performance area in Leeds and the Carriageworks Theatre is dedicated to amateur performance and public use for Leeds. Millennium Square in the city centre is used for public events and entertainment such as the Christmas market and 'Icecube' (a temporary ice rink). The parks at Roundhay, Woodhouse Moor, Potternewton and Middleton are in use for community organised gatherings, fairs and carnivals and Temple Newsam Park is the venue for council promoted public events attracting upwards of fifty thousand people.
- 2.8 Commercially promoted events take place in a variety of locations throughout the district.
- 2.9 Within local communities, groups and associations use church and village halls and community centres for social and fund raising activities. Within the district there are 120 church halls, village halls and schools licensed for regulated entertainment and/or the sale or supply of alcohol.
- 2.10 Leeds has a long established reputation for the encouragement of community and diverse cultural events and public entertainment as an essential aid to community involvement and an increasing sense of common identity.

## Section 3 Integrating other guidance, policies, objectives and strategies

- 3.1 In preparing this licensing policy the council has had regard to, and sought to integrate the licensing policy with, the following strategies:
- Vision for Leeds 2011 to 2030
  - Leeds Local Development Framework
  - Leeds Alcohol Strategy
  - Leeds City Council – Anti-Social Behaviour Statement
  - Leeds City Council – Environmental enforcement policies.
- 3.2 The council (through its Licensing Committee) may, from time to time, receive reports on other policies, strategies and initiatives that may impact on licensing activity within the remit of the committee. Subject to the general principles set out in this policy and the overriding need to promote the four licensing objectives it may have regard to them when making licensing decisions.
- 3.3 The Committee may, after receiving such reports, make recommendations to the council or other bodies about the impact of the licensing policy on such policies, strategies and initiatives. Equally the Committee may make recommendations relating to the impact of such policies, strategies and initiatives on the licensing policy. This may include recommendations to amend the licensing policy itself.

### Vision for Leeds

- 3.4 *Best city in the UK*, that is the key aim of the Vision for Leeds 2011 to 2030. This means:
- Leeds will be fair, open and welcoming.
  - Leeds' economy will be prosperous and sustainable.
  - All Leeds' communities will be successful.
- 3.5 Leeds, like other national and international cities, is faced with a number of key challenges. The city's population is set to rise to around one million, its economy is still recovering from the effects of global recession and the consequences of a changing climate have become all too apparent.
- 3.6 In addressing these challenges, Leeds must continue to be a forward-looking city and have a clear plan for the future, and this is why the Vision for Leeds is important.
- 3.7 This licensing policy seeks to promote the licensing objectives within the overall context of the three aims set out in Vision for Leeds 2011-2030.

### Child Friendly

- 3.8 The council has announced its intention for the city to become 'Child Friendly'. This links back to the council's vision which states:
- 'Best city... for children
- Leeds will be a child-friendly city where the voices, needs and priorities of children and young people are heard and inform the way we make decisions and take action.'



- 3.9 There are over 180,000 children and young people in Leeds. To become a child friendly city, and the best city for children and young people, their voices and views need to be heard and responded to, and that they are active participants in their local community and citywide.

3.10 The UN convention on the rights of the child sets out the basic rights for children worldwide. The UN developed the model for child friendly city model – a place where children rights are known and understood by children and adults alike, and where these rights are reflected in policies and budgets.

3.11 As part of the aim for Leeds to become a child friendly city, the council declared 12 wishes:

In a child friendly Leeds...

1. Children and young people can make safe journeys and can easily travel around the city
2. Children and young people find the city centre welcoming and safe, with friendly places to go, have fun and play
3. There are places and spaces to play and things to do, in all areas and open to all
4. Children and young people can easily find out what they want to know, when they want it and how they want it
5. Children, young people and adults have a good understanding of children's rights, according to the United Nation Convention on the Rights of the Child
6. Children and young people are treated fairly and feel respected
7. Children and young people have the support and information they need to make healthy lifestyle choices
8. All our learning places identify and address the barriers that prevent children and young people from engaging in and enjoying learning
9. There are a greater number of better quality jobs, work experience opportunities and good quality careers advice for all
10. All children and young people have their basic rights met
11. Children and young people express their views, feel heard and are actively involved in decisions that shape their lives
12. Places and spaces where children and young people spend time and play are free of litter and dog fouling

3.12 This policy is particularly affected by wish 2 – “Children and young people find the city centre welcoming and safe, with friendly places to go, have fun and play” and wish 3 – “There are places and spaces to play and things to do, in all areas and open to all”.



## Section 4 Promotion of the licensing objectives

- 4.1 The council will carry out its functions under the Licensing Act 2003 with a view to promoting four licensing objectives. These are:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 4.2 Each objective is of equal importance, and the four objectives will be paramount considerations for the council at all times.
- 4.3 It is for the applicant to decide what, if any, measures to suggest in its operating schedule in order to address any potential concerns that might arise in the promotion of the licensing objectives. Applicants are reminded that measures proposed in the operating schedules will be converted into conditions on their licence.
- 4.4 The council recommends that applicants risk assess their operation against the four licensing objectives to identify potential areas of concern.
- 4.5 Applicants are reminded that responsible authorities or other persons may make representations if they feel that the applicant's proposals do not adequately promote the licensing objectives. An applicant who proposes no measures to promote the licensing objectives may therefore face more representations than an applicant who risk assesses their operation and proposes necessary and proportionate measures.
- 4.6 The council recommends early consultation with responsible authorities. Many responsible authorities have produced guidance which applicants can take into account when assessing whether they need to include any measures in their application to promote the licensing objectives. In addition, many responsible authorities would be prepared to discuss matters on site with an applicant with a view to reaching agreement on measures to be proposed. Contact details for the responsible authorities are available from Entertainment Licensing. Guidance issued by the responsible authorities can be found on the council's website, [www.leeds.gov.uk/licensing](http://www.leeds.gov.uk/licensing) or by contacting Entertainment Licensing.

### **Crime and Disorder**

- 4.7 Under the Crime and Disorder Act 1998, the council must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder.
- 4.8 Where its discretion is engaged, the council will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the Leeds Community Safety Strategy, and any local crime reduction strategy.
- 4.9 There are many steps an applicant may take to prevent crime and disorder. The council will look to the Police for the main source of advice on these matters. In accordance with the Secretary of State's Guidance, police views on matters relating to crime and disorder will be given considerable weight.

- 4.10 If relevant representations are made in relation to a premises licence or club premises certificate, the council will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave.
- 4.11 Conditions will be targeted on deterrence and the prevention of crime and disorder. The council may consider:
- The need for and location of CCTV cameras
  - The need for door supervision
  - The need for a text or radio pager system allowing communication between premises and with the Police
  - Conditions setting capacity limits where this is necessary to prevent overcrowding likely to lead to disorder and violence
  - Membership of a recognised pub watch or similar scheme
- 4.12 Crime and disorder conditions will not seek to control adult entertainment involving striptease and lap dancing, which will be governed by laws in relation to indecency and obscenity, and will be licensed under the Local Government (Miscellaneous Provisions) Act 1982. However, conditions for such adult entertainment may be imposed for reasons of public safety, or the protection of children from harm if they relate to occasional use of the premises for adult entertainment.

## **Public Safety**

- 4.13 The public safety objective is concerned with the physical state of people using the premises. Public safety includes safety of performers appearing at any premises.
- 4.14 On 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. The council will not seek to impose fire safety conditions as conditions on licences where the Order applies.
- 4.15 Capacity limits will only be imposed where appropriate for the promotion of public safety or for reasons of crime and disorder. Capacity limits will not be imposed as a condition of the licence on fire safety grounds.
- 4.16 Applicants are advised to consult with the Environmental Health, Health and Safety Team, who can offer advice as to appropriate measures to be included in risk assessments, and potentially in operating schedules. On receipt of relevant representations the council will have regard to the views of the Health and Safety Team.
- 4.17 Conditions requiring possession of certificates on the safety or satisfactory nature of equipment or fixtures on premises will not normally be imposed as those are dealt with by other legislation. However, if it is considered necessary in light of the evidence on each individual case, conditions may be imposed requiring checks on the equipment to be conducted at specified intervals, and evidence of the checks to be retained. Conditions may also seek to require equipment of particular standards to be maintained on premises.
- 4.18 Special considerations will apply to night clubs and similar venues. Applicants are encouraged to consider the Safer Clubbing Guide published by the Home Office and DCMS, which gives advice on these issues.
- 4.19 Special events in the open air or temporary structures raise particular issues. Applicants are referred to other sections of this document where guidance on holding these types of event is given.

## Public Nuisance

- 4.20 In considering the promotion of this licensing objective, applicants need to focus on the effect of licensable activities on persons living and working in the area around the premises which may be disproportionate and unreasonable.
- 4.21 Public nuisance in this context is not narrowly defined and can include low level nuisance affecting a few people living locally, as well as a major disturbance affecting the whole community.
- 4.22 Issues will mainly concern noise nuisance, light pollution, noxious smells and litter. These include issues arising from the implementation of the smoking ban where customers may now be more inclined to use external areas of premises.
- 4.23 Where applicants are completing operating schedules the council encourages them to have regard to the location of the proposed or actual premises, and in particular whether proposals may have a disproportionate impact in dense residential areas or near to sensitive premises such as nursing homes, old people's accommodation, hospitals, hospices or places of worship.
- 4.24 Applicants are recommended to consult Environmental Health Services for advice on measures that may need to be incorporated into an operating schedule.
- 4.25 If relevant representations are made, the council will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to reduce the impact of the behaviour of customers entering or leaving the premises on people living or working near to the premises. The council considers that patrons who are using external smoking areas or shelters are there as a direct result of the licensed premises and are within the control of the licensee.
- 4.26 The council will consider whether issues relating to public nuisance can be effectively dealt with by necessary and appropriate conditions. These conditions will normally focus on the more sensitive periods, for example, noise from premises in the late evening or early morning when residents may be attempting to sleep.
- 4.27 When considering such matters, the council will have regard to representations made by Environmental Health Services, and by local residents.
- 4.28 The council may consider the following matters:
- Whether doors and windows will or can be kept closed after a particular time.
  - Whether other noise control measures such as acoustic curtains or other speaker mounts are required.
  - The fact that lighting outside the premises may help to prevent crime and disorder, but may give rise to light pollution for neighbours.
  - Signs placed at the exit to buildings can encourage patrons to be quiet until they leave the area, and to respect the rights of residents.
  - The size and location of smoking areas and any facilities provided may encourage patrons to use the external areas more extensively than for just smoking and returning to the inside of the premises
  - Provision of litter bins in the vicinity of premises serving hot food after 11pm.
  - Display of contact details or a direct telephone link to a private hire/taxi firm.
- 4.28 The council recognises that it is necessary to balance the rights of local residents businesses and others with those wishing to provide licensable activities, and those who wish to use such facilities.

4.29 Ultimately if it is necessary for the prevention of public nuisance where conditions do not adequately address the issues an application can be refused.

### **Protection of children from harm**

4.30 The council recognises the Leeds Safeguarding Children Board as the responsible authority for the protection of children from harm.

4.31 The protection of children from harm includes protection from physical and psychological harm.

4.32 The council notes that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed unless there is good reason to restrict entry or exclude children completely.

4.33 Issues about access of children to premises may give rise to concern:

- where adult entertainment is provided on an occasional basis and is not already licensed under other legislation;
- where there have been convictions of the current management for serving alcohol to minors;
- where the premises have a reputation for allowing under-age drinking;
- where requirements of proof of age is not the norm;
- where premises have a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where the supply of alcohol consumption on the premises is the exclusive or primary purpose of the services provided.

4.34 Such situations can be identified through a risk assessment of the operation. In these circumstances, applicants are advised to consider offering appropriate conditions through their operating schedule. In addition, licensees may identify that the access of children to particular parts of the premises poses more risk than others, and seek only to exclude children from areas of highest risk.

4.35 On receipt of relevant representations, the council will consider whether conditions are necessary. If conditions are necessary these may include:

- limitations on the hours when children will be present
- limitation upon the presence of children of certain ages when specified activities are taking place
- limits on the parts of the premises to which children may have access
- age limitations
- limitations or exclusions only when certain activities are taking place
- requirements for an accompanying adult
- full exclusion of people under the age of 18 when any licensable activities are taking place

4.36 In such cases, representations by the Safeguarding Children Board and the Police will be given considerable weight where they address issues regarding the admission of children.

4.37 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. However, the council favours the Challenge 25/Check 25 type schemes and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the council determines the licence application.

4.38 No condition will be imposed by the council requiring the admission of children to any licensed premises except in the case of exhibition of film where a mandatory condition is applied to all licences with this activity.

- 5.1 In determining a licensing application the overriding principle will be that each application will be determined on its own merit, having regard to the need to promote the four licensing objectives and taking into account this licensing policy and the guidance issued under Section 182 by the Secretary of State. Where it is necessary to depart from the guidance or this policy the council will give clear and cogent reasons for doing so.
- 5.2 Nothing in this policy will undermine any person's right to apply for a variety of permissions under the Act.
- 5.3 Applicants are reminded of the Government's Alcohol Strategy. Matters set out in the strategy may be relevant to general licensing principles and to one or more of the licensing objectives.

### Human Rights

- 5.4 The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention right. The council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and 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 home and private life.
  - Article 1 of the first protocol that every person is entitled to the peaceful enjoyment of his or her possessions.

### Impact of Licensed Activity

- 5.5 Where no representations are made the council will grant a licence subject to conditions consistent with the operating schedule.
- 5.6 When determining any application where relevant representations are made, the council will consider it in the light of the four licensing objectives and in order to support a number of other key aims and purposes as set out in this policy. The requirement to promote the licensing objectives will be the paramount consideration. The council will focus upon the impact of the activities taking place on members of the public living, working or engaged in normal activity near the premises.
- 5.7 Where relevant representations are made in relation to a premises licence, club premises certificate or temporary event notice the following factors will normally be taken into account when the council is looking at the impact of the activities concerned:
- the style of operation, the numbers of customers and customer profile likely to attend the premises
  - the location of the premises and the proximity of noise sensitive properties
  - the proposed hours of operation
  - the transport arrangements for customers attending or leaving the premises and any possible impact on local residents or businesses
  - any proposed methods for the dispersal of customers
  - the scope for mitigating any impact
  - the extent to which the applicant has offered conditions to mitigate the impact
  - how often the activity occurs

5.8 In considering any application for a variation to a premises licence or club premises certificate where a relevant representation has been received, the council may take into account, in addition to the above matters, 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

5.9 Other relevant matters may be considered as the individual case dictates.

### **Special Events in the Open Air or in Temporary Structures**

5.10 The promotion and the organisation of live musical and similar entertainment in the open air or in temporary structures like marquees etc. can provide opportunities for community involvement, civic pride and can attract visitors to the district.

5.11 However, the success of such events by way of contribution to the council's cultural and tourist strategies depends upon the quality, levels of safety and consideration for the rights of people who live or work in the vicinity and the standard of provision of facilities for those coming to enjoy the event.

5.12 In recognition of the special factors that are relevant, particularly with respect to major open air events such as a pop festival or events like the Leeds Mela, the council has established a multi-agency forum to assist organisers in co-ordinating such events. This includes council departments who have an interest in or legislative role relevant to such events, together with representatives of the various emergency services.

5.13 Members of the forum are notified about all proposals to hold such events and where necessary a special meeting will be organised in order to consider any issues that will require to be addressed and to open up lines of communication with organisers.

5.14 A useful document which organisers are recommended to obtain is 'The Event Safety Guide' (known as the purple guide), published by the Health & Safety Executive. This is currently being revised and organisers are advised to check online for the latest version.

