

**Date: 20 August 2010**

**To: Members of the Licensing Committee**

Mr. K. Nichols (Chairman)	Mr. P. A. S. Hall
Mr. C. G. Joyce (Vice-Chairman)	Dr. J.R. Moore
Mr. P.R. Batty	Mr. K. Morrell
Mr. J. C. Bown	Mr. L.J.P. O'Shea
Mr. S. L. Bray	Mr. A.J. Smith
Mr. M. B. Cartwright	Mrs. S. Sprason
Mrs. S. Francks	Mr. B.E. Sutton
Mr. D. M Gould	

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor

There will be a meeting of the **LICENSING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **THURSDAY 2 SEPTEMBER 2010 at 6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

Pat Pitt (Mrs.)  
Corporate Governance Officer

**LICENSING COMMITTEE**  
**2 SEPTEMBER 2010**  
**A G E N D A**

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED 2. MINUTES

To confirm the minutes of the meeting held on 25 November 2009 - copy attached marked L1.

3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.

4. DECLARATIONS OF INTEREST

To receive verbally from members any disclosures which they are required to make in accordance with the Council's code of conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the Agenda.**

5. LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY

Report of Deputy Chief Executive (Community Direction) attached marked L2 (pages 1- 36)

6. SEXUAL ENTERTAINMENT VENUES

Report of Deputy Chief Executive (Community Direction) attached marked L3 (pages 37- 43)

To: All Members of the **Licensing Committee** with a copy to all other Members of the Council.

**NOTE: AGENDA ITEMS AGAINST WHICH THE WORD "RESOLVED" APPEARS ARE MATTERS WHICH ARE DELEGATED TO THE COMMITTEE FOR A DECISION. OTHER MATTERS ON THIS AGENDA WILL BE THE SUBJECT OF RECOMMENDATIONS TO COUNCIL.**

HINCKLEY AND BOSWORTH BOROUGH COUNCIL  
LICENSING COMMITTEE  
25 NOVEMBER 2009 AT 6.30 P.M.

PRESENT: MRS. S. FRANCKS - CHAIRMAN  
Mr. C.G. JOYCE - VICE-CHAIRMAN

Mr P.R. Batty, Mr J.C. Bown, Mr M.B. Cartwright, Mr D.M. Gould, Mrs A. Hall, Mr P.A.S. Hall, Mr R. Mayne, Mr K. Morrell, Mr L.J.P. O'Shea, Mrs. S. Sprason, Mr B.E. Sutton and Ms B.M. Witherford.

Officers in attendance: Mr. Mark Brymer, Mr S Merry, Mrs. P.I. Pitt and Mr. M. Rice.

284 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Messrs. S.L. Bray, K. Nichols and A.J. Smith and the following substitutions authorised in accordance with Council Procedure Rule 4.3:-

Mrs Hall for Mr Smith  
Ms Witherford for Mr Bray

285 MINUTES (L8)

On the motion of Mr. Sutton, seconded by Mrs Sprason it was

RESOLVED - the minutes of the meeting held on 17 August 2009 be confirmed and signed by the Chairman.

286 DECLARATIONS OF INTEREST

No interests were declared at this stage.

287 GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES (L9)

Prior to adoption by Council on 15 December 2009 the draft Gambling Policy was presented to the Committee for endorsement. This had been produced in accordance with LACORS guidance and the contents were generally in line with other authorities' Statement of Principles.

On the motion of Mr O'Shea, seconded by Mr Batty it was

RECOMMENDED – the Gambling Policy (Statement of Principles) be endorsed for onward submission to Council for adoption.

288 DELEGATION OF FUNCTIONS UNDER THE CRIMINAL JUSTICE AND POLICE ACT 2001 – CLOSURE NOTICES AND CLOSURE ORDERS (L10)

Members were requested to consider making a recommendation to Council that officers be granted delegated authority in respect of additional

enforcement functions under the above legislation. If agreed Council would be requested to amend the terms of the Constitution, accordingly.

Mr Gould entered the meeting at 6.44pm.

The Principal Licensing Officer indicated that Closure Notice Powers would be a useful mechanism and, if used, would assist in ensuring that premises operated in accordance with the conditions of their licence.

It was moved by Mr Batty, seconded by Mr O'Shea and

RECOMMENDED – (i) the Council delegate its functions under Sections 19 – 28 of the Criminal Justice and Police Act 2001 to the Principal Licensing Officer and Licensing Officer; and

(ii) the Council amends the Constitution (Responsibilities for Functions) to take account of the above recommendation by adding to the delegated powers of the Principal Licensing Officer and Licensing to serve closure notices and apply for closure orders under sections 19 and 20 of the Criminal Justice and Police Act 2001.

(The meeting closed at 6.48 p.m.)

**LICENSING COMMITTEE – 2 SEPTEMBER 2010**

**REPORT OF DEPUTY CHIEF EXECUTIVE COMMUNITY DIRECTION**  
**RE: LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY**

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1. **PURPOSE OF REPORT**

- 1.1 To seek Members approval for a draft revised Statement of Licensing Policy for consultation at a meeting of the full Council for adoption.

2. **RECOMMENDATION**

- 2.1 Members are asked to:

Consider and agree the draft of the revised Statement of Licensing Policy, attached at Appendix A, which will then be consulted upon.

3. **BACKGROUND TO THE REPORT**

- 3.1 The Licensing Act 2003 (The Act) came into force on 24 November 2005, and has four main objectives:

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

- 3.2 The Act introduced a completely new licensing system that integrated liquor licences formally issued by the Magistrates Court, and public entertainment licences issued by local authorities into a single system that the Local Authority now administer.

- 3.3 Under the provisions of the Act the Council is the licensing authority for the administration and enforcement of licensing activities. The Council is responsible for the issue of all licences that include any form of regulated entertainment or alcohol.

- 3.4 Essentially there are four types of licence:

a) A premises licence authorises licensable activities to take place at that premises. These are the sale of alcohol, the provision of regulated entertainment (including plays, films, indoor sporting events, music and dancing) and the provision of late night refreshment.

b) A personal licence authorises an individual to sell alcohol. A licence is valid for ten years and issued to applicants aged 18 years or over who hold a basic Criminal Records Bureau disclosure check and a recognised personal licence qualification.

- c) Temporary Events Notice (TEN) authorises licensable activities to take place on a premises for up to 12 occasions per year. This Notice applies to any premises or piece of land that does not hold a premises licence or club premises certificate or to a premises licence or club premises certificate that requires additional hours or activities for one-off events.
  - d) A club premises certificate for qualifying clubs that are conducted in good faith and have a minimum of 25 members such as workingmen's clubs, cricket clubs, Ex-Servicemen's Clubs etc.
- 3.5 The Act removed set permitted hours and strengthened the power of the Police and other responsible authorities e.g. Trading Standards to deal with problems arising from licensed premises. Residents are now able to call for a review of Premises or Club Premises Licence if problems are encountered which may undermine the licensing objectives.
- 3.6 Section 5 of the Act requires that a licensing authority prepares and publishes a statement of Licensing Policy every three years. The purpose of the policy is to establish the framework for dealing with licence applications. This includes the principles that will be applied to ensure compliance with the Act. The statement of Licensing Policy must be published before the beginning of the period and a policy must be drawn up for each subsequent three-year period.
- 3.7 The current Statement of Licensing Policy was approved by the Council on 11<sup>th</sup> December 2007. The Borough Council's Statement of Licensing Policy is therefore due for renewal.
- 3.8 Members may be aware that licensing officers from all Leicestershire Licensing Authorities meet bi-monthly to secure a co-ordinated approach to the legislation. Work has been undertaken by inter-authority groups to produce documents common to the districts and boroughs, which reflect the statutory guidance and recent changes to the law. The draft revised licensing statement reflects the co-operation between the Leicestershire authorities. Major changes to the policy are shown in italics.

#### 4. **FINANCIAL IMPLICATIONS [HF]**

- 4.1 There are no financial implications arising from this report.

#### 5. **LEGAL IMPLICATIONS [MR]**

- 5.1 Outlined in the report.

#### 6. **CORPORATE PLAN IMPLICATIONS [MB]**

- 6.1 Objective 3 – Safer and Healthier Borough
- 6.2 The Licensing Authority is bound by the provisions of the Act, the statutory guidance issued by the Secretary of State and its own Statement of Licensing Policy in its administration of the licensing regime and in determining licensing issues. The integrity of the policy therefore has the

potential to directly impact upon the Authority's determination of applications under the Act.

## 7. **CONSULTATION [MB]**

7.1 Before determining this Licensing Policy, the licensing authority must consult with the following persons listed in section 5(3) of the 2003 Act. These are:

- (a) The chief officer of police for the area;
- (b) The fire authority for the area;
- (c) Persons/bodies representative of local holders of premises licences;
- (d) Persons/bodies representative of local holders of club premises certificates;
- (e) Persons/bodies representative of local holders of personal licences; and
- (f) Persons/bodies representative of businesses and residents in its area.

## 8. **RISK IMPLICATIONS [MB]**

8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision have been identified, assessed and that controls are in place to manage them effectively.

8.3 The significant risks associated with this report were identified from the assessment as follows;

<b>Management of Significant Risks</b>		
<b>Risk Description</b>	<b>Mitigating actions</b>	<b>Owner</b>
Failure to review and publish a revised Statement of Licensing policy would constitute a contravention of the Licensing Act. In such circumstances, the Council would be unable to fulfil its statutory licensing responsibilities.	Procedures have been put in place to ensure that the Statement of Licensing Policy is reviewed and subsequently published in accordance with the statutory timetable.	Mark Brymer

## 9. **RURAL IMPLICATIONS**

9.1 The Licensing Act 2003 will have equal impact on all areas of the Borough.

10. **CORPORATE IMPLICATIONS**

10.1 By submitting this report, the report author has taken the following into account:

- Community Safety Implications [ SS]
- Environmental Implications - None.
- ICT Implications - None.
- Asset Management Implications - None.
- Human Resources Implications - None

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Background Papers: Licensing Act 2003,  
Guidance issued under Section 182 Licensing Act 2003

Contact Officer: Mr. Mark Brymer ext. 5645

Executive Member: Mr. D.S. Cope

1lc2sep10





**Hinckley & Bosworth  
Borough Council**

*A Borough to be proud of*

***Statement of  
Licensing Policy***

**(As required by section 5 of the  
Licensing Act 2003)**

## **STATEMENT OF LICENSING POLICY**

### **CONTENTS PAGE**

#### **PART I**

1.0 OVERVIEW / INTRODUCTION

#### **PART II – LICENSING OBJECTIVES & KEY THEMES**

2.0 PREVENTION OF PUBLIC NUISANCE

3.0 PREVENTION OF CRIME & DISORDER

4.0 PUBLIC SAFETY

5.0 PROTECTION OF CHILDREN FROM HARM

6.0 LICENSING HOURS

7.0 CUMULATIVE IMPACT

8.0 DETERMINING APPLICATIONS

#### **PART III – INTEGRATING STRATEGIES**

9.0 INTEGRATING STRATEGIES

10.0 ENFORCEMENT

11.0 FURTHER INFORMATION

#### **APPENDIX A**

MAP OF CUMULATIVE IMPACT AREA IN TOWN CENTRE

#### **APPENDIX B**

CONTACT LIST OF TRADE BODIES

## 1.0 OVERVIEW

### 1.1 Introduction

1.1.1 The Borough of Hinckley & Bosworth is situated in the south of Leicestershire. The Borough has a population of 105,200 the vast majority live within the south-east of the Borough, living in the larger towns and villages of Hinckley, Burbage, Earl Shilton and Barwell.

1.1.2 Hinckley & Bosworth Borough Council ("the Council") is the Licensing Authority, as defined by section 3(1) of the Licensing Act 2003 (for the Borough).

1.1.3 The aim of this policy is to promote the Licensing Objectives as set out in the Licensing Act 2003 (the Act). These are:

- The Prevention of crime and disorder
- Public safety
- The Prevention of public nuisance
- The Protection of children from harm.

### 1.2 Overview of licensing

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

1.2.2 The Council has responsibility under the Act for licensing any premises for licensable activities. Under this legislation there will be more local consultation and elected representatives (Councillors) will decide all applications where relevant representations are made, with rights of appeal for applicants and any party who feels aggrieved by the Licensing Authority's decision to the Magistrates Court.

### 1.3 Licensable activities

1.3.1 Any premises where the following activities are carried out will require a premises licence:

- the retail 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 late night refreshment (hot food or drink between 11 p.m. and 5 a.m.)
- the provision of "regulated entertainment"

1.3.2 "Regulated entertainment" requires a licence when it takes place in the presence of an audience and is provided for the purpose of entertaining that audience, and includes the following:

- a) a performance of a play
- b) an exhibition of a film
- c) an indoor sporting event
- d) a boxing or wrestling entertainment (indoors and outdoors)
- e) a performance of live music
- f) any playing of recorded music (but not incidental background music)
- g) a performance of dance
- h) or entertainment of a similar description (e), (f) or (g).

## **1.4 Policy**

1.4.1 The Act requires the Licensing Authority to publish a licensing policy statement after consultation with responsible authorities and interested parties and to review the policy every three years.

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

1.4.3 In general, unless otherwise stated, a reference in this policy to a licence will also include a club premises certificate and/or a temporary event notice. Unless the context clearly requires to the contrary, the term "licensee" means the holder of a premises licence, club premises certificate, provisional statement or interim authority. The term "applicant" should be similarly construed.

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

1.4.5 This policy must be read in conjunction with the Act, the various statutory instruments issued under the Act and the national guidance issued under section 182. These other documents are not reproduced in full here and any summary of the law in this policy statement should not be taken as definitive.

1.4.6 While this policy will be used as a general local guide, any policy must allow for exceptions. All licensing decisions will be made on the merits of the individual case, having regard to this policy, statutory guidance, and the Act.

## 1.5 Purpose of the policy

1.5.1 This policy deals with how the Licensing Authority will promote each of the four fundamental licensing objectives and how it will deal with the other key themes such as flexible licensing hours and the cumulative impact of a concentration of licensed premises in an area.

1.5.2 This Statement of Licensing Policy is designed to provide guidance for everyone who is involved in or affected by the licensing of alcohol, regulated entertainment and late night refreshment in the Licensing Authority's area. This includes:

- **applicants for all types of licence** (premises/personal) - to help applicants to understand the process, the considerations to be taken into account and what the Licensing Authority is trying to achieve.
- **applicants for premises licences** - to help applicants to draft an appropriate operating schedule with conditions and measures which the Licensing Authority is likely to find acceptable.
- **organisations or individuals planning events** - to indicate whether a licence is likely to be needed and how to go about obtaining one.
- **statutory agencies** (police, fire, relevant council departments etc.) - to indicate how the Licensing Authority and the other statutory agencies will co-operate to achieve their respective objectives in areas of common concern, particularly in the areas of prevention, monitoring and enforcement; to indicate which of the agencies will "lead" on each of the four fundamental licensing objectives.
- **residents and businesses in the neighbourhood** of premises which have an existing licence or require a licence, and their **representatives** (e.g. ward councillors) - to inform local people of their rights to be consulted, to make representations, to apply for reviews of existing licences; to indicate those types of representations which are likely to be relevant and those which are not; to explain how the Licensing Authority and the other relevant statutory agencies will work together on licensing issues for the benefit of the local community, and to outline the limits of the licensing regime.
- **licensing decision-makers** - to provide guidance to all the relevant Council officers dealing with applications and to the Licensing Committee and Licensing Sub Committees deciding contentious applications.