5.15 Guidance on the planning of such events is available to organisers but it is important that substantial notice is given so that proper preparations and precautions can be put in place for the event. This also applies if the event is proposed under a Temporary Event Notice.

### **Community Applicants**

5.16 Whilst this policy is aimed at all licensable activities under the Licensing Act 2003 it should be noted that the council sees a distinction between large or permanent activities, such as those proposed by commercial operators and small or temporary activities such as those which might be proposed by cultural or community groups.

5.17 Where events are proposed by cultural or community groups, it is recognised that those groups may not have the same skill or expertise or access to professional advice. Such groups may seek assistance and guidance from the council by contacting Entertainment Licensing.

5.18 Whatever the nature of the applicant and activity proposed, the overriding matter is that the council will consider the individual merits of the application and act so as to promote the licensing objectives.

## **Other Regulatory Regimes**

- 5.19 The licensing policy is not intended to be the primary mechanism for the general control of nuisance, anti social behaviour and environmental crime but nonetheless is a key aspect of such control and the licensing policy and licensing decisions are intended to be part of an holistic approach to the delivery of the council plan and the management of the evening and night time economy of the Leeds district.
- 5.20 In preparing this policy the council has sought to avoid unnecessary duplication of existing legislation and regulatory regimes. However on occasions it has been necessary to set out some of the detail in this policy for ease of understanding. Nothing in this policy is intended to revoke or replace the need for applicants to act in accordance with legal requirements. All applicants are advised to seek proper advice to ensure that the activities they propose are within the boundaries set by existing legislation and regulations.

## **Application Process**

- 5.21 Applications must be made to the council in the form prescribed by Regulations. Guidance is available to applicants setting out the detail of the process.

## **Licensing Committee**

- 5.22 The council has appointed a licensing committee of 15 Councillors. Licensing functions will often be delegated to a licensing subcommittee of 3 Councillors or, in appropriate cases to officers of the council.
- 5.23 Councillors will have regard to the Leeds City Council Code of Conduct for Members. Where a Councillor who is a member of the Licensing Committee or subcommittee has a disclosable pecuniary interest in the application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision making process in respect of that application.
- 5.24 A subcommittee may refer an application to another subcommittee or to the Licensing Committee where it is unable to deal with the application because of the number of members unable to vote on the matter in question.
- 5.25 The Licensing Committee will refer an application to the council where it is unable to deal with the application because of the number of members unable to vote on the matter in question.

## **Representations**

- 5.26 Depending on the type of application representations may be made by a responsible authority or other persons (as defined by the Licensing Act 2003). The council has agreed protocols with responsible authorities and issued guidance to other persons making representations, setting out the detail of the process. Guidance is available on the council website or by contacting Entertainment Licensing.
- 5.27 Members of the public who wish to submit a representation in regards to a premises licence or club premises certificate application need to be aware that their personal details will be made available to the applicant. If this is an issue they may contact a local representative such as a ward, parish or town councillor or any other locally recognised body such as a residents association about submitting the representation on their behalf. The council is not able to accept anonymous representations. In addition the council cannot accept petitions which do not follow the guidance on the council's website.



- 5.28 Where a representation is received which is not from a responsible authority the council will in the first instance make a judgement on whether it is relevant, i.e. based upon one or more of the four licensing objectives.
- 5.29 `Relevant representations' are representations:
- about the likely effect of the premises licence on the promotion of the licensing objectives;
  - which have not been withdrawn and are not, in the opinion of the council, frivolous or vexatious.
- 5.30 Where relevant representations are received about an application the council will hold a hearing to consider them unless the council, the applicant and everyone who has made representations agree that the hearing is not necessary. Applicants and those making representations should seek, in advance of any hearing, to try to reach agreement or to narrow the areas in dispute, particularly where both are professionally represented.
- 5.31 Where hearings are required as a result of relevant representations, the council may extend the time limits involved in calling hearings in order to allow the parties to negotiate suitable conditions to be added to the operating schedule and avoid the need for a hearing. Such an extension of time is considered to be in the public interest.

### **Reasons for Decisions**

- 5.32 Every decision made by the Licensing Committee, subcommittee or officers shall be accompanied by clear reasons for the decision.

- 6.1 A premises licence and club premises certificates authorises the sale or supply of alcohol, regulated entertainment and late night refreshment (sale of hot food and drink after 11pm). Businesses wishing to apply for a licence or certificate must use the prescribed form which includes details of the hours of operation, any hours for licensable activities and an operating schedule.

### Planning

- 6.2 The use of premises for the sale or provision of alcohol, regulated 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 generally required for the establishment of new premises or the change of use of premises.
- 6.3 In line with the S182 Guidance the planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 6.4 Where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers will consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.
- 6.5 Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct. It will take into account what the impact of granting the application will be on the four licensing objectives.
- 6.6 In general, all premises which are the subject of an application, should have the benefit of planning permission, or be deemed permitted development. The onus will be on the applicant to demonstrate that planning permission has been granted or that the premises have the benefit of permitted development rights. Failure to do so may result in representations and the licence being refused or granted subject to conditions which take account of the planning permissions in existence.
- 6.7 In addition, all new developments and premises which have been subject to structural alterations since 1994 will have building control approval in the form of a Building Regulations Completion Certificate. The onus will be on the applicant to demonstrate that any structural alterations have been approved by building control. Failure to do so may result in representations and the licence being refused or granted subject to conditions.

### Licensing Hours

- 6.8 The government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The Act gives the Council the power to make decisions regarding licensed opening hours based on local knowledge and in consultation with other responsible authorities.
- 6.9 In some circumstances, staggered licensing hours with regards to the sale of alcohol are important to ensure that the concentration of customers leaving premises simultaneously is reduced. The intention behind this is to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which currently lead to disorder and disturbance.

- 6.10 Providing the customers with greater choice is an important consideration in the development of a thriving and safe evening and night-time economy in Leeds. However any licensable activity has the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. Customers may be noisy when leaving, leave litter or use on-street car parking. The impact of these activities can be particularly intrusive at night when ambient noise levels are much lower.
- 6.11 The council supports the development of a wide ranging and culturally diverse night-time economy where this can be achieved whilst promoting the four licensing objectives and without compromising the ability to resource local services associated with the night-time economy such as street cleansing.
- 6.12 Under the Act there are no permitted hours for the sale of alcohol. Applicants are able to suggest in their operating schedule the hours they wish to open and to apply to vary their existing licences if they wish to open beyond their current permitted hours. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be the paramount consideration at all times.
- 6.13 If relevant representations are made the council will only grant the hours of use proposed where the operating schedule and any risk assessment adequately demonstrates that:
- the applicant has properly considered what is appropriate for the local area when considering what hours and activities to apply for
  - the potential effect on the licensing objectives is not significant
  - the agreed operating schedule demonstrates that the applicant is taking appropriate steps to minimise any adverse impact on local residents and businesses
- 6.14 Restrictions may be made to the proposed hours of use where, after receiving relevant representations, the council considers it appropriate for the promotion of the licensing objectives to do so. The council will take into account the existing pattern of licensed premises in an area when considering what is appropriate to promote the objectives. Applications which are significantly out of character for a locality will need to demonstrate that granting the hours sought will not impact on the licensing objectives, given the potential for neighbouring premises to seek the same additional hours to prevent rivals gaining a commercial advantage.
- 6.15 As a general rule shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

#### **Local, national and international occasions**

- 6.16 It should be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year, for example bank holidays, and to incorporate appropriate opening hours for these occasions in their operating schedules.
- 6.17 Additional occasions for which extensions may be required may be covered by a Temporary Event Notice.

#### **Drinking up time**

- 6.18 The traditional 'drinking up time' was not carried over into the Licensing Act 2003. However the hours during which applicants are licensed to sell or supply alcohol and the opening hours need not be identical and therefore applicants of premises licensed for the on-sale of alcohol are recommended to consider a drinking up/cooling down period during which music volume may be reduced, customers may consume their drinks and make arrangements for transport from the premises. The council considers that a 30 minute drinking up time will assist in the gradual dispersal of customers and consequently reduce impact on the area.

- 6.19 Where relevant representations are made the council will consider imposing a condition on drinking up time where such a condition is appropriate in order to promote the licensing objectives in any individual case.

### **Operating Schedules**

- 6.20 Under the Licensing Act 2003 applicants are required to complete an 'operating schedule'. Applicants are expected to have regard to the council's Statement of Licensing Policy. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.
- 6.21 Operating schedules are the key to ensuring that the four licensing objectives are promoted. An operating schedule should include enough information to enable any responsible authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 6.22 Whilst applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. The council encourages co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.
- 6.23 Other publicly available sources which may be of use to applicants include:
- the Crime Mapping website;
  - Neighbourhood Statistics websites;
  - websites or publications by local responsible authorities;
  - websites or publications by local voluntary schemes and initiatives; and
  - on-line mapping tools.
- 6.24 Applicants should make their own enquiries and demonstrate how they have considered the following in their operating schedule:
- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children and young persons may congregate.
  - Any risk posed to the local area by the applicants' proposed licensable activities; and
  - Any local initiatives (for example, local crime reduction initiatives or voluntary schemes such as local taxi-marshalling schemes, street pastors and other schemes, which may help mitigate potential risks.
- 6.25 The council expects individual applicants to complete the operating schedule in a manner that is specific to the application being made in respect of those premises and the licensable activity to be carried on rather than in general or standard terms. Information should be given to demonstrate how the individual application proposes to address and promote the licensing objectives. Applicants are referred to paragraphs 10.7 to 10.11 below which contain information on carrying out a risk assessment.
- 6.26 Any application or operating schedule not completed in accordance with the Act and the regulations may be returned to the applicant unprocessed with a request to complete the forms correctly before the application is accepted by council.

## **Risk assessments**

- 6.27 The council recommends that applicants complete a risk assessment of their business in order to understand what steps are required to complete the operating schedule in a manner which enables the council and responsible authorities to assess how they will seek to promote the licensing objectives.
- 6.28 The council is aware that any risk assessment will vary according to the nature of the business. It is for applicants to decide what is appropriate in each case. To assist applicants in completing their operating schedules the council has devised a risk assessment proforma and suggested wording for volunteered conditions. A copy may be obtained from the Entertainment Licensing Section. A special risk assessment proforma designed for outdoor events and broadly based on the 'Purple Guide' is also available.
- 6.29 The risk assessment contains many of the key factors which the responsible authorities will be expecting applicants to meet in order to fulfil the licensing objectives. The contents are not exhaustive but the risk assessment approach will reduce the possibilities of adverse representations.
- 6.30 It is recognised that some areas of the risk assessment may duplicate issues which applicants have previously addressed in order to satisfy other legislation. Where this does occur the operating schedule may cross reference to alternative documents.
- 6.31 The council recognises that it cannot insist on a risk assessment. However an applicant who decides not to complete or provide a risk assessment may face additional representations and the expense of hearings as a result. If a risk assessment is not completed then applicants will need to demonstrate how these matters have been addressed through the operating schedule provided.

## **Local Licensing Guidance**

- 6.32 Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete the operating schedule, the council has published local licensing guidance. This guidance which is compiled through the Area Committee and approved by the Licensing Committee can be obtained from Entertainment Licensing.
- 6.33 The local licensing guidance should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the measures suggested in the guidance and how they might be relevant to their application. The Local Licensing Guidance will be presented to any subsequent Licensing subcommittee when they determine an application that has received representations.
- 6.34 The council recognises that it cannot insist on applicants using the local licensing guidance when completing their operating schedules. However an applicant who decides to disregard the guidance may face additional representations and the expense of a hearing as a result.

## **Dispersal**

- 6.35 There has been concern for many years that a lack of transport provision in the city centre during the early hours of the morning may contribute to an increase in disorder incidents, especially in the Albion Street area. One of the initiatives to address this problem in the past has been to provide night buses, however these were not well used as people prefer the small luxury of getting a taxi or private hire vehicle home.
- 6.36 The council is working with West Yorkshire Police to seek solutions to this issue and will keep the situation under review seeking regular reports from West Yorkshire Police and Traffic Management.

## **Excessive Consumption of Alcohol**

- 6.37 The council is acutely aware of the link between the supply of alcohol that is subject to certain promotions and the possibility of resultant incidents of alcohol related crime and disorder and implications for public safety, public nuisance and the risk of harm to children.
- 6.38 The council also recognises the impact that excessive or binge drinking can have on public health and that positive action on promoting the licensing objectives is equally likely to have an indirect impact on public health.
- 6.39 The British Beer and Pub Association states that a promotion is irresponsible where it encourages or incites individuals to drink to excess, behave in an anti-social manner or fuels drunkenness. The council as the licensing authority will use the powers contained within the Licensing Act to ensure operators' promotional activities do not undermine the licensing objectives.
- 6.40 In April 2010 new mandatory conditions came into effect which:
- Ban irresponsible promotions;
  - Ban the dispensing of alcohol directly into the mouth; and
  - Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
- 6.41 The legislation makes it clear that an irresponsible promotion is one that is "carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carried a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children".
- 6.42 As a consequence any on-trade premises that participates in irresponsible drinks promotions will be breaching licence conditions and will be dealt with in accordance with the council's "Leeds Responsible Authority Liaison and Joint Enforcement Protocol - Licensing Act 2003" which is available from the Leeds City Council website and may be subject to a review of their licence.

## **Conditions**

- 6.43 The council may only impose conditions where relevant representations are made following an application to grant or vary a licence or where a review request is being considered.
- 6.44 The council recognises that the only conditions that should be imposed on a licence are those which are appropriate and proportionate to the promotion of the licensing objectives. There may be circumstances where existing legislation and regulations already effectively promote the licensing objectives and no additional conditions are required.
- 6.45 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned.
- 6.46 Applicants are strongly encouraged to make early contact with the appropriate responsible authorities to discuss proposed conditions in advance of the submission of their application to the council.

## **Designated Premises Supervisor**

- 6.47 An applicant for a premises licence which includes the sale and supply of alcohol must nominate a Designated Premises Supervisor (DPS). That person will normally have been given day to day responsibility for running the premises. The DPS will also be in possession of a personal licence. The Act does not require the presence of the DPS at all material times.

- 6.48 The DPS will be readily identifiable on the premises as a person in a position of authority. No sale or supply of alcohol may be made at a time when no DPS has been specified on the licence or at a time when the DPS does not hold a Personal Licence.

### **Staff Training**

- 6.49 The council recommends that all persons employed on licensed premises who are engaged in the sale and supply of alcohol be encouraged to attend training programmes to raise awareness of their responsibility and particularly of the offences contained within the Act. Similarly persons employed at on-licensed premises should be encouraged to attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all staff involved in managing or supervising the premises.
- 6.50 It is also recommended that persons employed on premises providing entertainment for children and youths attend training programmes in basic child protection and safety, and if appropriate have the necessary DBS checks.
- 6.51 All persons employed on licensed premises should be provided with in-house training on basic public safety and the housekeeping arrangements relative to those premises.

### **Club Premises Certificate**

- 6.52 The Act recognises that premises to which public access is restricted and where alcohol is supplied other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. For this reason qualifying clubs may apply for a Club Premises Certificate as an alternative to a premises licence.
- 6.53 A Designated Premises Supervisor and Personal Licence Holders are not required where a Club Premises Certificate is in force. However, an applicant for a Club Premises Certificate is still required to act in a manner which promotes the licensing objectives. An application for a Club Premises Certificate must be in the form prescribed by regulations.
- 6.54 Any qualifying club may choose to obtain a Premises Licence if it decides that it wishes to offer its facilities commercially for use by the public, including the sale of alcohol. Any individual on behalf of the club may also provide Temporary Events Notices. The council has issued guidance to clubs on applying for a Club Premises Certificate.