1.5.3 It should be noted that applications without operating schedules, or incomplete applications, will be returned to the applicant and the period for determination will not commence until a valid application has been submitted. A pragmatic approach will be taken wherever possible in respect of applications containing only minor errors.

## **1.6 Consultation about this policy**

1.6.1 The Licensing Authority is required by law to consult with the following organisations before adopting a Statement of Licensing Policy (and on any review of the policy):

- the Chief Officer of Police for the licensing authority's area,
- the Fire Authority for this area,
- bodies representing local holders of premises licences,
- bodies representing local holders of club premises certificates,
- bodies representing local holders of personal licences,
- bodies representing businesses and residents in the area that the Licensing Authority considers appropriate

## **1.7**

### **Revision & Review**

1.7.1 The Statement of Licensing Policy is valid for a three-year period from 7th January 2011. During that period, the Licensing Authority will keep the policy under review and may make such changes, as it thinks appropriate. Before making any changes, the Licensing Authority will carry out consultation.

## **PART 2 – LICENSING OBJECTIVES & KEY THEMES**

***Applicants for new premises licences or variations are expected to show in their operating schedule an assessment of potential problems/risks and any steps proposed to ensure that the Licensing Objectives will be achieved.***

### **2.0 PREVENTION OF PUBLIC NUISANCE**

- 2.1.1 The Licensing Authority is committed to minimising the loss of “personal amenity” in the Borough by working in close partnership with Leicestershire Police, Environmental Health and licensees.
- 2.1.2 The Licensing Authority intends to interpret “loss of personal amenity” in its widest sense, including such issues as noise, light, odour, litter and anti-social behaviour. Where these matters impact on those living, working or otherwise engaged in normal activity in an area, with particular regard to noise-sensitive areas, e.g. nursing homes, hospitals or places of worship, the Licensing Authority may seek to attach conditions to licences and certificates where necessary in order to prevent it. Any such conditions imposed will be appropriate and proportionate and tailored to the style and characteristics of the premises and the type of activities expected to take place there.
- 2.1.3 The Licensing Authority will seek to protect the reasonable rights of residents and businesses in the vicinity of licensed premises from disturbance arising from licensable activities– ‘Vicinity’ being the area near or surrounding a licensed premises. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises or places is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the courts may ultimately decide the question. In determining such applications, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Licensing Authority recognises that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and therefore beyond the direct control of the individual, club or business holding the licence.
- 2.1.4 The Licensing Authority considers that a risk assessment should be carried out by applicants for premises licences and club premises certificates to determine the potential effect on neighbouring premises. Advice and assistance in undertaking this task should be sought from The Council’s Environmental Health Officers. Steps which may be appropriate to prevent public nuisance include:
- Limitation on hours of operation where necessary to prevent nuisance and disturbance
  - Measures to reduce noise and vibration emissions from premises
  - Measures to prevent noxious smells
  - Measures to reduce light pollution
  - Steps to prevent noise, disturbance and anti-social behaviour from people arriving at and leaving the premises
  - Stricter controls will be supported in areas in closer proximity to residential accommodation.

- 2.1.5 The Licensing Authority will need to be satisfied that the type of Regulated Entertainment provided will be suitable for the location in which the premises is situated.
- 2.1.6 Any change to the categories of entertainment to be provided at a premise will require a formal variation of the licence.
- 2.1.7 In considering an application, the Licensing Authority may take into account previous noise and nuisance complaints, but will consider all applications on their own merits.
- 2.1.8 Where applicable, following a representation and hearing in order to control access to and egress from the premises, the Licensing Authority may attach a condition to the licence requiring the use of Door Supervisors, licensed by the Security Industry Authority.



### **3.0 PREVENTION OF CRIME & DISORDER**

- 3.1.1 The Licensing Authority is committed to reducing crime and disorder across the Borough through its statutory duty under section 17 of the Crime and Disorder Act 1998.
- 3.1.2 The Licensing Authority and Leicestershire Police through their Community Safety Partnership will regularly monitor and review crime statistics within the Borough and their association with alcohol.
- 3.1.3 The Licensing Authority will work in partnership with any local Pubwatch Scheme in supporting licence holders to actively prevent crime and disorder issues and to form strategies to reduce current levels by attending the local pubwatch meetings when invited. The strategies seek to address matters such as under-age sales, problems associated with drunken individuals, prevention of use of drugs and violent and anti-social behaviour.

### **3.2 CCTV**

- 3.2.1 The presence of CCTV cameras can be an important means of deterring and detecting crime at, and immediately outside, licensed premises. If a premises decides to install a CCTV system it is recommended they contact Leicestershire's Police Crime Prevention Officer for advice.

### **3.3 Irresponsible Drinks Promotions**

- 3.3.1 The Licensing Authority will support an approach to the marketing of alcohol and the management of licensed premises that promotes responsibility in the consumption of alcohol.
- 3.3.2 Determining whether a drinks promotion is irresponsible or not will require a subjective judgement. The Licensing Authority will be guided by the law. The sale of alcohol to persons who are already drunk is an offence under the Act.

### **3.4 Dance Venues**

- 3.4.1 The "culture" of dance venues requires that special consideration be given to the steps required to prevent crime and disorder and promote public safety. It is recommended that operators of night clubs providing facilities for dancing are aware of the detailed guidance provided in the "Safer Clubbing Guide" published by the Government.
- 3.4.2 The Licensing Authority would support the following steps to promote the licensing objectives in pubs and clubs opening beyond midnight that provide dance facilities in accordance with the Home Office Safer Clubbing Guide. Other pubs and clubs, depending on circumstances, may also benefit from these steps:
- Searching of customers before entry in accordance with the Leicestershire Constabulary Code of Practice on Searching and Licensed Premises. This will be aimed at preventing drugs and offensive weapons being brought into premises.

### **3.5 Other Steps to Promote the Prevention of Crime and Disorder**

3.5.1 There is a wide range of other steps which may be appropriate in particular circumstances including:

- Prohibiting the sale of alcohol in bottles for consumption on the premises, to prevent their use as weapons
- Requiring drinking vessels to be plastic or toughened glass
- Requiring the provision of text pagers to connect premises supervisors in town and city centres to the police
- Appropriate measures to prevent overcrowding in parts of the premises
- The provision of staff to control admission and to control customers inside the premises.