### **Community Halls**

- 6.55 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc) Order 2009 amends the Licensing Act 2003 to allow management committees of community premises to make an application for a premises licence or to vary an existing premises licence which includes an application to remove the requirement of a designated premises supervisor and the authorisation of the sale of alcohol by a personal licence holder.
- 6.56 The council has issued guidance to community premises on this process which can be accessed on the council's website.

### **Minor Variations**

- 6.57 It is now possible to make small changes to premises licences or club premises certificates through the minor variation process, which is cheaper, easier and quicker than the full variation process. The test for whether a proposed variation is 'minor' is whether it could impact adversely on any of the four licensing objectives. The council has issued guidance on this process which can be accessed on the council's website.



## Section 7 Cumulative Impact Policy

- 7.1 Cumulative impact means the potential impact on the promotion of the licensing objectives where there are a significant number of licensed premises concentrated in one area.
- 7.2 The licensing policy is not the only means of addressing such problems. Other controls include:
- planning controls
  - CCTV
  - provision of transport facilities including taxi ranks
  - Designated Public Places Orders
  - police powers
  - closure powers
  - positive measures to create safer, cleaner and greener spaces.
  - Voluntary or best practice schemes such as Street Wardens, Street Angels or Taxi Marshals
- 7.3 The council encourages the development of a variety of premises providing a range of licensed activities catering for a wide range of users. Any policy adopted from time to time on the cumulative impact of licensed premises imposes restrictions only to the extent that they are justified by the available evidence having regard to the guidance issued by the Secretary of State.

### Applications

- 7.4 A cumulative impact policy creates a rebuttable presumption that applications within the designated cumulative impact area for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.
- 7.5 An applicant wishing to obtain a new or varied licence for premises falling within any of the cumulative impact areas must identify, through the risk assessment process (if used) and operating schedule, the steps that he or she intends to take so that the council and responsible authorities can be satisfied that granting a new licence will not add to the impact already being experienced.
- 7.6 To assist this process applicants are encouraged to make early contact with the responsible authorities to discuss their plans, and suggested control measures. Applicants should also have particular regard to the guidance issued by the Home Office under section 182 of the Act.
- 7.7 Despite the presumption against grant, responsible authorities and other persons will still need to make a relevant representation before the council may lawfully consider giving effect to its cumulative impact policy. If no representation is received, the application must be granted subject to any conditions that are consistent with the operating schedule and any mandatory conditions required by the Licensing Act 2003. Responsible authorities and other persons can make written representation referring to information which was before the council when it developed this statement of licensing policy.
- 7.8 The council recognises that a cumulative impact policy should not be absolute. The circumstances of each application will be considered properly and application for licences that are unlikely to add to the cumulative impact on the licensing objectives may be granted. After receiving representations in relation to a new application or for a variation of a licence, the licensing authority will consider whether it would be justified in departing from its cumulative impact policy in the light of the

individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. If the council decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.

### **Cumulative Impact Policies**

7.9 The council has applied a cumulative impact policy in four areas of the Leeds district:

- the city centre (Area 1)
- Headingley/Hyde Park (Area 2)
- Chapel Allerton (Area 3)
- Horsforth (Area 4)

7.10 These areas have been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in these areas continue to adversely affect the promotion of the following licensing objectives:

- prevention of crime and disorder
- the prevention of public nuisance.

7.11 A summary of the evidence of the problems being experienced in these areas is included in this policy. A full report may be accessed via the council's website or from Entertainment Licensing.

7.12 The council consulted on the draft policies as part of the wider consultation on the council's revised draft licensing policy. The consultation was carried out with:

- The responsible authorities
- Licensees and those representing licensees
- Local residents and businesses
- Those representing local residents and businesses.

7.13 The council is also aware that the police have concerns related to the concentration of premises in the localities of Pudsey, Armley, Otley and Guiseley. The council, in conjunction with the responsible authorities, will be keeping these areas under review during the life of the policy in case it becomes necessary to instigate formal cumulative impact investigation. Applicants wishing to apply for new licences or variations in these areas should note this paragraph and tailor their operating schedules accordingly.

7.14 The council will keep the cumulative impact areas under an annual review. Applicants should contact Entertainment Licensing to ensure they are in possession of the latest information before making their application.

### **Area 1 – City Centre**

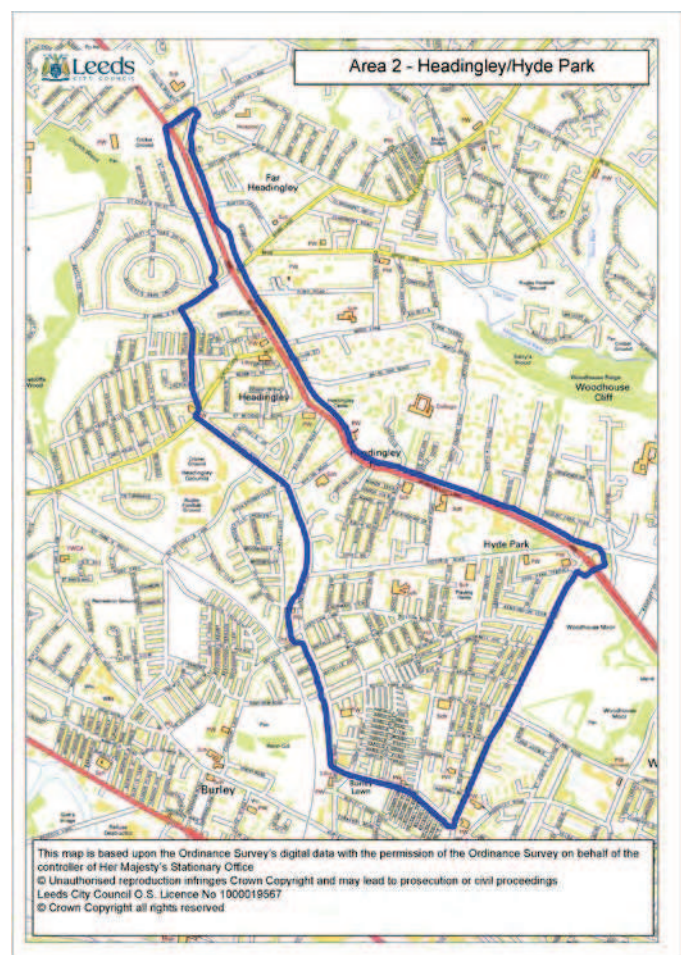
7.15 Area 1 relates to the city centre. West Yorkshire Police have provide information that the nature of the city centre is such that the problem areas and cumulative impact is directly related to the style of businesses opening in that area and their clientele.

7.16 In addition the close proximity of a number of venues on a street can result in difficulties in identifying individual premises as causing problems which can be dealt with via an action plan or a review process.

- 7.17 As a consequence the closure or opening of businesses can have a dramatic effect on reported crime and reported incidents in an area. While individual premises are dealt with using the review process, there are areas in Leeds city centre which may temporarily become saturated as new businesses open or existing businesses change their style of operation.
- 7.18 In addition the council recognises that a previous problem area can be improved by the introduction of new styles of business types, such as food led premises, and seeks to encourage this.
- 7.19 This dynamic nature has created difficulties in setting a policy for the city centre that will be relevant for five years until the next formal review. Therefore the council will adopt an approach of designating areas within the city centre CIP as 'red' or 'amber' based upon an analysis of night time economy related issues that are relevant to the licensing objectives. Areas that are considered highly saturated will be designated as red areas.
- 7.20 The council will seek to refuse all applications in these **red areas** on the basis that the impact on the licensing objectives are at such a level that the area cannot support any more premises opening or extending their hours no matter how impressive the concept or application is. The council will only grant applications in the red zone in exceptional cases.
- 7.21 An **amber area** is an area which is of concern based upon an analysis of night time economy related issues that are relevant to the licensing objectives, and the council will expect applicants to offer additional measures tailored to the problems in that area.
- 7.22 All other areas within the city centre CIP will be designated **green areas** where good quality applications will be generally be more acceptable even though the area is a CIP area.
- 7.23 The current map and evidence is available on the council's website and from Entertainment Licensing.
- 7.24 It is the council's policy, on receipt of relevant representations, to
- refuse new and variation applications in the red area
  - to seek additional measures for new and variation applications in the amber area
  - To seek good quality applications for application in the green area
- 7.25 This applies to alcohol led premises such as bars, pubs and nightclubs, and for premises seeking late night refreshment such as takeaways and late opening restaurants.

#### Area 2 – Headingley/Hyde Park

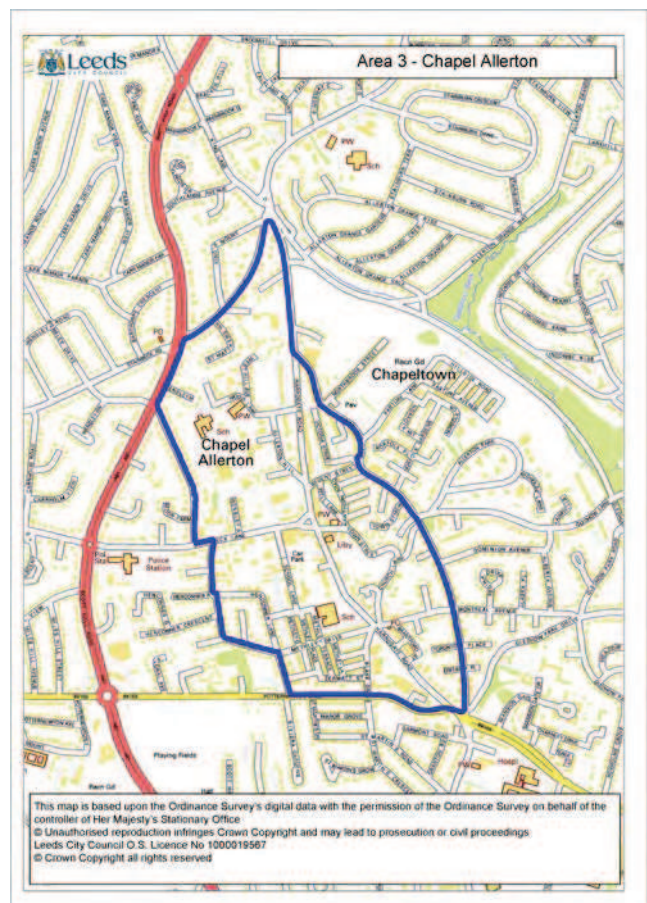
- 7.26 Area 2 relates to the Headingley and Hyde Park districts of Leeds as defined within the blue boundary. It also includes premises on both sides of the boundary roads.
- 7.27 The Headingley cumulative impact policy was put in place in 2005 and has worked well in ensuring that the adverse effect of an accumulation of licensed premises in Headingley has not increased.



- 7.28 There have been ongoing problems, both public nuisance and anti-social behaviour in the Hyde Park area which can be attributed to licensed premises. For this reason the geographical area of the CIP was increased in 2011 to include the problem areas.
- 7.29 There is evidence that the lengthening of the opening hours of premises had an impact on the area. For this reason the scope of the policy was increased to include variation applications.
- 7.30 There is new evidence that the increase in 24 hour opening off licences has led to an increase in reported nuisance complaints.
- 7.31 It is the council's policy, on receipt of relevant representations, to refuse new variation applications in Area 2 for the following premises:
- Alcohol led premise such as bars, pubs and nightclubs
  - Café bars and restaurants
  - Premises seeking late night refreshment such as takeaways and late opening restaurants
  - Premises seeking to sell alcohol for consumption off the premises after midnight, such as off licences and convenience stores.
- 7.32 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

### Area 3 – Chapel Allerton

- 7.33 Area 3 relates to the Chapel Allerton district of Leeds as defined within the blue boundary.
- 7.34 The Chapel Allerton CIP has performed well since its inclusion in the Statement of Licensing Policy. However, residents of Chapel Allerton have noticed an increase in the amount of takeaway litter. There is also a concern relating to premises applying to vary their licence to increase the licensed area of their premises. In some cases this includes altering conditions to allow the use of the outside area to facilitate smokers following the smoking ban. This has a knock on effect on nuisance issues.
- 7.35 Since the CIP was introduced in 2005 and extended in 2011 the council has noted there have been very few applications to grant or vary premises licences in this area. This suggests that the CIP is having the desired effect in this area. Therefore the CIP remains unchanged.
- 7.36 It is the council's policy, on receipt of relevant representations, to refuse new and variation application in Area 3 for the following premises:



- Alcohol led premises such as bars, pubs and clubs
- Café bars and restaurants
- Premises seeking late night refreshment such as takeaways and late opening restaurants



7.37 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

#### Area 4 - Horsforth

7.38 Area 4 relates to the Horsforth district of Leeds centred on Town Street. It includes all areas inside the blue boundary, but also the premises on the south side of New Road Side.

7.39 Since the adoption of the Horsforth CIP the council has recognised that the accumulation of licensed premises along New Road Side has contributed to public nuisance in that area, especially as it encourages the use of a route through residential areas used by people moving from Town Street to New Road Side. As a consequence this area was included in the cumulative impact area for Horsforth in 2011.

7.40 Concern has been expressed by residents about the litter nuisance and public nuisance caused by takeaway premises. The council has received a number of complaints relating to litter and odour nuisance that can be related to takeaway premises.

7.41 Since the CIP was introduced in 2007 and extended in 2011 the council has noted there have been very few applications to grant or vary premises licences in this area. This suggests that the CIP is having the desired effect in this area. Therefore the CIP remains unchanged.

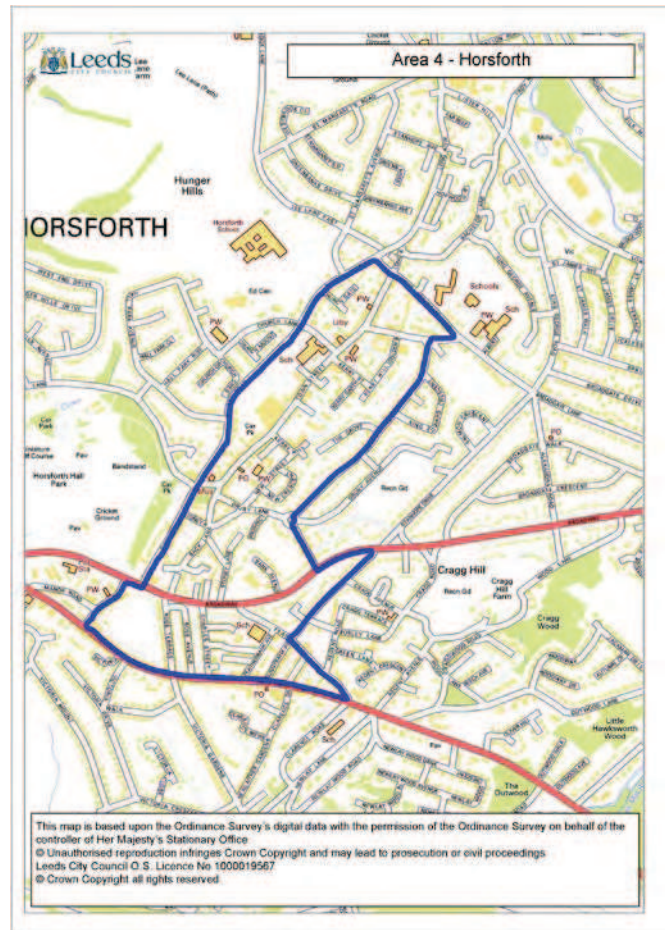
7.42 It is the council's policy, on receipt of relevant representations, to refuse new and variation applications in Area 4 for the following premises:

- Alcohol led premises such as bars, pubs and clubs
- Café bars and restaurants
- Premises seeking late night refreshment such as takeaways and late opening restaurants

7.43 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

#### Rebutting the presumption against grant in a CIP area

7.44 When considering whether the presumption against grant in a CIP area the council will need to be satisfied that the grant will not impact on the cumulative impact of existing licensed premises in the area. Applicants will often suggest measure which they assert will demonstrate there will be no impact.