## **4.0 PUBLIC SAFETY**

- 4.1.1 Members of the public have the right to expect when visiting licensed premises that due consideration has been taken of needs with respect to public safety. Licensees, as providers of premises for the sale of alcohol or regulated entertainment, must be able to demonstrate that they have considered and put into effect measures to protect members of the public and the commercial interests of neighbouring premises.
- 4.1.2 The Licensing Authority is committed to ensuring public safety across the Borough, by working in close partnership with Leicestershire Police, Fire and Rescue, Licensees, CCTV control centre and local pub-watch schemes. The Licensing Authority strongly recommends membership of the pub-watch and/or retail radio schemes by licence holders.
- 4.1.3 Where applicable, e.g. large-capacity premises remaining open after midnight, the Licensing Authority will consider the attachment of a condition to the licence requiring the use of Door Supervisors, licensed by the Security Industry Authority to control the access and egress from the premises during events to ensure public safety, following a relevant written representation and a licensing hearing.
- 4.1.4 Premises licensed for regulated entertainment, including cinemas and theatres, are subject to a range of legislative requirements and regulatory regimes such as the Health and Safety at Work Act etc Act 1974 and fire safety legislation, aimed at protecting public safety. The Licensing Authority does not intend to duplicate requirements of existing statutory provisions. However, premises will be expected to ensure a level of compliance that promotes public safety.
- 4.1.5 Premises providing regulated entertainment have particular safety issues associated with their ability to attract significant numbers of people to a venue. The Licensing Authority will support measures designed to promote public safety in this context. This will include:
- Setting of a capacity limits for all, or separate parts, of the premises.
  - The provision of staff to control admission and to control customers inside premises and at outdoor events.
- 4.1.6 The Licensing Authority will consider attaching conditions to licences and certificates to promote public safety. Any such conditions will be tailored to the style and characteristics of the premises and the type of activities expected to take place there.

## 5.0 PROTECTION OF CHILDREN

### 5.1 General

- 5.1.1 Protecting children from harm is one of the fundamental licensing objectives. As such, the Licensing Authority will endeavour to ensure that issues relating to the protection of children are fully taken into consideration by all parties involved in the licensing system. "Children" for these purposes *means individuals aged under 18*.
- 5.1.2 Leicestershire Constabulary are the lead authority for child protection issues acting as "gatekeeper" for Leicestershire's Local Safeguarding Children's Board. Consultees should not rely on other responsible authorities to put forward representations, if they have concerns. Unless a relevant representation is made, the Licensing Authority must grant the licence subject to conditions consistent with the operating schedule.
- 5.1.3 Licences will be sought for a wide variety of premises including theatres, cinemas, restaurants, concert halls, cafes, late night take-away, pubs, bars and nightclubs. It is not possible for a licensing policy to anticipate every situation where children are at risk. The licensing authority will not therefore impose general conditions that apply to all premises, but will consider how the licensing objectives can be best promoted in each particular case.
- 5.1.4 Areas that may give rise to particular concern in respect of children include premises:
- (a) where there have been convictions of members of the current staff for serving alcohol to minors, with a reputation for underage drinking or where the Portman Group Code of Practice on Naming, Packaging and Promotion of Alcoholic Drinks is not being followed;
  - (b) with a known association with drug taking or dealing;
  - (c) where there is a strong element of gambling on the premises;
  - (d) where entertainment of an adult or sexual nature is commonly provided (e.g. topless bar staff, striptease, lap/table/pole dancing, strong and offensive language).
- 5.1.5 It is acknowledged that complete exclusion of children will be rare but the options to be considered by the Council for limiting access of children, where regarded as necessary for the prevention of harm to children, may include any of the following:
- (a) limitations on the hours when children may be present;
  - (b) limitations or exclusions when certain activities are taking place;
  - (c) restrictions or exclusions in respect of parts of premises;
  - (d) requirements for an accompanying adult;
  - (e) full exclusion of people under 18 from the premises when any licensable activities of an adult nature are taking place.
- 5.1.6 The Council cannot impose conditions requiring the admission of children to any premises. Where no licensing restriction is necessary, this will remain a matter for the discretion of the individual licensee or club.

## **5.2 Licensing for Alcohol on the Premises and Unaccompanied Children on the Premises**

- 5.2.1 *It is an offence under section 145 of the Act to permit an unaccompanied child aged under 16 to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises. It is also an offence to permit the presence between midnight and 5 a.m. of children under 16 who are not accompanied by an adult at any premises open for the supply of alcohol for consumption there.*

## **5.3 Children and Cinemas**

- 5.3.1 Licence holders will be expected to prevent children from viewing films that are unsuitable because of the age classification of the film that has been imposed by the British Board of Film Classification.

## **5.4 Children and Regulated Entertainment**

- 5.4.1 The Licensing Authority will expect that where a significant number of unaccompanied children will be present during a public entertainment event, the licence holder should have a Child Protection Policy in place to carry out suitable checks on staff before they take up employment. In addition, they will ensure that an adequate number of adult staff is present to control the access, egress and safety in and around the premises.
- 5.4.2 The number of staff required should be assessed by the licence holder, taking into account the number of children to be present, the type of entertainment, the characteristics of the premises and any other relevant factor. Any premises which have Internet access facilities must have adequate control settings put in place so that web sites which are not suitable for use by children are permanently blocked.

## **5.5 Proof of Age Cards**

- 5.5.1 The Licensing Authority supports the adoption of proof of age cards as a means of preventing underage drinking. It recommends that any premises licensed to sell alcohol adopts a policy of requiring proof of age from any person where there is any doubt as to whether they are 18 years or over, such as Challenge 21. The authority would suggest that proof of age could be in the form of a passport, photographic driving licence, or a proof of age card complying with the Proof of Age Standards Scheme (PASS).

## **5.6 The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks**

- 5.6.1 The Licensing Authority supports the Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

## **6.0 LICENSING HOURS**

### **6.1 General**

- 6.1.1 It is recognised that varied licensing hours is important to ensure that concentrations of customers leaving licensed premises simultaneously are avoided. In turn this will reduce the potential for disorder at fast food outlets, taxi ranks and other sources of transport. Each case will be decided on its individual merits.
- 6.1.2 However, the Council will take into account any evidence that shows that longer hours is likely to undermine the licensing objectives.

The purpose of these principles is to:

- promote the prevention of crime and disorder;
- promote public safety;
- promote the prevention of public nuisance;
- address the issue of closing hours;
- address the issue of alcohol sales in shops, stores and supermarkets.

### **6.2 Representations**

- 6.2.1 In making decisions in respect of hours, consideration will be given to representations made by residents and businesses in the vicinity of the premises, their representatives, the applicant and responsible authorities. Residents of one particular area will not be treated any more or less favourably than residents of another area, except that:
- (a) the Licensing Authority will take into account the density of residential accommodation in an area;
  - (b) the Licensing Authority will have regard to any local premises whose users are particularly vulnerable to noise and disturbance, e.g. a hospital or residential home for the elderly;
  - (c) when deciding whether or not to adopt, amend or remove a saturation policy, the Licensing Authority may treat residents of the area subject to the policy differently from other areas;
  - (d) when a saturation policy is in force, the general policy of treating areas equally will read as being subject to the saturation policy, which by definition will treat areas differently.

## **7.0 CUMULATIVE IMPACT**

### **What is cumulative impact?**

The words “Cumulative impact” are not mentioned specifically in the Act but means the potential impact on the promotion of the licensing objectives of a significant number of alcohol licensed premises concentrated in one area. The cumulative impact of alcohol licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in its licensing policy statement.

### **7.1 Adopting a special saturation policy**

- 7.1.1 In certain situations the number, type and density of premises selling alcohol for consumption on the premises may be associated with serious problems of crime and disorder. Where the impact on surrounding areas of customers taken together may be greater than the usual impact of customers from individual areas the licensing authority may consider that an area has become ‘saturated’. In these circumstances, where representations are made by a responsible authority such as the police or interested party, such as local residents, the licensing authority may consider whether the grant of any further premises licences or club premises certificates containing the licensable activity of the sale or supply of alcohol would undermine one of the licensing objectives. If this is the case it may adopt a special saturation policy, which would allow it to refuse new licences because the area in question is already saturated with licensed premises.

### **7.2 Representations**

- 7.2.1 The Licensing Authority has received a representation from the Leicestershire Constabulary that the circumstances described above exist in relation to parts of Hinckley town centre, and that the grant of further alcohol on-licensed premises licences or club premises certificates would undermine the crime prevention objective.

In response to this representation the Licensing Authority has:

- Considered evidence about the extent of the problem of crime and disorder;
- Considered evidence about the likely association of the problem with the number and density of licensed premises in the town centre;
- Consulted on the proposal for a special policy in relation to new licences and variations to existing ones within the town centre;
- Considered the outcome of that consultation; and
- Resolved to declare the special policy described in section 7.4.1

### **7.3 Other mechanisms available**

- 7.3.1 The authority recognises that once away from licensed premises, there is always a risk that a minority of consumers will behave badly and unlawfully. In these circumstances, there are other mechanisms available for addressing such issues, including:

- *Planning controls.*
- *Creation of a safe, clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority.*
- *The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.*
- *Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly.*
- *Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.*
- *The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.*
- *The confiscation of alcohol from adults and children in designated areas.*
- *Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.*
- *The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.*
- *Other local initiatives that similarly address these problems.*

#### **7.4 Special Saturation Policy**

7.4.1 The Licensing Authority will continue to adopt a special policy on cumulative impact in relation to the area of the Hinckley Town Centre:

bounded by Trinity Lane to the junction with Mansion Street, Mansion Street, Lower Bond Street to the junction with Baines Lane, Baines Lane to the junction with Stockwell Head, Stockwell Head, to the junction with The Borough, The Borough, Station Road to the junction with Brunel Road, Brunel Road to the junction with Rugby Road, Rugby Road to the junction with Trinity Lane Including the junction of Coventry Road).

Including both sides of the streets bounding the area, including Regent Street, Station Road, Horsefair, King Street, Waterloo Road, Lancaster Road, Market Place and George Street within the area.

7.4.2 The area of the special policy is marked on the map attached (**Appendix A – W24**).

7.4.3 The Licensing Authority recognises, however, that this policy cannot be absolute and it will continue to consider each application on its merit. In the event of a relevant representation the application will be determined by the Licensing Sub-Committee.



- 7.4.4 The effect of this special policy will be to create a rebuttable presumption that application for a new premises licence or club premises certificate or variations will normally be refused. It will be for the applicant to demonstrate that the premises will not add to the existing cumulative impact. Applicants will need to address this matter in their operating schedule. Where no representation is received the application must be granted.
- 7.4.5 The authority acknowledges that the impact will be different for premises with different styles and characteristics.
- 7.4.6 The authority will review the special policy at least every 3 years and if it considers that it needs to be amended will undertake appropriate consultation before any amendment is made.
- 7.4.7 The special policy will not be used to:
- remove a licence when representations are received about problems with an existing licensed premises; or to
  - justify the rejection of modifications to a licence except where those modifications are directly relevant to the special policy; or to
  - adopt quotas or set terminal hours in a particular area that pre-determine the individual merits of any application.

## 8.0 DETERMINING APPLICATIONS

The following matters will be determined by either the Licensing Committee or one of its sub-committees:

- Application for a personal licence where there are relevant unspent convictions;
- The review of a premises licence or club premises certificate;
- Decision to object when the local authority is the consultee and not the relevant authority considering the application;
- Determination of a police objection to a temporary event notice.

The following matters will be determined by the Licensing sub-committee where a relevant representation has been made:

- Application for a personal licence;
- Application for a premises licence or club premises certificate;
- Application for a provisional statement;
- Application for variation to a premises licence or club premises certificate;
- Application to vary a designated premises supervisor;
- Application for interim authority
- Determination of a temporary event notice.
- *Disapplication Of Certain Mandatory Conditions for Community Premises*
- *Application for transfer of a premises licence*

### 8.1 Personal Licences

8.1.1 The Licensing Authority recognises the important role that personal licence holders have to play in the promotion of the licensing objectives at premises selling alcohol. For this reason personal licence holders are required to hold a relevant qualification and not have any unspent relevant convictions that would indicate their unsuitability.

8.1.2 There is no discretion to refuse an application for a personal licence made in accordance with the Act, except where the applicant has been convicted of a relevant or foreign offence, as defined by law. The list of relevant offences is maintained by the Secretary of State, and a foreign offence will be taken into account if it is similar in nature to one of the specified "relevant offences". Convictions which are "spent" under the Rehabilitation of Offenders Act 1974 cannot be taken into account.

8.1.3 Every sale of alcohol at a licensed premise is required to be authorised by a personal licence holder. Because of the importance of their role, the Licensing Authority considers it to be good practice for personal licence holders to have significant operational involvement in the sale of alcohol rather than to undertake a remote, periodic authorisation of other staff. In practical terms this would mean authorisation on at least a monthly basis, and to be available on the premises whenever possible to deal with circumstances requiring their expertise and authority.

- 8.1.4 Where no relevant representations have been received and the application for a personal licence has been properly made, the licence must be granted. The Licensing Authority will therefore expect Leicestershire Constabulary, to make representation upon being notified that the applicant has an unspent conviction.
- 8.1.5 In accordance with the Secretary of State's advice the Licensing Authority will normally refuse applications where the police have issued an objection notice unless there are, in the opinion of the Licensing Authority, exceptional and compelling reasons which justify granting the application.

## **8.2 Premises Licences & Club Premises Certificates**

8.2.1 'Relevant representations' are representations:

- a) About the likely effect of the Premises Licence on the promotion of the licensing objectives;
- b) Made by an interested party or a responsible Authority, have not been withdrawn and, in the case of representations made by an interested party are not in the Licensing Authority's opinion frivolous or vexatious

8.2.2 'Interested Party' means any of the following:

- a) A person living in the vicinity of the premises;
- b) A body representing persons who live in that vicinity;
- c) A person involved in a business in that vicinity; or
- d) A body representing persons involved in such a business.

8.2.3 **Frivolous, Vexatious and Repetitious Requests** The Act provides that where the Licensing Authority receives representations in respect of an application, it must normally arrange a hearing unless it considers those representations or requests to be frivolous or vexatious. There are similar provisions relating to requests for review of a premises licence or club registration certificate. In addition the Licensing Authority can reject requests for review if they consider them to be a repetition.

8.2.4 The Licensing Authority is confident that most members of the public will exercise their rights to make representations and requests sensibly and responsibly. However, it is recognised that there is a risk that some individuals - and perhaps some organisations - may seek to abuse these rights with requests which are manifestly unreasonable and which would impose substantial burdens on applicants, licence holders and the Licensing Authority. Such cases may well arise in connection with a grievance or complaint which an individual is pursuing against the applicant, licence holder or the Licensing Authority.