- 7.45 Examples of factors the licensing authority may consider as demonstrating there will be no impact may include, though are not limited to:
- Small premises who intend to operate before midnight.
  - Premises which are not alcohol led and only operate during the day time economy
  - Instances where the applicant is relocating their business to a new premises but retaining the same style of business.
  - Conditions which ensure that the premises will operate in a particular manner such as a minimum number of covers or waiter/waitress service to secure a food led operation.
- 7.46 Examples of factors the licensing authority will not consider as meeting the standard of rebuttal include:
- That the premises will be well managed and run as all licensed premises should meet this standard
  - That the premises will be constructed to a high standard
  - That the applicant operates similar premises elsewhere, such as in another licensing authority area, without complaint
- 7.47 Any relevant representation of support will be taken into consideration by the council when making its determination.

#### **Representations on cumulative impact outside cumulative impact areas**

- 7.48 In cases where either responsible authorities or other persons seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact in an area not designated as a saturation zone, which would undermine one or more of the licensing objectives, they shall:
- Identify the boundaries of the area from which it is alleged problems are arising
  - Identify the licensing objective which it is alleged will be undermined
  - Identify the type of licensable activity alleged to be causing the problem (e.g. sale of alcohol, late night refreshment)
  - Provide full details and evidence to show the manner and extent to which it is alleged that the licensing objectives are being, or at risk of being, undermined in the area
  - Provide evidence to show that the undermining of the objective is caused by the patrons of licensed premises in the area.
- 7.49 The reason for this is to ensure that objections are neither frivolous or vexatious and that there is an evidential basis for the licensing subcommittee to reach a decision.

## Section 8 Early Morning Restriction Orders

- 8.1 The power conferred on licensing authorities to make, vary or revoke an EMRO is set out in section 172A to 172E of the Licensing Act 2003. This power was brought into force on 31<sup>st</sup> October 2012 and the government has provided guidance as part of the S182 Guidance to Licensing Authorities.
- 8.2 An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 8.3 EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.
- 8.4 An EMRO:
- Applies to the supply of alcohol authorised by premises licences, club premises certificate and temporary event notices;
  - Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods on different days of the week;
  - Applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
  - Applies to the whole or any part of the licensing authority's area
  - Will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January every year);
  - Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars/room service; and
  - Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the Licensing Act 2003.

### EMRO Request

- 8.5 It is expected that the need for an EMRO may be identified by a number of different organisations. For example the request for an EMRO may originate at an Area Committee, residents association or the local NPT. It may come via the Licensing Enforcement Group. It is likely that more than one organisation may be involved in the process.
- 8.6 It is anticipated that the request would be referred to Entertainment Licensing where a designated procedure will be applied to determine if an EMRO is appropriate. If appropriate, the request would be referred to the Licensing Committee. Members would be supplied with evidence of the issues being experienced in the area in support of the EMRO. Licensing Committee will decide if, on the strength of the evidence provided, that an EMRO is appropriate for the promotion of the licensing objectives and if further work is to be undertaken to support the case. Members may decide that other measures would be more effective in dealing with the problems, or that licence holders should engage with the authorities in an attempt to rectify matters before the request is considered further.

### Evidence

- 8.7 The Section 182 Guidance to Licensing Authorities states that

*"The licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications*



*for the grant of premise licences. The licensing authority should consider the evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine when an EMRO would be appropriate for the promotion of the licensing objectives.”*

- 8.8 The level of evidence Licensing Committee will consider to support an early morning restriction order is:
- Police evidence of reported alcohol related crime
  - Nuisance statistics compiled from complaints made to Environmental Health in relation to noise, odour and litter nuisance
  - Data gathered from complaints made the Entertainment Licensing on matters which affect the licensing objectives.
  - Anecdotal evidence from residents organisations, ward members and other representatives of people living in a specific area
  - Evidence obtained during the public consultation and associated public meetings
- 8.9 In addition the S182 guidance suggests other sources of evidence such as
- Health related statistics such as alcohol-related emergency attendances and hospital admissions
- 8.10 This should, in part be provided by the organisation or group who are proposing an EMRO should be in force.
- 8.11 Once the Licensing Committee is satisfied that an EMRO is required to address the issues in an area, and all other measures have been tried and failed to address these issues, the formal process of implementing an EMRO will begin. The design of the EMRO will include:
- The days (and periods on those days) on which the EMRO would apply
  - The area to which the EMRO would apply
  - The period for which the EMRO would apply
  - The date from which the proposed EMRO would apply

## **Consultation**

- 8.12 The proposed EMRO will be advertised for at least 42 days. The proposal will be published on the council’s website and in a local newspaper. A notice will be sent to all affected people in the area who hold a premises licence or club premises certificate, or people who use TENs or who hold a provisional statement. A notice will be displayed in the area, and sent to responsible authorities and adjacent licensing authorities.
- 8.13 Anyone affected by the EMRO has 42 days in which to make a representation on any aspect of the EMRO design. If relevant representations are received then a hearing will be held to consider them. If there are a number of representations, the licensing authority may consider whether to hold the hearing over several days. The hearing will be commenced within 30 working days of the end of the notice period.
- 8.14 As a result of the hearing the licensing authority has three options:
- To decide that the proposed EMRO is appropriate for promotion of the licensing objectives
  - To decide that the proposed EMRO is not appropriate and therefore the process should be ended
  - To decide that the proposed EMRO should be modified. In this case it may be necessary to advertise again.

## Formal Decision

- 8.15 Once the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination will be put to full Council for its final decision. Once the EMRO is made, the authority will send a notice to all affected persons and make it available for 28 days on the website.
- 8.16 A variation or a revocation of an order will follow the same process. However an order could be applied for a specified time and in this case the order ceases to apply on the final day.
- 8.17 Once an EMRO is in place, the licensing authority will update this policy as soon as possible to include reference to the EMRO in this section.
- 8.18 There are currently no EMROs in place in this area.

- 9.1 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a Personal Licence. The Act does not require the presence of a Personal Licence holder at all material times but if any sales are made when a Personal Licence Holder is not present, then they must have been authorised by somebody who holds a Personal Licence. Regardless of whether a Personal Licence holder is present or not he will not be able to escape responsibility for the actions of those he authorises to make such sales.
- 9.2 The council recommends that authorisations for the sale of alcohol be made in writing to ensure that those authorised are clear what their legal responsibilities are. Any premises at which alcohol is sold or supplied may employ one or more Personal Licence holders. This paragraph should be read in conjunction with paragraphs 10.7 to 10.9 on the role of the 'Designated Premises Supervisor'.
- 9.3 The council recognises it has no discretion regarding the granting of personal licences where
- the applicant is 18 or over,
  - possesses a licensing qualification,
  - has not had a licence forfeited in the last five years and
  - has not been convicted of a relevant offence.
- 9.4 An application for a personal licence to sell alcohol must be made in the form specified in government guidance or regulations. The application form must be accompanied by the requisite fee. The applicant should also be able to produce evidence of the relevant qualifications.
- 9.5 Applicants should produce a Criminal Record Bureau certificate along with the application form. The certificate must be current and comply with the regulations on personal licence applications. Applicants are also expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or a similar offence.
- 9.6 Where the application discloses relevant unspent convictions the council will notify the police of that application and the convictions. The police may make objection on the grounds of crime and disorder. If an objection is lodged a hearing must be held.
- 9.7 The council will, at such a hearing, consider carefully whether the grant of the licence will compromise the promotion of 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 council will normally refuse the application unless there are exceptional and compelling circumstances which justify granting it.

## Section 10 Temporary event notices

- 10.1 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or TEN).
- 10.2 Temporary event notices are subject to various limitations. These are concerned with:
- the number of times a premises user may give a TEN – 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people);
  - the number of times a TERN may be given for any particular premises (12 times in a calendar year);
  - the maximum duration of an event authorised by a TEN is 168 hours (seven days);
  - the maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year);
  - the maximum number of people attending at any one time (fewer than 500); and
  - the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).
- 10.3 The most important aspect of the system of temporary event notices is that no permission is required for these events from the council. In general, only the police or Environmental Health and Action Service (HEAS) may intervene to prevent such an event or modify the arrangements for such an event. The council will only intervene itself if the limits on the number of notices that may be given in various circumstances would be exceeded.
- 10.4 Many premises users giving temporary event notices will not have a commercial background or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, all of which may stage public events to raise funds, at which licensable activities will take place. The council will ensure that local guidance about the temporary permitted activities is clear and understandable and will strive to keep the arrangements manageable and user-friendly for such groups.
- 10.5 There are two types of TEN; a standard TEN and a late TEN. These have different notice periods. A standard TEN is given no later than ten working days before the event to which it relates; a late TEN is given not before nine and not later than five working days before the event.
- 10.6 The council encourages notice providers to give the earliest possible notice of events likely to take place. This is particularly relevant to events which are to take place in the open air or in a temporary structure. Assistance with the planning of events can be provided through multi agency forum meetings.
- 10.7 The council will provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution, the building of temporary structures, or other necessary permissions, and of the powers to close down events with no notice on grounds of disorder, the likelihood of disorder or noise emanating from the premises.

## **Police or HEAS intervention**

- 10.8 The Act provides that in exceptional circumstances, the police or HEAS may issue an objection notice because they believe the event would undermine the one or more of the four licensing objectives set out in the Act. The police or HEAS must issue an objection notice within three working days of being notified, but they can subsequently withdraw the notice. The issuing of such an objection notice requires the consideration of the objection by the council at a hearing in the case of a standard TEN. If an objection notice is issued in relation to a late TEN then the TEN is cancelled and licensable activities are not authorised.
- 10.9 The ability of police and HEAS to serve such a notice is a further reason why event organisers are strongly encouraged by the council not to rely on giving the minimum amount of notice and to contact the local police and HEAS at the earliest possible opportunity about their proposals.

## **Additional limitations**

- 10.10 The council, on receiving temporary event notices, will also check that the requirements of the Act as to duration and numbers of notices are met. For these purposes, a notice is treated as being from the same premises user if an associate gives it.
- 10.11 The Act defines an associate as being:
- the spouse or civil partner of that person;
  - a child, parent, grandchild, grandparent, brother or sister of that person; or
  - an agent or employee of that person;
  - the spouse or civil partner of a person listed in either of the two preceding bullet points.
- 10.12 A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse.

## Section 11 Enforcement and reviews

- 11.1 The Licensing Act contains measures to ensure that the council, and responsible authorities, are able to deal with premises that wilfully and persistently undermine the licensing objectives. The council and responsible authorities are committed to encouraging a thriving day time and evening licensed economy but will not tolerate those premises whose activities infringe upon the quality of life for local residents and businesses.
- 11.2 The council has established a multi agency enforcement protocol which sets out the framework for the risk based enforcement of the Licensing Act 2003 following the principles of better regulation advocated by the Better Regulation Executive. The protocol allows for carrying out of joint inspections with the police, the fire authority and other relevant agencies.
- 11.3 The enforcement protocol's mission statement is to protect the public, interested parties and the environment from harm caused as a result of activities made licensable by virtue of the Licensing Act 2003.

### Prosecution of breaches

- 11.4 In accordance with the enforcement protocol, the council adopts a multi-agency approach to the prosecution of offences under the Licensing Act.
- 11.5 Consideration will be given to the appropriate powers that should be used to address a problem where other agencies such as the police, fire authority, environmental protection and trading standards also have their own powers.
- 11.6 The council has adopted the principles of the Hampton Report in its enforcement concordat. Formal enforcement will be a last resort and proportionate to the degree of risk. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 11.7 The council has a zero tolerance to anti social behaviour and environmental crime.

### Reviews of Licences

- 11.8 The council recognises that the ability of the police, other responsible authorities and other persons to apply for a review of a premises licence, is an incentive to effective self regulation.
- 11.9 On receipt of a relevant request to carry out a review the council has a range of options available to it under the Act. These include:
- To modify the conditions of the licence including imposing new conditions, altering existing conditions or removing conditions (permanently or temporarily)
  - To exclude a licensable activity from the scope of the licence (permanently or temporarily)
  - To remove the Designated Premises Supervisor
  - To suspend the licence for a period not exceeding three months
  - To revoke the licence
- 11.10 The council will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.
- 11.11 The council has agreed protocols with responsible authorities and published guidance on the review process which is available from Entertainment Licensing or on the council's website.

- 11.12 Where a Magistrates Court makes a Closure Order under part 8 of the Licensing Act 2003 (on grounds of disorder) the council must carry out a review of the licence.
- 11.13 Where a Magistrates Court makes a Closure Order under part 1 of the Anti Social Behaviour Act 2003 (on grounds of the use, supply or production of Class A drugs associated with disorder or serious nuisance) the police will usually ask the council to carry out a review of the licence
- 11.14 Where a closure order has been made under part 6 of the Anti Social Behaviour Act 2003 (on grounds of noise) the council's Environmental Health section will normally request a review of the licence.

#### **Matters to be considered**

- 11.15 When considering a review request or the possibility of enforcement action the council will take into account all relevant circumstances but will view the following matters particularly seriously:
- use of the premises for criminal activities such as the supply of drugs or money laundering
  - failure to promptly respond to a warning properly given by a responsible authority
  - failure to engage with the RAs in an effective manner?
  - previous convictions for licensing offences
  - previous failure to comply with licence conditions.

#### **The Violent Crime Reduction Act 2006**

- 11.16 The Violent Crime Reduction Act 2006 has amended parts of the Licensing Act 2003 and now expands police and council powers to deal with problem premises in a more expedient manner.
- 11.17 A new power to carry out summary reviews in serious cases of crime and disorder is brought in at section 53A of the Licensing Act 2003. Where a review application is accompanied by a certificate issued by a senior police officer, the Licensing Authority is required within 48 hours to consider whether it is necessary to take any interim steps pending the completion of the review process. This may include the immediate suspension of the premises licence.



## Appendix 1 – Further Reading and Useful Information

- The Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003 available on the DCMS Website at [www.culture.gov.uk](http://www.culture.gov.uk)
- The Event Safety Guide – A guide to health safety and welfare at music and similar events (HSE 1999) (“The Purple Guide”) ISBN 0 7176 2453 6 (due to be updated in 2013)
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997)(“The Green Guide ”) ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through [www.streetartsnetwork.org](http://www.streetartsnetwork.org)
- The Portman group website at [www.portman-group.org.uk](http://www.portman-group.org.uk)
- The British Beer and Pub Association at [www.beerandpub.com](http://www.beerandpub.com)
- The Alcohol Strategy, Home Office
- Government website aimed at tackling anti-social behaviour [www.together.gov.uk](http://www.together.gov.uk)
- Safer clubbing guide available at [www.drugs.gov.uk](http://www.drugs.gov.uk)

# Public Consultation

## Licensing Act 2003 Statement of Licensing Policy



### Introduction

The Licensing Act 2003 came into force in 2005 and brought the licensing of sale of alcohol, regulated entertainment and late night refreshment into one system. Leeds City Council became the licensing authority for premises in the Leeds area and the system is administered by the council's entertainment licensing section.