- 8.2.5 The Licensing Authority considers that the exception in the Act for frivolous and vexatious and repeated representations and requests is important in order to prevent the licensing function being used to pursue non-licensing issues and to ensure that unjustified expenditure is not incurred or unnecessary burdens imposed as a result of or in dealing with such representations/requests.
- 8.2.6 The Licensing Authority does however emphasise that it will not conclude that a representation or request is frivolous, vexatious or repeated unless there are sound grounds for such a decision, and interested parties will be notified of the grounds for any such decision.
- 8.2.7 Where no relevant representations have been received and the application for a premises licence or Club Premises Certificate has been properly made, the licence must be granted.
- 8.2.8 If relevant representations are made about an application the Licensing Authority will hold a hearing to consider them unless the Licensing Authority, the applicant and everyone who has made representations agrees that the hearing is not necessary. While it is the right of any party involved to require a hearing, the Licensing Authority will generally encourage those involved to agree to uncomplicated cases being dealt with "on paper" to avoid unnecessary cost to the public purse.
- 8.2.9 Where relevant representations have been made and a hearing is held, the Licensing Authority has greater powers to refuse a licence or grant it with conditions. The licence or Certificate could alternatively be granted so that certain activities or areas of the premises are excluded.

### **8.3 Temporary Event Notices**

- 8.3.1 The Licensing Authority cannot seek to attach any terms, limitations or restrictions on such events other than those set down in the legislation. Part 5 of the Act allows licensing activities to be carried out in specified circumstances on a temporary basis, subject to a temporary event notice being served on the Licensing Authority, with a copy served on the Chief Officer of Police, *a minimum of ten working days* before the event. The Chief Officer of Police may object to the event if he is satisfied that the crime prevention objective would be undermined.
- 8.3.2 The possibility of Police intervention is another reason why event organisers are encouraged by the Licensing Authority not to rely on giving the minimum amount of notice and to contact local Force Licensing Officers at the earliest possible opportunity about their proposals. *The Licensing Authority recommends one month's notice.*
- 8.3.3 The Licensing Authority, on receiving temporary event notices, will also check that other requirements of the Act are met. For example, a temporary event notice would be void unless there is a minimum of 24 hours between events notified by the premises user in respect of the same premises. This is to prevent evasion of the 96-hour limit on such events, and emphasise the need to obtain full premises licence for more major events.

## **8.4 Provisional Statements**

8.4.1 To avoid difficulties facing those who wish to invest in a new venture but do not have the security of knowing that a premises licence will be granted, the Act provides for the making of an application for a 'provisional statement'.

8.4.2 The basis of the application is that premises are being, or are about to be, constructed for the purpose of being used for one or more licensable activities, or are being, or are about to be, altered or extended for the same purposes (whether or not they are being used for a licensing purpose already).

8.4.2 If:

- (a) a Provisional Statement has been issued, and
- (b) the person subsequently applies for a Premises Licence in respect of the relevant premises, or a part of them or premises that are substantially the same as the relevant premises (or part of them) and
- (c) the application is in the same form as the application described in the schedule of works accompanying the application for the provisional statement and
- (d) the work described in the schedule of works accompanying the provisional statement has been satisfactorily completed
- (e) then any representations made by a person shall not be taken into account if:
  - given the information in the application for a Provisional Statement the person objecting could have made the same, or substantially the same, representations about the application but had failed to do so without reasonable excuse; and
  - there has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

## **8.5 Variations of Premises Licences & Club Premises Certificates**

8.5.1 Applications to vary a Premises Licence follow the same procedure to applications for a new Premises Licence. If relevant representations are not received the application for variation will be granted.

8.5.2 If relevant representations are made and not withdrawn the Licensing Authority will hold a hearing and at that hearing the Licensing Authority may approve the application, grant it with modifications, refuse to specify a person as the DPS or reject the whole or part of the application.

## **8.6 Transfer of a Premises Licence**

8.6.1 If the Police consider the granting of the transfer application would undermine the crime prevention objective the Licensing Authority will consider their reasons for that view and will reject the application if the Licensing Authority consider it necessary for the promotion of the crime prevention objective to do so.

## **8.7 Interim Authorities**

- 8.7.1 Following the death or other incapacity of the premises licence holder, an application can be made for an interim authority to continue the business. The applicant must be either the personal representative, in the case of the death of the former licence holder, or have an enduring power of attorney, or be an insolvency practitioner, or have a prescribed interest in the premises.
- 8.7.2 Interim Authority Notices must be served on the Licensing Authority and also on the Police. If the Police consider that the grant of an Interim Authority Notice would undermine the prevention of crime objective the Licensing Authority will arrange a hearing to consider the Notice.

## **8.8 Reviews of Premises Licences & Club Premises Certificates**

8.8.1 'Relevant representations' are representations:

- (a) About the effect of the Premises Licence or Club Premises Certificate on the promotion of the licensing objectives;
- (b) Which lay an evidentiary basis for the allegations; and
- (c) Are made by an interested party or a responsible authority, have not been withdrawn and, in the case of representations made by an interested party they are not in the Licensing Authority's opinion frivolous or vexatious or repetitious.

8.8.2 'Interested Party' means any of the following:

- a person living in the vicinity of the premises in question;
- a body representing persons living in that vicinity, for example, a residents' association, or a parish or town council;
- a person involved in a business in the vicinity of the premises in question;
- a body representing persons involved in such businesses, for example, a trade association; and
- a member of the relevant licensing authority i.e. elected councillors of the licensing authority for the area in which a premises is situated.

'Vicinity' being the area near or surrounding a licensed premises. Whether or not incidents can be regarded as being "in the vicinity" of licensed premises or places is a question of fact and will depend on the particular circumstances of the case.

8.8.3 The Licensing Authority cannot, of its own motion, instigate the review of a premises licence or club premises certificate, and will rely on the responsible authorities such as the Police and Environment Health to be proactive in seeking a review where they consider it appropriate. Requests by responsible authorities will not be treated as vexatious or frivolous.

## **8.9 Disapplication of Certain Mandatory Conditions for Community Premises**

8.9.1 *Where an application has been made by the management committee of a community premises (Church Hall, Village Hall etc) and the Chief Officer of Police issues a notice seeking the refusal of the application to include the alternative licence condition, the Licensing Authority must hold a hearing in order to reach a decision on whether to grant the application.*

8.9.2 *Where the Chief Officer of Police has made relevant representations against the inclusion of the alternative licence condition, or given a notice under section 41D(6) which was not withdrawn, the Chief Officer of Police can appeal the decision of the Licensing Authority to allow the inclusion of the alternative licence condition. Similarly, a community premises can appeal a decision by the Licensing Authority to refuse to include the alternative licence condition following a hearing triggered by relevant representations or by a notice given under section 41D(6).*

## **8.10 Transfer of Premises Licence**

8.10.1 *The Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police.*

8.10.2 *If the Chief Officer of Police raises no objection about the application, the Licensing Authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.*

8.10.3 *In exceptional circumstances where the Chief Officer of Police believes the transfer may undermine the crime prevention objective, the police may object to the transfer.*

8.10.4 *Where an objection is made, the Licensing Authority must hold a hearing at which it will consider the objection. The Licensing Authority's consideration would be confined to the issue of the crime prevention objective and the hearing should not be permitted to stray into other extraneous matters. The burden would be on the Chief Officer of Police to demonstrate to the Licensing Authority that there were good grounds for believing that the transfer of the licence would undermine the crime prevention objective. The licensing authority must give clear and comprehensive reasons for its eventual determination in anticipation of a possible appeal by either party.*

## **PART III – INTEGRATING STRATEGIES**

### **9.0 INTEGRATING STRATEGIES**

#### **9.1 Community Safety**

- 9.1.1 The Licensing Authority recognises its responsibility to address issues relating to crime and disorder and is committed to working together, with other partners, to make Hinckley & Bosworth Borough a safe and attractive area in which to live, work, study and socialise.
- 9.1.2 The Council has a duty under section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the borough.