The Police Reform and Social Responsibility Act 2011 received Royal Assent in September 2011 and brought a number of changes to the Licensing Act 2003 which were designed to give power back to local communities and to make it easier for Licensing Authorities to deal with problem premises and the problems associated with late night drinking.

The majority of these changes came into effect on 25th April 2012. The remaining changes (late night levy, early morning restriction orders) came into effect in October 2012 and locally set fees are likely to come into effect in April 2013. These changes make fundamental changes to the way licence applications are determined and therefore there is a need to review the Statement of Licensing Policy.

### Background

We developed and consulted upon the Leeds City Council Statement of Licensing Policy in 2005 and reviewed it in 2007 for the period 2008-2010 and again in 2010 for the period 2011 to 2013. One of the changes brought in by the Police Reform and Social Responsibility Act was to increase the period in which a licensing policy needs to be reviewed from 3 years to 5. However the changes themselves were wide reaching and it is appropriate that the council reviews the policy now to ensure it is fit for purpose for the next 5 years.

### Purpose of the Statement of Licensing Policy

The purpose of the policy is to set out the principles upon which the licensing authority will exercise its functions under the Licensing Act 2003. Applicants are expected to read the policy before making their application and the Licensing Authority will refer to the policy when making decisions.

### Purpose of the consultation

It is a requirement of the Licensing Act 2003 that licensing authorities consult with people affected by the policy. Specifically the Act states:

Before determining its policy for a three year period, a licensing authority must consult –

- (a) the chief officer of police for the licensing authority's area,
- (b) the fire authority for that area,
- (c) such persons as the licensing authority considers to be representative of holders of premises licence issued by that authority
- (d) such persons as the licensing authority considers to be representative of holders of club premises certificate issued by that authority,
- (e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and

- (f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

## Consultation Methodology

In order to meet the requirements of the Act the council has undertaken the following steps:

1. Licensing Committee formed a working group in July 2012 to undertake a review of the licensing policy and to hear from a number of organisations who can provide expert advice and opinion.
2. The working group has met monthly to hear from the expert panel on issues such as late night levy and early morning restriction orders, cumulative impact policies, dispersal in the city centre, local licensing guidance.
3. Part of this work was to review the five cumulative impact policies and to hear from West Yorkshire Police, the planning department and community safety. Updated crime and nuisance statistics were scrutinised and the cumulative impact policies were amended.
4. Produced a revised policy, including the revised cumulative impact policies.

The public consultation will run from **3<sup>rd</sup> June to 28<sup>th</sup> August 2013**. This consultation will include:

- a postal consultation to the trade, support groups, religious groups, ward members and local MPs.
- a press release
- a webpage on the Leeds City Council website which will provide the consultation documents and online questionnaire.

Following the consultation, the working group will consider all the responses it receives and determine if any further revisions are necessary. Once a final document has been produced this will be presented to Licensing Committee for endorsement along with a consultation report which will form the Council's response to the consultation. Both documents will be presented to full Council for approval.

## Summary of Changes

### Throughout policy:

Removal of any reference to vicinity

Removal of any reference to interested party

Removal of the word necessary and replace with appropriate in relation to the licensing objectives

Major reordering of sections.

### Section 3 – The Leeds District:

Update information relating to the Leeds Vision for Leeds

### Section 4 – Integrating other guidance, policies, objectives and strategies:

Update to other council policies

### Section 6 – General Principles:

Insert two paragraphs relating to dispersal

Insert additional paragraph in relation to opening hours

Remove reference to annex D of the DCMS guidance

Insert two paragraphs relating to planning

### Section 7 – Cumulative Impact Policy:

Insert paragraphs 7.9 and 7.10 about exceptional factors

Insert paragraphs 7.12 to 7.14 relating to representations on cumulative impact outside cumulative impact policies

Insert paragraph 7.20 instigating an annual review of the policies

Insert paragraphs 7.21 to 7.27 to replace existing city centre CIP  
Insert paragraphs 7.34 to 7.36 which replace the existing Headingley CIP wording, but only increase the scope of the CIP to include off licences operating after midnight  
Delete the Area 3 Woodhouse CIP in its entirety  
Insert paragraphs 7.38 to 7.40 which replace the Chapel Allerton CIP wording but does not increase the scope  
Insert paragraphs 7.42 to 7.44 which replace the Horsforth CIP wording but does not increase the scope

#### New Section 8 – Early Morning Restriction Orders

This new section lays out the procedure to be followed in making an early morning restriction order.

#### Section 10 - Premises licences and club premises certificates (including variations)

Replace paragraphs 9.2 to 9.4 with 5 paragraphs that introduce local licensing guidance for applicants

#### Appendix 1 – Responsible authorities

Remove

### **How to respond**

Anyone can respond to this consultation. The list of consultees listed at the end of this document indicates those organisations that we will contact to suggest that they may wish to respond but should not be considered exhaustive. The closing date for making responses to this consultation is **28<sup>th</sup> August 2013**. If you would like to respond to this consultation, please email your response to **[entertainment.licensing@leeds.gov.uk](mailto:entertainment.licensing@leeds.gov.uk)**.

If you prefer, you may submit your response in writing to:

**Entertainment Licensing  
Leeds City Council  
Civic Hall  
Leeds  
LS1 1UR**

Or by using the online form at **[www.leeds.gov.uk/spc](http://www.leeds.gov.uk/spc)**

If you have any queries about this consultation, or require additional copies, please contact Entertainment Licensing at the above address or by telephone on 0113 247 4095.

### **Disclosure**

Normal practice will be for responses to this consultation to be disclosed, and for respondents to be identified. However if you would prefer to remain anonymous we may disclose the content of your response but only in such a way as to anonymise it.

Please identify any information that you or any other person involved do not wish to be disclosed. You should note that many facsimile and e-mail messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-inclusion in the post consultation review unless accompanied by an additional specific request for confidentiality.

## **Confidentiality and Freedom of Information**

It is possible that requests for information contained in consultation responses may be made in accordance with access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you do not want your response to be disclosed in response to such requests for information, you should identify the information you wish to be withheld and explain why confidentiality is necessary. Your request will only be acceded to if it is appropriate in all the circumstances. *An automatic confidentiality disclaimer generated by your IT system will not of itself be regarded as binding on the council.*

## **Consultation Principles**

The consultation is being conducted in line with the Cabinet Office's Consultation Principles. More information can be found at: <http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

If you have any questions or complaints about the process of consultation on this paper, please contact Susan Holden, Principal Project Officer, Entertainment Licensing, Leeds City Council, Civic Hall, Leeds, LS1 1UR.

## Report of Head of Licensing and Registration

### Report to Licensing Committee

**Date:** 13 May 2013

**Subject:** **INFORMATION REPORT - An Update on the Introduction of three yearly Disclosure and Barring Service checks on Hackney Carriage & Private Hire Drivers and Private Hire Operators**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Summary of main issues

1. This report is to inform Members of the current position on the proposals to introduce three yearly disclosures undertaken by the Disclosure and Barring Service (DBS).

### Recommendations

2. That a decision to implement more regular DBS checks be deferred until more information on the new online process is available. A further report will be presented to Licensing Committee in July 2013 (option 1).  

or
3. Members direct Officers to undertake DBS checks at the point of renewal, prior to the introduction of an on-line DBS service (option 2).  

or
4. Members direct Officers to focus on drivers who have not had a refreshed DBS and prior to the introduction of an on line DBS service (option 3)
5. That Members note the report and make any observations they may have.

## **1 Purpose of this report**

- 1.1 To inform Members of the current position on the proposals to introduce three yearly disclosures undertaken by the DBS.

## **2 Background information**

- 2.1 Members will recall from the report presented to the Licensing Committee in October 2012 that the information in a DBS disclosure is vital in the decision making process to ensure the Council meets its statutory requirement to ensure all drivers are a fit and proper person.
- 2.2 At its meeting in October 2012, Members deferred the decision to implement more regular criminal records checks until further information on a new on-line process is available.

## **3 Main issues**

- 3.1 As outlined in the previous report presented to Licensing Committee in October 2012, Officers became aware of an alternative online scheme being introduced by the DBS.
- 3.2 The DBS are hoping to introduce the alternative online scheme in summer 2013 however no firm date has yet been released. Please see the latest update from the DBS in their March 2013 newsletter at **Appendix 1** (option 1).
- 3.3 The HR and recruitment administration team within the Council are currently exploring alternative online checks via a third party company. Officers intend to attend a demonstration of this system on 3 May 2013 to understand the benefits and costs. The HR and recruitment administration team are also investigating whether an internal system can be established and the cost to do this. The Head of HR and recruitment administration is awaiting a cost from ICT.
- 3.4 If, in the interim period, the Council commenced the process of 3-yearly DBS disclosures in-house at the time of renewal, there would be an additional cost to licensed drivers, due to the administrative process that would need to be in place. This would consist of the arranging of appointments, conducting interviews and dealing with the subsequent administrative issues. This process could not be managed within the existing staffing structure and would require additional resources as there are 814 licence holders alone who have not had criminal records check prior to the year 2000 (option 2).
- 3.5 The additional cost to an individual driver would be £65 which is the cost of a DBS application (£47) plus the administration cost of 2 additional staff (£17), please refer



to **Appendix 2**. This additional cost would be charged whenever a driver's DBS is due and prior to the renewal of the existing licence.

- 3.6 Additional costs were a significant area of concern raised by the trade during the consultation and the online facility has the potential to address this and reduce the need for additional resources for the section to administer regular DBS checks.
- 3.7 Whilst errors of personal judgement can arise at any age or level of experience the profiles at **Appendix 3** may seem to support a view that the volume of risk reduces with length of service. It's fair to say some adverse issues still occur whatever the length of licence. It is minimising and managing those risks that moving to a three yearly DBS check seeks to address.
- 3.8 Alternatively Members may wish to direct Officers to undertake a DBS check on drivers by length of time since last undertaken (option 3). The costs involved to the driver are the same as at option 2 and as outlined at **Appendix 2**.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Full public consultation was carried out between 5 July 2012 and 5 October 2012 and was presented to the Licensing Committee when it met in October 2012.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An Equality and Diversity Screening Assessment is available as a background document.

### **4.3 Council Policies and City Priorities**

- 4.3.1 Best practice guidance suggests that the adoption of three yearly DBS checks will contribute to safeguarding communities and child safeguarding matters and there are areas that are closely associated to the role of Taxi & Private Hire drivers.

### **4.4 Resources and Value for Money**

- 4.4.1 The cost of additional resource requirements would have to be met by the existing trade on the adoption of the policy in accordance with the Local Government (Miscellaneous Provisions) Act 1976.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The Local Government (Miscellaneous Provisions) Act 1976, Section 51 deals with the granting of a licence to a Private Hire driver. Section (1) (a) requires that the Council must be satisfied the applicant is a 'fit and proper' person.
- 4.5.2 Similarly, in respect of Hackney carriage drivers the 'fit and proper person' test is applied at Section 59 (1) (a).
- 4.5.3 The 'fit and proper test' applies not only at the point of first application but also at any renewal and it is proportionate for the Council to apply a means of checking that suitability, using DBS checks at reasonable periods. DfT best practice

guidance suggests this should be every three years. This time period is supported by the council's Internal Audit team.

## **4.6 Risk Management**

- 4.6.1 Members are reminded of the comments of an Internal Audit review of the Section completed in February 2012 and included within the report to Licensing Committee in October 2012.
- 4.6.2 Members are reminded that at the time of renewal, all licence holders are required to complete a declaration to confirm that they have no new convictions. In the event that a new conviction is declared, the application to renew is checked in accordance with the vetting points criteria detailed at **Appendix 4**.
- 4.6.3 In addition, the disclosure of convictions and other information by the police, in relation to people in professions or occupations which carry additional trust or responsibility (often referred to as "notifiable occupations"), is applicable to licensed taxi and private hire drivers. This is however dependant on them being recognised as a licensed driver by the police.
- 4.6.4 Based on the information available throughout the report Members have the opportunity to balance the issues of risk between the recommendations but also consider the potential financial implications for the trade.

## **5 Conclusions**

- 5.1 There are strong reasons for the introduction of three yearly DBS checks as indicated by the DfT and the council could be at risk if the guidance is not followed.
- 5.2 The adoption of this policy does meet the Council's statutory requirement to ensure drivers are "fit and proper" in a proportionate manner.
- 5.3 Any additional cost has to be met by the licence holders as and when a DBS is required. These additional costs could be minimised by use of the new online facility being implemented by the Disclosure and Barring Service in 2013.
- 5.4 Officers recommend that a decision to implement three yearly DBS disclosures is deferred until more information about the new online scheme and the further vetting options are available. A further report can be brought to Members for a decision in July 2013 when details of the new scheme should be available.
- 5.5 If approved by the Licensing Committee the final policy proposal will need to be referred to Executive Board for approval.

## **6 Recommendations**

- 6.1 That a decision to implement more regular DBS checks be deferred until more information on the new online process is available. A further report will be presented to Licensing Committee in July 2013 (option 1).

or

- 6.2 Members direct Officers to undertake DBS checks at the point of renewal, prior to the introduction of an on-line DBS service (option 2).

or

- 6.3 Members direct Officers to focus on drivers who have not had a refreshed DBS and prior to the introduction of an on line DBS service (option 3).
- 6.4 That Members note the report and make any observations they may have.

## **7 Background documents**

Department of Transport report entitled Taxi and Private Hire Vehicle Licensing: Best Practice Guidance at:-

<http://assets.dft.gov.uk/publications/taxi-private-hire-licensing/taxi-private-hire-licensing-guide.pdf>

Council's Internal Audit Report of Taxi and Private Hire Licensing dated February 2012  
Equality Impact Screening Assessment



### Content

[The Update Service](#)  
[Section x61 is extended](#)  
[Applicant-only certificates](#)  
[Section x66: help to get it right](#)  
[Our new online home](#)  
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### Hello and welcome to March's edition of DBS News.



I explained last month that DBS is facing an unprecedented level of change. We have been working with a lot of uncertainty due to circumstances that are not within our control, and it has been deeply frustrating to be unable to share a clear plan for our services with you. I am therefore really pleased to tell you that we expect to launch our new Update Service in the summer. This is a little later than planned because of the Court of Appeal filtering judgment on the disclosure of certain old and minor convictions and cautions.

Last month, I told you that the Home Office and Ministry of Justice had lodged an application to appeal the judgment. They have now started the legislative process (subject to agreement by Parliament) so that certain old and minor convictions and cautions will no longer be disclosed on a DBS Certificate.

These changes will not come into force until after the legislation has completed its passage through Parliament. Until then, its business as usual. I will keep you informed of this process and provide more information to you as soon as it is available.

Let's get back to the Update Service - we appreciate that there is a mixed appetite and that it will change our relationship with you as well as our disclosure applicants. We have taken advantage of our development period to speak with some of you through market research. We want to gauge how much you know and feel about the service. Also, we want to help you to understand the process and take advantage of its benefits.

Thousands of you are looking forward to receiving our next edition electronically. Since this will be our last paper copy, if you haven't signed up, please take a moment now to go to [www.gov.uk/dbs](http://www.gov.uk/dbs) and look for the e-database link.

With my best wishes

**Adrienne Kelbie**  
Chief Executive

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## The Update Service: what you need to know

### What is the Update Service?

This new subscription service lets individuals keep their DBS Certificates up-to-date so they can take it with them when they move jobs or roles. You, as an employer, can then carry out free, online, instant checks to see if any new information has come to light since the Certificate's issue – this is called a Status check.