#### **9.2 Planning**

- 9.2.1 The Licensing Authority will ensure that planning and licensing regimes are properly separated to avoid duplication and inefficiency.
- 9.2.2 Any premises that apply for a licence or a variation of a licence may also need planning permission.

#### **9.3 Cultural Strategy**

- 9.3.1 The Council is committed to the Cultural Strategy (The Strategy).
- 9.3.2 The International Covenant on Economic, Social and Cultural Rights (ICESCR) which was ratified by the UK in 1976 recognises the right of everyone to take part in cultural life and requires that active steps are taken to develop cultural activity and ensure that everyone can participate in the cultural life of the community.
- 9.3.3 The Strategy encompasses arts, heritage, museums, parks and green spaces, neighbourhood facilities, markets, festivals and public events, media, libraries and literature, sport, play, faith and worship, tourism, restaurants and bars and creative industries. A key objective of the Strategy is “to invest in the development of cultural activity which contributes to the economic, social and personal well-being of individuals at all stages in their lives and to increase access to, and participation in, cultural activity”.
- 9.3.4 This licensing policy will operate in the spirit of the Strategy and the ICESCR. In doing so it will seek to maintain a balance between regulation and supporting cultural activity. It will strive to maintain a balance between the need to ‘manage’ any detrimental impacts of an activity in a community with the many benefits cultural activity brings to communities, in developing personal aspiration and potential, building cohesive communities, providing opportunities for young people, contributing to economic growth and regeneration and the development of sustainable communities.



## **9.4 Promotion of Equality**

- 9.4.1 In developing this strategy, the Licensing Authority has recognised its responsibility under the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, to consider the need to eliminate unlawful discrimination and to promote equal opportunity and good race relations between persons of different racial groups. This Licensing Policy therefore supports and is supported by the Council's Race Equality Scheme.
- 9.4.2 The Licensing Authority also recognises that this policy should promote equality in a wider sense and has therefore assessed the potential impact on disadvantaged groups in general, as well as from a race equality perspective. It has considered and consulted with this in mind.
- 9.4.3 The Licensing Authority will implement the following actions, which have been identified as being necessary to promote equality, and within the scope of the Act and supporting guidance:
- The Licensing Policy and associated documents will be available on the internet, and in other formats upon request.
  - Multi-language sections may be included in all leaflets upon request.
  - The licensing objective of protecting children from harm will be promoted.
  - Support will be offered to licence applicants, licence holders and potential objectors who are socially excluded.
  - Account will be taken of the effect of specific applications on community cohesion, including the need to balance the benefits of cultural and community activities with limited local disturbance.
  - Action will be taken to endeavour to ensure the safety of vulnerable people in licensed premises.
  - Action will be taken to ensure that all applications, particularly those for disadvantaged groups, are dealt with fairly.
- 9.4.4 The Licensing Authority is aware that there may be particular sensitivities of certain buildings, for example religious buildings, to certain licensable activities taking place in close proximity. Where the impact does not affect the promotion of the licensing objectives, there may be other control mechanisms, such as the planning system, that could be applicable.

## **9.5 Disabled Access**

- 9.5.1 The guidance supporting the Act advises that conditions relating to disabled access should not be attached to licences, as this would duplicate existing statutory requirements. The Licensing Authority therefore takes this opportunity to remind operators of premises of their duties under the Disability Discrimination Act 1995. The law provides that any person providing a service to the public must make reasonable adjustments to enable disabled people to access the service. This includes a duty that any

person who provides a service to the public must make reasonable adjustments to any physical feature that makes it impossible or unreasonably difficult for a disabled person to access a service, or to provide the service by a reasonable alternative means.

## **9.6 Tourism & Local Economy**

- 9.6.1 The Licensing Committee will receive copies of reports concerning the local tourist economy and the cultural strategy for the Borough whenever the relevant executive portfolio holder presents them to the Licensing Committee. The Licensing Authority will ensure that when it considers applications for licences for entertainment involving live music, dancing, theatre, circuses and street arts it will act so as to promote the licensing objective of preventing public nuisance.
- 9.6.2 The Licensing Authority recognises that there is a need to encourage and promote a broad range of entertainment, particularly those activities identified above, because of the wider cultural benefits to communities. The potential for limited disturbance will therefore be balanced against these wider benefits. The Council as landowner (not as Licensing Authority) has applied for premises licences in its own name for appropriate community facilities in its ownership, to reduce the burden on others who wish to make use of community facilities for licensable events. The Council will encourage other public and voluntary sector landowners of community facilities (e.g. parish councils, the County Council) to adopt a similar approach.
- 9.6.3 As per paragraph 9.6.2 this could include, green spaces, parks, town centre etc. Performers and entertainers would require permission from the Council, as the premises licence holder, to use these spaces for regulated entertainment.

## **9.7 Transport**

- 9.7.1 Transport Strategy is set out in the Local Transport Plan (LTP) under Leicestershire County Council procedures; local highway authorities prepare a five-year plan integrating strategies that links all modes of urban and rural transport and currently runs until 2011. It is proposed to monitor the plans through annual progress reports to ensure they deliver the aims and objectives of regional planning guidance and Leicestershire's structure plan.
- 9.7.2 The LTP policies seek to ensure that alternatives to the use of the private car are available; these alternatives include walking, cycling and public transport (bus, rail and taxi). They are operated in conjunction with land use policies to seek to ensure that development takes place in locations where these alternatives can be best provided; the Town Centre is naturally one of these locations, particularly with regard to public transport.
- 9.7.3 Taxis provide a key role in transporting people, particularly at times when bus services are not well provided. Taxi ranks are provided where demand is identified, and include both 24-hour ranks and ones, which operate only at night.

## **9.8 Health and Safety**

9.8.1 *All premises in the Borough fall to either the Council's Environmental Health Officers or the Health and Safety Executive Inspectors for the enforcement of the Health and Safety at Work etc Act which places a range of general and specific duties on employees, employers, operators of venues and members of the public. Matters arising out of the Act and associated Regulations will not be the subject of conditions unless they are necessary for the promotion of the Licensing Objectives.*

## **9.9 Fire Safety**

9.9.1 *Premises and their operators will be under general duties under current fire safety requirements. It is desirable that the Operating Schedule should indicate the maximum occupancy of the premises or its component parts, and the precautions that are proposed to be taken to protect public safety in arriving at this figure.*

## **9.10 Food Hygiene**

9.10.1 *Premises selling alcohol and/or premises engaged in a food business will be registered with the Council and subject to risk-based food hygiene inspections at regular intervals. No further licensing consideration will apply.*

## **9.11 Noise**

9.11.1 *Statutory and public nuisances are dealt with by Environmental Health under the Environmental Protection Act 1990 and associated legislation. In addition, there is also provision in the Environmental Protection Act for an individual to take a private action against noise nuisance. Public order matters such as noise from people in streets, open spaces, traffic matters etc. are dealt with by the police as part of the normal policing plan.*

## **10.0 Enforcement**

10.1.1 The enforcement of licensing law and the inspection of licensed premises is detailed in the Licensing Enforcement Protocol as agreed between Leicestershire Police, the Council, Leicestershire Fire Service and other Responsible Authorities.

10.1.2 The protocol reflects the need for a more efficient deployment of Police, Fire and Local Authority staff commonly engaged in licensing law and the inspection of licensed premises. A copy of the protocol is available on the Council's website [www.hinckley-bosworth.gov.uk](http://www.hinckley-bosworth.gov.uk) .