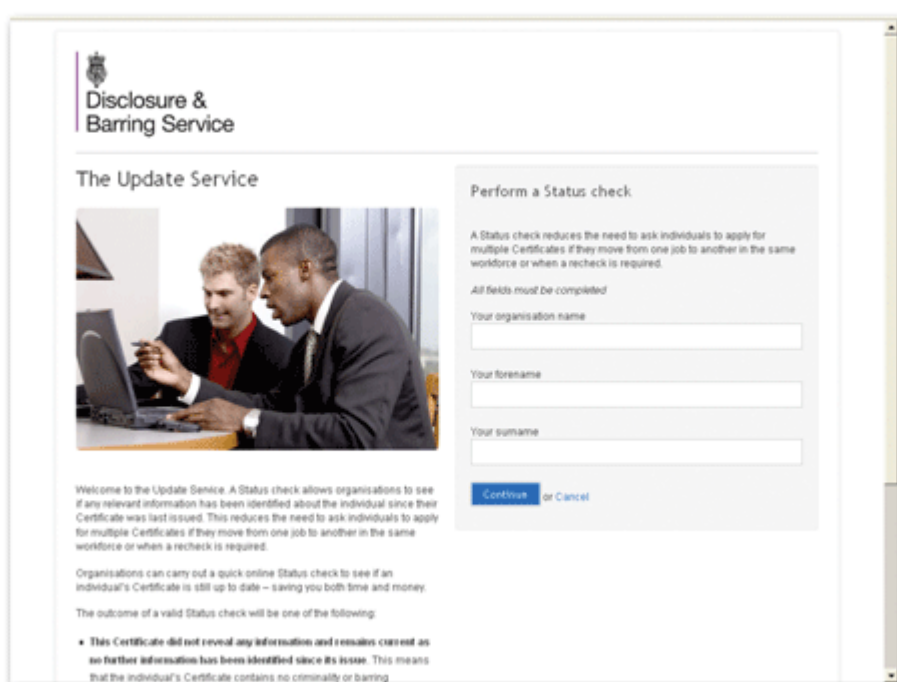
This could mean no more application forms to complete and no waiting for the checks to come back. This should save you time and money.

## Why are we launching it?

One of the government's priorities is to overhaul the criminal records regime to give individuals greater control of their own information, allow DBS Certificates to be reused when applying for similar jobs and reduce the burden of red tape on employers.

## Who can carry out a Status check?

You don't have to join the Update Service, or pay a fee, to check a DBS Certificate. You must however have the individual's consent, be legally entitled to apply for a DBS certificate of the same type and level as you are going to check, and the individual must be subscribed to the Update Service. When you make a Status check, you need to confirm that you're entitled to carry it out and are able to comply with our Code of Practice. If you are unsure, please go to [www.gov.uk/dbs](http://www.gov.uk/dbs) for more information and guidance.



The screenshot shows the DBS Update Service website. At the top left is the DBS logo and the text 'Disclosure & Barring Service'. Below this is the heading 'The Update Service' and a photograph of two men in business suits looking at a laptop. To the right of the photo is a form titled 'Perform a Status check'. The form includes a brief explanation of the service, a note that all fields must be completed, and three input fields for 'Your organisation name', 'Your forename', and 'Your surname'. At the bottom of the form are 'Continue' and 'Cancel' buttons. Below the form, there is a 'Welcome to the Update Service' section and a list of possible outcomes of a status check, including a bullet point stating that the certificate did not reveal any information and remains current.

## What do you need to do to carry out a Status check?

- Have the applicant's consent either verbally or in writing.
- See the original Certificate to check it is the same type and level as you are legally entitled to, make sure that the right checks have been carried out and see what, if any, information was disclosed about the applicant.
- Check the person's identity.

## 8 Check the name on the DBS Certificate matches this identity.

- Note the DBS Certificate reference number, the person's name and date of birth.
- Comply with the DBS Code of Practice; which includes having a policy on the recruitment of ex-offenders (a sample is available from our publications section at [www.gov.uk/dbs](http://www.gov.uk/dbs)), and make this available to the person.

## What do the results of the Status check mean?

When you carry out a Status check, you will receive one of the following results instantly:

This Certificate did not reveal any information and remains current as no further information has been identified since its issue.

This means:

- The Certificate was issued blank - it did not reveal any information about the person.
- No new information has been found since its issue and it can therefore be accepted as being still current and valid.

This Certificate remains current as no further information has been identified since its issue.

This means:

- The Certificate revealed information about the person.
- No new information has been found since its issue and it can therefore be accepted as being still current and valid.

This Certificate is no longer current. Please apply for a new DBS check to get the most up-to-date information.

This means:

- New information has come to light since the Certificate was issued and you will need to apply for a new DBS check to see this new information.

The details entered do not match those held on our system. Please check and try again.

This means either:

- The individual has not subscribed to the Update Service; or
- The Certificate has been removed from the Update Service by the individual; or
- You have not entered the correct information.

## What else do you need to know?

Status checks are free-of-charge and can be carried out as and when you need to; as long you have the individual's consent for each check that you make (you may want to get consent each time you check or you could consider asking for ongoing consent – it's up to you!). You can choose to pay for or reimburse the applicant's annual Update Service subscription fee (around £10). The individual will be able to see who has carried out a Status check, and when they did, from their online account.

## What should you do now?

- Encourage your staff and volunteers to subscribe to the Update Service when they are due for a new DBS check; (in line with your existing re-checking policies.)
- Review your employment and recruitment policies to see how Status checks can

form a part of these processes.

- Sign up to receive announcements and DBS News electronically at [www.gov.uk/dbs](http://www.gov.uk/dbs) using the quick link at the top of the page. DBS News will no longer be available on paper so don't miss out as we will continue to look at the Update Service in detail in future editions.
- Look out for news about the Update Service and when applicant and employer guides are published. Then familiarise yourself with the screen previews and guides at [www.gov.uk/dbs](http://www.gov.uk/dbs). They will contain useful information and examples of who could benefit from the service.

### The benefits to you

- Instant online check of DBS Certificates
- No more DBS application forms to fill in
- You may never need to apply for another DBS check for an employee again
- Less bureaucracy
- Saves you time and money
- Easy to incorporate into your processes

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### Section x61 is extended

At the same time as we launch the Update Service, we will bring in some further changes to enhance the overall Disclosure process. One of these is an extension to section x61 on the application form.

When considering whether to release non-conviction information about an individual, the police will apply the relevancy test to a workforce rather than a single position or role. This is good news for you as it means that when you carry out a Status check, you will know the information released is relevant to the workforce described on the Certificate. To help you tell us which workforce the applicant is working in, we will give you more room to fill in the 'position applied for' field (section x61) on the application form. You need to make sure this section is completed correctly otherwise we may need to contact you to obtain further information resulting in your recruitment process being delayed. Please complete the field as follows:

- **x61 line 1:** You must now include the relevant workforce(s). Choose the appropriate:
  - Child Workforce
  - Adult Workforce
  - Child and Adult Workforce
  - Other Workforce (use this when the person is not working with children or adults).
- **x61 line 2:** Enter a description of the 'position applied for' up to 30 characters.





is made in relation to a prescribed purpose which is to be carried out primarily at the applicant's place of residence.”

The Regulations above do not include other household members.

Any person who is aged 16 or over and lives in the same household as the individual being checked, is entitled to an Enhanced DBS check; without the home-based check. Examples when you should cross 'Yes' at section x66:

- Foster carers who look after children in the foster carer's own home.
- Child minders who look after children in the child minder's own home.
- Examples when you should cross 'No' at section x66:
- Adult members of the foster carer's household.
- Adult members of the child minder's household.

66 | does this position involve working with children or adults at the applicant's home address?

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### Our new online home

All our information has now found itself a new home at [www.gov.uk](http://www.gov.uk) - so add this web address to your internet favourites!

We are sorry the move to the new website took place earlier than planned; unfortunately this was beyond our control and we hope it did not inconvenience you too much.

If you want to go straight to our pages on GOV.UK, here are a couple of handy links for you to bookmark:

- [www.gov.uk/disclosure-barring-service-check](http://www.gov.uk/disclosure-barring-service-check) (our information and guidance aimed at customers, stakeholders and the public)
- [www.gov.uk/dbs](http://www.gov.uk/dbs) (Inside Government section holds all of our latest news and corporate and policy information)

You can access the Inside Government section from the GOV.UK homepage – just scroll down the homepage and you will find the link!

Inside Government is still a bit of work in progress but we welcome any comments or feedback that you have about its content. Let us know what you think at

[customerservices@dbs.gsi.gov.uk](mailto:customerservices@dbs.gsi.gov.uk)

### Cost of processing DBS applications in-house under existing system

Current number of licensed hackney carriage and private hire drivers is 5,807

Split over three years is 1,935 additional DBS disclosures per year

This is a significant volume of additional work that could not be absorbed within existing resources. Two officers would be required to administer, check and process this number of additional DBS applications per year. This equates to 7 DBS disclosures each day, allowing time for annual leave, etc. Each application takes 1 hour to process on average. This would require an additional two officers and the work would be rotated around all the existing staff, so all Licensing Officers spent a period of time processing DBS renewals.

2 x B1 Licensing Officer costs £33,660

Costs of additional staff per DBS disclosure: -

$$£33,660 / 1935 = £17.40 \text{ admin charge per DBS disclosure}$$

Current fee charged by DBS per disclosure is £47

Total costs per disclosure for each driver: -

$$£47 \text{ (DBS fee)} + £18 \text{ (admin fee)} = £65$$

The current fee charged by the section for DBS disclosures carried out as part of the application process is £60, so this would represent an increase of £5 per DBS disclosure required. This increase would be applied across all DBS disclosures required for whatever purpose (new application, 3-year refresh, etc).

SUSPENSIONS IN 2012

PROFILE BY LENGTH OF SERVICE

Private Hire Driver Suspensions	
No of years in force	No of licences
0 - 1	8
1 - 2	3
2 - 3	8
3 - 4	7
4 - 5	7
5 - 6	5
6 - 7	6
7 - 8	5
8 - 9	4
9 - 10	1
10 - 11	2
11 - 12	0
12 - 13	0
13 - 14	3
14 - 15	4
15 - 16	3
16 - 17	3
17 - 18	1
18 - 19	0
19 - 20	1
20 - 21	1
21 - 22	0
22 - 23	1
23 - 24	0
24 - 25	0
25 - 26	0
26 - 27	1
27 - 28	2

Hackney Carriage Suspensions	
No of years in force	No of licences
0 - 1	0
1 - 2	0
2 - 3	0
3 - 4	0
4 - 5	0
5 - 6	1
6 - 7	0
7 - 8	0
8 - 9	2
9 - 10	0
10 - 11	0
11 - 12	2
12 - 13	1
13 - 14	0
14 - 15	1
15 - 16	0
16 - 17	3
17 - 18	0
18 - 19	0
19 - 20	1
20 - 21	0
21 - 22	0
22 - 23	0
23 - 24	1
24 - 25	0
25 - 26	0
26 - 27	0
27 - 28	0

PROSECUTIONS IN 2012

PROFILE BY LENGTH OF SERVICE

Private Hire and Hackney Carriage Prosecutions	
No of years in force	No of licences
0 - 1	0
1 -2	0
2 -3	0
3 - 4	0
4 - 5	2
5 - 6	3
6 - 7	5
7 - 8	1
8 - 9	0
9 - 10	0
10 - 11	0
11 - 12	0
12 - 13	0
13 - 14	1
14 - 15	0
15 - 16	1
16 - 17	1
17 - 18	0
18 - 19	0
19 - 20	0
20 - 21	0
21 - 22	0
22 - 23	0
23 - 24	0
24 - 25	0
25 - 26	0
26 - 27	0
27 - 28	0

## Appendix 3

### Number of Private Hire Driver Licences revoked by year and the number of years they were in force

Number of years in force	Licence revocation year						Total number of licences revoked
	2008	2009	2010	2011	2012	2013	
0 - 1	3	2	1	1			7
1 - 2	4	7	7	1	4		23
2 - 3	7	7	7	3	1		25
3 - 4	2	5	5	3	2		17
4 - 5	2	7	9	4	4		26
5 - 6	4	4	7	2	3	1	20
6 - 7		3	1	5	3		12
7 - 8	2	2	2	2	4		12
8 - 9	2		1	1	2	2	6
9 - 10	3	2		1	1	2	7
10 - 11	4	2		2			8
11 - 12		2	4		1		7
12 - 13		2					2
13 - 14	1	1		3	1		6
14 - 15		1	2	1	1		5
15 - 16	1			1	1		3
16 - 17		1		1	1		3
17 - 18				2		1	2
23 - 24		1					1
24 - 25			1				1
25 - 26					1		1
26 - 27	1						1

### Number of Hackney Carriage Licences revoked by year and the number of years they were in force

Number of years licensed	Licence revocation year						Total number of licences revoked
	2007	2008	2009	2010	2011	2012	
1	1				1		2
2		2					2
3	1			1			2
4			1				1
5			3	1			4
6		1		1			2
8			1	1			2
9		1	1				2
10			1		1	1	3
12						1	1
13			1				1
14	1						1
18				1			1
20	1						1
22					1		1
25				1			1
28				1			1

# Appendix 4

## Points Criteria Tables

Table 1 - Dishonesty

Date Since Conviction Received	12mth ago	24mth ago	36mth ago	48mth ago	60mth ago	72mth ago	84mth ago	96mth ago	108mth ago	120mth ago
	(1 Year)	(2 Years)	(3 Years)	(4 Years)	(5 Years)	(6 Years)	(7 Years)	(8 Years)	(9 Years)	(10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
<b>Dishonesty</b>	<b>Points are doubled if term of imprisonment served</b>									
Theft	Refused	Refused	Refused	5	4	3	2	1	0	0
Theft – Shoplifting	Refused	Refused	Refused	5	4	3	2	1	0	0
Theft – Employee	Refused	Refused	Refused	5	5	4	3	2	1	0
Theft – From Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Burglary & Theft – Dwelling	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Burglary & Theft – Non Dwelling	Refused	Refused	Refused	5	4	3	2	1	0	0
Burglary & Theft – Aggravated	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	0
Fraudulent Use	Refused	Refused	Refused	5	4	3	2	1	0	0
Handling	Refused	Refused	Refused	5	4	3	2	1	0	0
Receiving	Refused	Refused	Refused	5	4	3	2	1	0	0
Forgery	Refused	Refused	Refused	5	4	3	2	1	0	0
Conspiracy to Defraud	Refused	Refused	Refused	5	4	3	2	1	0	0
Obtain Money by Deception	Refused	Refused	Refused	5	4	3	2	1	0	0
Obtain Money by Forged Instrument	Refused	Refused	Refused	5	4	3	2	1	0	0
Deception	Refused	Refused	Refused	5	4	3	2	1	0	0
False Accounting	Refused	Refused	Refused	5	4	3	2	1	0	0
False Statement to Obtain Benefit	Refused	Refused	Refused	5	4	3	2	1	0	0
Going Equipped	Refused	Refused	Refused	5	4	3	2	1	0	0
Taking/Driving or Attempt to Steal Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Allow to be Carried in a Stolen Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Perverting Course of Justice	Refused	Refused	Refused	Refused	8	6	4	2	0	0

Table 2 - Drugs

Date Since Conviction Received	12mth ago	24mth ago	36mth ago	48mth ago	60mth ago	72mth ago	84mth ago	96mth ago	108mth ago	120mth ago
	(1 Year)	(2 Years)	(3 Years)	(4 Years)	(5 Years)	(6 Years)	(7 Years)	(8 Years)	(9 Years)	(10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
<b>Drugs</b>	<b>Points are doubled if term of imprisonment served</b>									
Possessing Controlled Drug	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Possessing Controlled Drug with Intent to Supply	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Producing Controlled Drug	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Import Drugs	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2



## Appendix 4

Table 3 – Violence

Date Since Conviction Received	12mth ago (1 Year)	24mth ago (2 Years)	36mth ago (3 Years)	48mth ago (4 Years)	60mth ago (5 Years)	72mth ago (6 Years)	84mth ago (7 Years)	96mth ago (8 Years)	108mth ago (9 Years)	120mth ago (10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
<b>Points are Doubled if Term of Imprisonment Served</b>										
<b>VIOLENCE</b>										
Common Assault	Refused	Refused	Refused	5	4	3	2	1	0	0
Assault - Section 47	Refused	Refused	Refused	5	4	3	2	1	0	0
Grievous Bodily Harm - Section 20	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Grievous Bodily Harm - Section 18	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Assault Police	Refused	Refused	Refused	6	5	4	3	2	1	0
Affray	Refused	Refused	Refused	5	4	3	2	1	0	0
Riot	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Murder	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter or Culpable Homicide while Driving	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Using Threatening, Abusive Words or Behaviour	5	4	3	2	1	0	0	0	0	0
Breach of the Peace	3	2	1	0	0	0	0	0	0	0
Drunk and Disorderly	3	2	1	0	0	0	0	0	0	0
Common Assault - Aggravated	Refused	Refused	Refused	6	5	4	3	2	1	0
Obstruction	Refused	Refused	Refused	3	2	1	0	0	0	0
Robbery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Possess Offensive Weapon	Refused	Refused	Refused	5	4	3	2	1	0	0
Possess Firearm	Refused	Refused	Refused	5	4	3	2	1	0	0
Possess Firearm with intent	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Criminal Damage	Refused	Refused	Refused	5	4	3	2	1	0	0
Violent Disorder	Refused	Refused	Refused	8	6	4	2	1	0	0
Resist Arrest	Refused	Refused	Refused	8	6	4	2	1	0	0
Arson	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused

Table 4 - Indecency

Date Since Conviction Received	12mth ago (1 Year)	24mth ago (2 Years)	36mth ago (3 Years)	48mth ago (4 Years)	60mth ago (5 Years)	72mth ago (6 Years)	84mth ago (7 Years)	96mth ago (8 Years)	108mth ago (9 Years)	120mth ago (10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
<b>Points are Doubled if Term of Imprisonment Served</b>										
<b>INDECENCY</b>										
Indecent Exposure	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Indecent Exposure to the Annoyance of Residents	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Indecent Exposure with intent to insult a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Unlawful Sexual Intercourse	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Importuning	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Gross Indecency with a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Gross Indecency with a Male	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Indecent Assault on a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Indecent Assault on a Child Under 16 yrs	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Living Off Immoral Earnings	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Prostitution	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Possessing or Distributing Obscene Material	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Buggery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Rape	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Indecent or Nuisance Telephone Calls	Refused	Refused	Refused	Refused	Refused	5	4	3	2	1

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Report author: Des Broster

Tel: 0113 378 1561

## Report of Head of Licensing and Registration

### Report to Licensing Committee

**Date: 14 May 2013**

**Subject: Initial background report on an application for inclusion on the Approved list of vehicles licensed as 'Novelty' Private Hire vehicles.**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Summary of main issues

1. Leeds City Council licences a range of Hackney Carriage and Private Hire vehicles and in the vast majority of cases the approval is carried out by Officers under the Scheme of Delegation. They are usually straight forward administrative procedures based upon the policies approved by Licensing Committee.
2. An application has been received to approve a 'trike' as a licensed Private Hire vehicle on the approved list of Licensed Private Hire vehicles under their licensing classification of 'novelty vehicles'. This is the first application within that classification and Officers feel it would benefit from consideration by Elected Members.
3. At the point of presenting this initial report there is a need for a wider consultation following which a final report would be presented to Members for consideration. All of the technical details and the initial proposals for policy and conditions would be included in that report.

### Recommendations

4. That Members note the report.
5. Members agree to Officers compiling a draft policy and conditions and undertaking wider trade and public consultation on the proposals over a four week period.
6. Members make any observations that they might have to contribute to the consultation.

7. Members note that further report will be presented to the Licensing Committee for a final decision following consultation.

## **1 Purpose of this report**

- 1.1 To inform Members of the legislative need to formally consider and determine such applications and seek approval for Officers to undertake public and trade consultation prior to presenting a formal decision report to the Licensing Committee.

## **2 Background information**

- 2.1 In 1978 Leeds City Council adopted Part II of Local Government (Miscellaneous Provisions) Act, 1976 and took responsibility for all aspects of the licensing trade. In particular the Act states:-

“A district Council shall not grant such a licence unless they are satisfied –

(a) that the vehicle is –

- (i) suitable in type, size and design for use as a private hire vehicle;
- (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
- (iii) in a suitable mechanical condition;
- (iv) safe; and
- (v) comfortable;

(b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988,

and shall not refuse a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

(2) A district Council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary .....

- 2.2 The final report will add substantially more detail for Members to consider.

## **3 Main issues**

- 3.1 Officers currently have all of the technical information and are of the view that licensing such a vehicle would not be in conflict with the overall policy framework for vehicle approval but that these vehicles will need a bespoke set of conditions. Officers are therefore putting together a proposed initial draft policy and conditions (vehicle, driver and operator) for consultation.
- 3.2 These documents are not intended to lead to a presumption that an approval has been or will be determined. They simply form the basis of a consultation process

so that Members have all the views before them to make an informed decision within a reduced timetable.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 In considering the period of consultation Officers take the view that four weeks is sufficient to draw together the public and trade views to address this and other aspects of the report.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 To be addressed in the final report following consultation which will reach those groups which might be effected.

### **4.3 Council policies and City Priorities**

4.3.2 To be addressed in the final report.

### **4.4 Resources and value for money**

4.4.1 To be addressed in the final report.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 There will be much more detailed advice included in the final report, but for the meantime the information at 1.1 and 2.1 informs Members of the two key issues.

### **4.6 Risk Management**

4.6.1 To be addressed in the final report.

## **5 Conclusions**

5.1 That the application should progress to public and trade consultation prior to a determination.

5.2 There will be more information to follow after consultation but the proposed initial draft policy and conditions start to address issues with design and equipment as identified at paragraph 2.1 to ensue a level of conformity with the Act. These will be released for public consultation. Officers consider that the consultation process together with the detailed technical and legal advice they have already drawn together will enable them to present a report with sufficient information on which Members can make an informed decision.

## **6 Recommendations**

6.1 That Members note the report.

6.2 Members agree to Officers compiling a draft policy and conditions and undertaking wider trade and public consultation on the proposals over a four week period.

6.3 Members make any observations that they might have to contribute to the consultation.

6.4 Members note that a further report will be presented to the Licensing Committee for a final decision following consultation.

## **7 Background documents**

7.1 none.



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**Report of Head of Licensing and Registration**

**Report to Licensing Committee**

**Date: 14 May 2013**

**Subject: Length of issue of Hackney Carriage and Private Hire driver licences**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary of main issues**

1. The origin of this report is from previous requests of the licensed trade to issue Hackney Carriage and Private Hire driver licences for a three year continuous period.
  
2. The potential consequences of issuing such a three year licence may give Members cause for concern in respect of potential increased public safety risks and this report seeks to set out all the advantages and disadvantages of such a licence term and offer alternative proposals for Members to consider.
  
3. Whilst there is information to contribute to and assist the Members in reaching a decision it is proposed that this is an interim report and the full consultation take place prior to a further report being put to Members. At that time Members would be able to consider the consultation feedback alongside an updated report and any further information.

## **Recommendations**

4. Members note the content of the report.
5. That Members consider all of the issues, making observations, and give consideration to a three month period of public and wider trade consultation being undertaken.
6. In the consultation process, the whole of this report would be released for consultation but Members should agree which option or combination of options they particularly wish to consult on.
7. Members may wish to contribute to the consultation process by indicating their preference for a length of service starting point on options 2 and 3.
8. Members note that a further report will be presented to the Licensing Committee for a final decision following consultation.

## 1 Purpose of this report

- 1.1 To inform Members of the current approved practice within the Taxi and Private Hire Licensing Section, the legal background to the issuing of Private Hire and Hackney Carriage driver licences i.e. how long they may be issued, and material statistical information relating to the conduct of some drivers at different stages of their licence.
- 1.2 To give Members sufficient information in terms of administrative options to fairly balance the needs of drivers and the Council and to weigh those against the crucial issue of risks to public safety and the reputation of the Council. The final decision by Members to decide whether it is considered safe to move to a continuous three year licence grant or adopt a more flexible renewal policy, where appropriate, will be the subject of a further report following public consultation.

## 2 Background information

- 2.1 In 1978 Leeds City Council adopted Part II of Local Government (Miscellaneous Provisions) Act, 1976 and took responsibility for all aspects of the licensing trade. Since then the Council has set licensing fees, determined to whom a driver licence would be issued by applying 'fit and proper' person test and the period that licences would be issued for. This has always been set at one year.
- 2.2 The legislation does not stipulate for how long a licence should be issued but does set a maximum period of three years. The practice amongst other local authorities varies and the chart at **Appendix 1** sets out the practices of other local authorities nationally and our neighbouring authorities. It must be pointed out at this stage that trade issues vary between authorities as do both administrative and street enforcement.
- 2.3 Leeds City Council has significantly more licensed drivers and vehicles than many authorities and that, combined with a vibrant night time economy drawing in the licensed trade which has a large representation from outside the district, creates many challenges for licensing staff in terms of volume and adherence to licence conditions. Please see **Appendix 2**.
- 2.4 Over recent years there have been a number of enquiries about the issue of three year licences but because of technical restrictions with the previous licensing computer it was an issue that could not be pursued and all the attendant matters for or against such a proposal were not explored.
- 2.5 In 2012 the new licensing computer 'went live' and following a period of training, technical adjustments and new procedures to suit this new licensing system we are now at a point where we can say such a licence period can, technically be produced.

## 3 Main issues

### 3.1 Profiling the trade

- 3.2 In trying to form a reasonable means of assessment, a snapshot of enforcement activity was taken from the licensing year 2012. The areas from which the statistics were drawn are:

- Suspensions (**Appendix 3**)
- Prosecutions (**Appendix 4**)
- Revocations (**Appendix 5**)

The appendices group adverse behaviour into a time span of how long drivers have been licensed.

(These statistics may have some overlap and the bottom line numbers cannot be added together and correlate accurately the numbers involved).

- 3.3 Whilst errors of personal judgement can arise at any age or level of experience the profiles at **Appendix 3 to 5** may seem to support a view that the volume of risk reduces with length of service. It's fair to say some adverse issues still occur whatever the length of licence. It is minimising and managing those risks that this report seeks to balance in being able to move to a 'lighter touch' for the trade in a measured way.
- 3.4 If Members thought it appropriate to set a length of service criteria before moving to either proposal, they may wish to consider these figures to assist in setting a start point.
- 3.5 A regular occurrence not revealed in these figures is the level of failures to report matters that are a condition of a Private Hire driver licence to the licensing office. These usually come to light at renewal times when licensing officers deal with renewal applications face to face. There are a range of issues uncovered, for example, criminal cautions, convictions, driving disqualifications.
- 3.6 Members may wish to consider whether the process should stay as it is (option 1); continue with a yearly check but with an easier renewal postal system (option 2) or move to a 3 year licence (option 3). Further narrative on the 3 options is set out below. The 'advantages' and 'disadvantages' of each option is set out at **Appendix 6**.
- 3.7 If Members have concerns about option 2 or 3 there is an opportunity to run a trial for the postal renewal option over a 15 – 18 month period for option 2. This time span would capture some of the first renewals under such a scheme. It might be considered that a trial period of 3 years for option 3 would be an unduly long period as the unfolding information would not be available until 2016/17.
- 3.8 When undertaking such a trial Members may wish to consider whether the preferred option would be more manageable to undertake with only licensed Hackney Carriage drivers, that being a more manageable number for a trial purpose.
- 3.9 Members will later need to consider the concerns of an adverse impact on community safety if strong control measures are not in place to ensure the close monitoring of the trade if the issuing of three yearly licences was to be adopted within this licensing district.
- 3.10 **Licences – Time Span**

3.11 **Appendix 6** sets out a sliding scale of how many drivers from both trades would be able to take such an opportunity of a postal renewal or a 3 year licence should Members impose a 'length of service' start point. The figures reveal that, subject to an appropriate licensing history, the majority of currently licensed drivers could benefit at whatever point Members thought would be an acceptable length of service for a starting point.

3.12 Not revealed in the Hackney Carriage driver figures at **Appendix 7** is the fact that many of the drivers with an apparently short licensing history have a previous licensing history as private hire driver's and so have more licensing history in Leeds than it appears.

### **3.13 The options**

#### **3.14 Stay as we are. (Option 1)**

3.15 All of the trade would continue to renew annually by visiting the office. Some Members may recall that the Section used to struggle with demand at the end of the month this was due mainly to an inflexible licensing computer which only permitted month end expiry dates. With a new licensing computer and additional staff that situation has improved significantly and licence expiry dates are staggered day by day throughout the month.

3.16 The Section has also changed its processing system and now only takes sufficient detail from an applicant to enable the licence to be fully processed in the back-office reducing the amount of time drivers spend at the counter. Two additional staff have been employed on a temporary basis and would need to remain in place for any of the three options to either continue or be replaced with the same quality of service at the counter.

#### **3.17 Annual postal renewals. (Option 2)**

3.18 There are a significant number of drivers from both trades who could take up this alternative opportunity in due course. There has been no opportunity to test how this would work within the authority and assessing the possible impact by using data from elsewhere is not as reliable as we would wish. A pilot for the Hackney Carriage trade would allow us to trial the new system and resolve any issues prior to applying the process to the much larger Private Hire trade.

3.19 To balance the benefits of longer term licences and the safety issues an alternative option could be that licences continue to be renewed annually but without the necessity to attend the licensing office each year by adopting a postal application service as set out below.

Year 1 - 3 months prior to expiry date of existing Hackney Carriage driver licence. DBS (CRB) and application for three year postal renewal process. Annual fees paid at this point. Licence issued by return of post on return of a satisfactory DBS (CRB) and declaration.

Year 2 - Licensing Office forward reminder by post 3 months prior to licence expiry with questionnaire and declaration of truth. Personally completes and

returns completed renewal application form, payment and DVLA mandate. (Payment can be by cheque or card payment over telephone). Following satisfactory checks licence issued by post.

Year 3 - Same as year 2.

Year 4 - Same as year 1.

3.20 To avoid DVLA licences being misplaced in the post etc (it is an essential part of the checking process) or held within the licensing office when the driver may need it, it is proposed to include a DVLA mandate requirement on each renewal.

3.21 There are no cost benefits to the Section and neither is the administrative process reduced, but in weighing the potential positives to all of the trade, it is considered to be an acceptable proposition.

### **3.22 Move to a three year licence. (Option 3)**

3.23 A difficulty in granting a three year licence is that Hackney Carriage driver's cannot in law have conditions imposed upon their licence after grant. It is perfectly possible for a Hackney Carriage driver to be convicted of an offence and not have to report that until the point of renewal. It is only at this point that Officers can require information and the driver is obliged to respond. Members may wish to consider if this is an acceptable position when the renewal occurs only every three years

3.24 If there is a breach of the spirit of the processes at option 2 or option 3 e.g. conflicts with the licensing process or the Councils policies, conditions or 'fit and proper' tests then the annual renewal by post could be withdrawn.

3.25 Some of the alternative proposals might not sit easily with all of the trade but by considering the application process as a necessary public safety control measure it would benefit drivers, not diminish public safety risk and leave the opportunity to extend the process at a later date. Similarly, the trial period might raise some resentment with the Private Hire trade but it is considered that a trial period is not just desirable but essential to allow a full assessment in a managed and safe way.

### **3.26 General matters**

3.27 This process would not change the existing renewal policy and exercise of discretion approved by the Council in October 2012 following public consultation, and the further acceptance of that policy by Licensing Committee on 12 March 2013.

3.28 The introductions of a three yearly Disclosure and Barring Service check (formerly CRB) is yet to be progressed and the anticipated final report to Licensing Committee is on hold awaiting the introduction of the proposed new vetting scheme by DBS. There is no firm date for the new DBS process but there may be the option to vary the process set out at paragraph 3.17 further to use the new Disclosure and Barring Service procedure and reduce requirements to attend the office even further by utilising the on-line checking service.

## **4 Corporate Considerations**



## **4.1 Consultation and Engagement**

4.1.1 There has been no public consultation on these proposals.

4.1.2 The proposals have been discussed with representatives from the Hackney carriage trade who were very supportive of a pilot scheme.

## **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There are no adverse issues raised by the proposals.

## **4.3 Council Policies and City Priorities**

4.3.1 The Taxi & Private Hire Licensing policies create the principles the Council will use to exercise its functions, mainly under the Local Government (Miscellaneous Provisions) Act 1976, but also under other associated Acts of Parliament. Applicants for licences are expected to read the policy before making their application and the Council will refer to the policy when making its decisions.

4.3.2 The Taxi & Private Hire Licensing policies contribute to the following aims:

### **By 2030, Leeds will be fair, open and welcoming**

- Local people will have the power to make decisions that affect them
- There is a culture of responsibility, respect for each other and the environment
- Our services meet the diverse needs of our changing population
- Everyone is proud to live and work

4.3.3 The Taxi & Private Hire Licensing policies contribute to the following city priorities:

### **Best city ... for communities**

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

## **4.4 Resources and Value for Money**

4.4.1 Members will be aware the Section is operating pro-actively on the streets but administratively it has been reactive due to the issues of staffing levels and the previous licensing system. The challenges and measures proposed and recommended in this report could be met by existing staff levels and within the existing licence fee structure until such time as the charges of other agencies change.

## **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The relevant law is set within the Local Government (Miscellaneous Provisions) Act 1976. It is a statutory requirement of the Local Government (Miscellaneous Provisions) Act 1976, Section 51(1) and 59 (1) not to grant a licence:-

- (a) *Unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or*
- (b) *To any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.*

That statutory requirement is the same at the time of first application and subsequent renewals.

## **4.6 Risk Management**

- 4.6.1 There are no anticipated detrimental financial consequences caused by a more flexible renewal policy but the introduction of a 3 year licence would prevent an increase in licence fees once a licence had been granted until the point of renewal. Although it would be a matter of volumes, which cannot be assessed at present, it could present a financial risk. It might also raise the issue of different fees being applied for different licences.

## **5 Conclusions**

- 5.1 The request to have a three year licence across the trade does raise concerns for Members to consider and in reaching their decision would need to determine whether the alternative proposal could introduce an easier and safer process for appropriate drivers and that the trial period builds in sufficient safeguard to ensure staffing resilience.

## **6 Recommendations**

- 6.1 Members note the content of the report.
- 6.2 That Members consider all of the issues, making observations, and give consideration to a three month period of public and wider trade consultation being undertaken.
- 6.3 In the consultation process, the whole of this report would be released for consultation but Members should agree which option or combination of options they particularly wish to consult on.
- 6.4 Members may wish to contribute to the consultation process by indicating their preference for a length of service starting point on options 2 and 3.
- 6.5 Members note that a further report will be presented to the Licensing Committee for a final decision following consultation.

## **7 Background documents**

- 7.1 DfT Best Practice Guidance 2010 available at:

<http://assets.dft.gov.uk/publications/taxi-private-hire-licensing/taxi-private-hire-licensing-guide.pdf>

LEEDS LICENSED DRIVERS - BREAKDOWN BY RESIDENCE

Local Authority Consultation – 3 yearly licences

Does your authority issue 3 yearly licences?		
Local Authority	Yes	No
Birmingham	√	
Bradford	√	
Bristol	√	
Calderdale	√	
Kirklees		√
Manchester		√
Nottingham		√
Sheffield		√
Wakefield	√	

## LEEDS LICENSED DRIVERS – BREAKDOWN OF RESIDENCE

### LEEDS LICENSED DRIVERS - BREAKDOWN BY RESIDENCE

District	Hackney Carriage	Private Hire
Incorrect post codes	85	593
Allerdale District (B)		1
Barnet London Boro		1
Birmingham District (B)		2
Blackburn with Darwen (B)		1
Bradford District (B)	164	1280
Brent London Boro		1
Calderdale District (B)	1	46
Cambridge District (B)		1
City of Derby (B)	1	2
City of Leicester (B)		1
City of Peterborough (B)		1
City of Stoke-on-Trent (B)		1
Craven District		1
Doncaster District (B)		6
Dudley District (B)		1
East Riding of Yorkshire		2
East Staffordshire District (B)		1
Greenwich London Boro		1
Harrogate District (B)	1	5
Kirklees District (B)	56	461
Leeds District (B)	714	2595
Manchester District (B)		3
Merton London Boro	1	
Middlesbrough (B)	1	2
North Lincolnshire (B)	2	1
Pendle District (B)		4
Rochdale District (B)		1
Rossendale District (B)		2
Rotherham District (B)	1	2
Selby District	2	7
Sheffield District (B)		9
Slough (B)		1
Stafford District (B)		1
Wakefield District (B)	8	36
York (B)	1	1
<b>Total West Yorkshire (excluding Leeds)</b>	<b>230</b>	<b>1783</b>

SUSPENSIONS IN 2012

PROFILE BY LENGTH OF SERVICE

Private Hire Driver Suspensions	
No of years in force	No of licences
0 - 1	8
1 - 2	3
2 - 3	8
3 - 4	7
4 - 5	7
5 - 6	5
6 - 7	6
7 - 8	5
8 - 9	4
9 - 10	1
10 - 11	2
11 - 12	0
12 - 13	0
13 - 14	3
14 - 15	4
15 - 16	3
16 - 17	3
17 - 18	1
18 - 19	0
19 - 20	1
20 - 21	1
21 - 22	0
22 - 23	1
23 - 24	0
24 - 25	0
25 - 26	0
26 - 27	1
27 - 28	2

Hackney Carriage Suspensions	
No of years in force	No of licences
0 - 1	0
1 - 2	0
2 - 3	0
3 - 4	0
4 - 5	0
5 - 6	1
6 - 7	0
7 - 8	0
8 - 9	2
9 - 10	0
10 - 11	0
11 - 12	2
12 - 13	1
13 - 14	0
14 - 15	1
15 - 16	0
16 - 17	3
17 - 18	0
18 - 19	0
19 - 20	1
20 - 21	0
21 - 22	0
22 - 23	0
23 - 24	1
24 - 25	0
25 - 26	0
26 - 27	0
27 - 28	0

PROSECUTIONS IN 2012

PROFILE BY LENGTH OF SERVICE

<b>Private Hire and Hackney Carriage Prosecutions</b>	
<b>No of years in force</b>	<b>No of licences</b>
0 - 1	0
1 -2	0
2 -3	0
3 - 4	0
4 - 5	2
5 - 6	3
6 - 7	5
7 - 8	1
8 - 9	0
9 - 10	0
10 - 11	0
11 - 12	0
12 - 13	0
13 - 14	1
14 - 15	0
15 - 16	1
16 - 17	1
17 - 18	0
18 - 19	0
19 - 20	0
20 - 21	0
21 - 22	0
22 - 23	0
23 - 24	0
24 - 25	0
25 - 26	0
26 - 27	0
27 - 28	0

## Appendix 5

### Number of Private Hire Driver Licences revoked by year and the number of years they were in force

Number of years in force	Licence revocation year						Total number of licences revoked
	2008	2009	2010	2011	2012	2013	
0 - 1	3	2	1	1			7
1 - 2	4	7	7	1	4		23
2 - 3	7	7	7	3	1		25
3 - 4	2	5	5	3	2		17
4 - 5	2	7	9	4	4		26
5 - 6	4	4	7	2	3	1	20
6 - 7		3	1	5	3		12
7 - 8	2	2	2	2	4		12
8 - 9	2		1	1	2	2	6
9 - 10	3	2		1	1	2	7
10 - 11	4	2		2			8
11 - 12		2	4		1		7
12 - 13		2					2
13 - 14	1	1		3	1		6
14 - 15		1	2	1	1		5
15 - 16	1			1	1		3
16 - 17		1		1	1		3
17 - 18				2		1	2
23 - 24		1					1
24 - 25			1				1
25 - 26					1		1
26 - 27	1						1

### Number of Hackney Carriage Licences revoked by year and the number of years they were in force

Number of years licensed	Licence revocation year						Total number of licences revoked
	2007	2008	2009	2010	2011	2012	
1	1				1		2
2		2					2
3	1			1			2
4			1				1
5			3	1			4
6		1		1			2
8			1	1			2
9		1	1				2
10			1		1	1	3
12						1	1
13			1				1
14	1						1
18				1			1
20	1						1
22					1		1
25				1			1
28				1			1

## Appendix 6

(option 1)

**Stay as we are**

<b>Advantages</b>	<b>Disadvantages</b>
Can be aligned to 3 yearly DBS checks	Less opportunity for reduced footfall with staffing levels needing to be consistent
Improved quality and service delivery by staff	Drivers have to travel to renew licence
Annual safety checks stay in place	
Section's revenue remains manageable	
Face to face on the spot integrity checks available on submitted information	
Problem resolution with renewal information could become less time consuming	

(option 2)

**Improved Postal Renewal Process**

<b>Advantages</b>	<b>Disadvantages</b>
Reduced footfall in licensing office	Potential loss of documents in post
Drivers need not attend licensing office as frequently	Drivers submit incomplete information delaying the renewal process
Can be aligned to 3 yearly DBS checks	DVLA mandate required from driver every 3 years (extra £7 charge)
Improved quality and service delivery by staff	Face to face on the spot integrity checks not available on submitted information
Annual safety checks stay in place	Problem resolution with renewal information could become more time consuming
Section's revenue remains manageable	
Annual licence fee outlay for drivers remains the same	



## Appendix 6

(option 3)

### 3 Year Licence

<b>Advantages</b>	<b>Disadvantages</b>
Reduced footfall in licensing office	Large financial outlay to drivers for 3 year licences
Drivers need not attend licensing office as frequently	Revenue risk – unable to adjust licence fees mid-term
Can be aligned to 3 yearly DBS checks	Reduced safeguards with less administrative checks particularly to the public and Council contracts
Improved quality and service delivery by staff	Potential reduction of public confidence with less safety checks
Less risk of increased licensing staff costs	Problem resolution with renewal information could become more time consuming





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LICENSING COMMITTEE WORK PROGRAMME 2012/13- LAST UPDATED 02/05/13 (hg)

ITEM	DESCRIPTION	NOTES	TYPE OF ITEM
<b>Items Currently Unscheduled</b>			
<b>TPHL Policy Review – ongoing review of the policies/conditions</b>	Review timetable was agreed February 2011. Policies have been split into Groups 1,2 and 3 and will return to Committee at the conclusion of the necessary consultation period (Group1 Oct '12. Group 2 Jan '13)	J Mulcahy	DP
<b>Decision Making process suspensions/revocations</b>	To receive an update on the decision making process in respect of suspensions and revocations	J Mulcahy	PR
<b>Temporary Event Notices</b>	To receive a report on the TEN application process	J Mulcahy	PM

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
<b>Meeting date: FRIDAY 25 MAY 2012 held.</b>	Annual Gov arrangements/s182 Guidance/Policy WG/SEV Training		
<b>Meeting date: 26 JUNE 2012 HELD</b>	NVQ/VRG/Law Commission consultation/CRB renewals/GA2005 Policy/Harehills DPPO		
<b>Meeting date: 24 JULY 2012 HELD</b>	WYP presentation/appeals outcomes/SEV & LA2003 policy review WGs/Casino Advisory Panel		
<b>Meeting date: 14 AUGUST 2012 HELD</b>	Code of Practice/Enforcement & liaison update/response to Alpha petition/Law Commission Consultation/Leeds Festival 2012		
<b>Meeting date: 11 SEPTEMBER 2012 - CANCELLED</b>			
<b>Meeting date: 16 OCTOBER 2012 - HELD</b>	Casino Advisory Panel membership/outcome of consultation on 3 yearly CRBs/outcome of consultation driver training/ Group 1 policy review/Draft Guidance on immediate suspensions		
<b>Meeting date: 13 NOVEMBER 2012 - CANCELLED</b>			
<b>Meeting date: 18 DECEMBER 2012 – no items</b>			
<b>Meeting date: 15 JANUARY 2013 HELD</b>	TPHL policies (PH, exec vehicles & HC) EMRO's Alcohol Strategy consultation		
<b>Meeting date: FRIDAY 25 JANUARY 2013 – ADDITIONAL MEETING</b>	Large Casino process		
<b>Meeting date: 12 FEBRUARY 2013 HELD –</b>	Enforcement & Liaison Update, City Centre Policing (DEFERRED), Large Casino Update, TPHL delegated decisions, LA2003 applications update		
<b>Meeting date: 12 MARCH 2013 – HELD</b>	SEV policy, Leeds Festival 2013, Driver Licence renewal process		
<b>Meeting date: 9 APRIL 2013 - CANCELLED</b>			

**LICENSING COMMITTEE WORK PROGRAMME 2012/13- LAST UPDATED 02/05/13 (hg)**

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
<b>Meeting date: 14 MAY 2013</b>			
Policing and the Night time Economy	To receive a presentation from West Yorkshire Police on issues relating to policing and the night time economy which fall within the remit of the Licensing Committee		B
LA2003 WG Update	To receive an update on the work of the Licensing Act 2003 (Statement of Licensing Policy) Working Group	S Holden	RP
Length of issue of Licences	To consider options in respect of the length of issue of Hackney Carriage and Private Hire Driver Licences	D Broster	DP
Disclosure & Barring Service	To receive an information report on the current position in respect of proposals to introduce three yearly disclosures undertaken by the Disclosure and Barring Service	D Broster	PM
<b>Meeting date : 4<sup>th</sup> June 2013</b>	<b>ADDITIONAL MEETING – GOVERNANCE ISSUES FOR THE 2013/14 MUNICIPAL YEAR</b>	G Marshall	PM
<b>Meeting date: 25<sup>th</sup> JUNE 2013</b>			
SEV Policy	To receive a report seeking approval of the SEV Policy following public consultation, prior to its presentation to Executive Board	S Holden	RP
Interim Statement – Law Commission	To receive an information report setting out the Law Commission’s Interim Statement	D Broster	B
Late Night Levy	To receive a report on the Late Night Levy, following consultation with West Yorkshire Police	S Holden	B
Executive Private Hire Policy	To consider proposals in respect of Executive Private Hire Conditions. This matter was initially presented in January 2013 as part of the Group 2 Policy Review where Members requested that determination of the matter be deferred to allow time for a Working Group to convene; discuss the EH policy in respect of vehicle specification and report back in three months’ time.	D Broster	RP

Key: RP – Review of existing policy      DP – Development of new policy      PM – Performance management      B – Briefings      SC – Statutory consultation