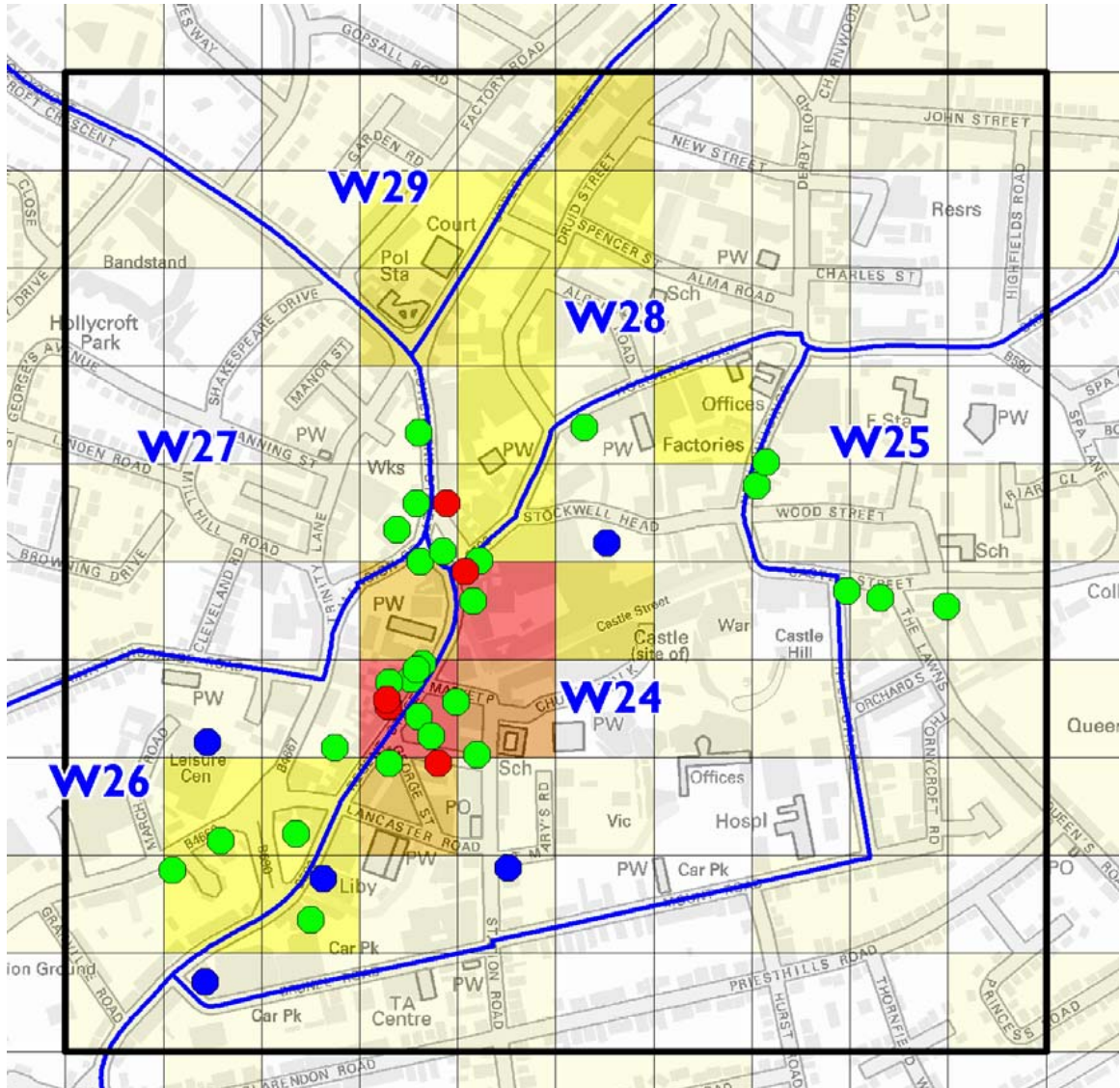
10.1.3 Inspections of premises will be in accordance with the Act and on a risk assessed basis, to be undertaken when necessary by the relevant authority.

## **11.0 Further Information**

11.1.1 The Licensing Authority can only offer advice on the process for and progress of applications and as to whether particular activities fall to be licensed. If more detailed advice on the requirements of the legislation is required applicants may wish to seek their own independent legal advice.

11.1.2 Application forms and guidance documents can currently be found on the Councils website [www.hinckley-bosworth.gov.uk](http://www.hinckley-bosworth.gov.uk) under Services, Licensing.

## APPENDIX A



The above Map shows the area defined (W24) in the Special Saturation Policy by section 7.4.1. The full report from Leicestershire Constabulary and the statistics produced by the County Council research team are available upon request.

## APPENDIX B

### Useful References (organisations)

Association of Convenience Stores (ACS)  
<http://www.thelocalshop.com/tls/index.asp>  
Federation House,  
17 Farnborough Street,  
Farnborough,  
Hampshire,  
GU14 8AG.  
Email: [acs@acs.org.uk](mailto:acs@acs.org.uk)

Association of Licensed Multiple Retailers (ALMR)  
<http://www.almr.org.uk/>  
9B Walpole Court,  
Ealing Studios,  
London  
W5 5ED  
Tel: 020 8579 2080  
Email: [info@almr.org.uk](mailto:info@almr.org.uk)

Association of Town Centre Managers (ACTM and Purple Flag)  
<http://www.atcm.org/>  
ATCM,  
1 Queen Anne's Gate,  
Westminster,  
London  
SW1H 9BT  
[office@atcm.org](mailto:office@atcm.org)

British Beer and Pub Association (BBPA)  
<http://www.beerandpub.com/>  
British Beer & Pub Association  
Market Towers  
1 Nine Elms Lane  
London  
SW8 5NQ  
Tel: 020 7627 9191  
[web@beerandpub.com](mailto:web@beerandpub.com)

British Board of Film Classification (BBFC)  
[www.bbfc.co.uk](http://www.bbfc.co.uk)  
3 Soho Square,  
London  
W1D 3HD  
[contact\\_the\\_bbfc@bbfc.co.uk](mailto:contact_the_bbfc@bbfc.co.uk)

British Institute of Inn Keeping (BII)  
<http://www.bii.org/>  
Wessex House,  
80 Park St., Camberley,  
Surrey,  
GU15 3PT,  
Tel: 01276 684449

British Retail Consortium (BRC)  
<http://www.brc.org.uk/default.asp>  
21 Dartmouth Street,  
London  
SW1H 9BP  
Tel: 0207 85 8900

*Circus Arts Forum*  
[www.circusarts.org.uk](http://www.circusarts.org.uk)  
[info@circusarts.org.uk](mailto:info@circusarts.org.uk)

*Cinema Exhibitors' Association (CEA)*  
<http://www.cinemauk.org.uk/>  
22 Golden Square  
London  
W1F 9JW  
Tel: 0207 734 9551

*Department for Culture, Media and Sport (see links to the Licensing Act 2003, Explanatory Notes, Guidance and Regulations)*  
[www.culture.gov.uk](http://www.culture.gov.uk)  
[enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)  
2-4 Cockspur Street  
London  
SW1Y 5DH

*Equity*  
<http://www.equity.org.uk/>  
Head Office  
Guild House  
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**LICENSING COMMITTEE – 2 SEPTEMBER 2010**

**REPORT OF DEPUTY CHIEF EXECUTIVE COMMUNITY DIRECTION**  
**RE: SEXUAL ENTERTAINMENT VENUES**

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**1. PURPOSE OF REPORT**

- 1.1 To consider recommending Council to adopt the amended provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as they relate to "Sexual Entertainment Venues" (e.g. lap dancing clubs).

**2. RECOMMENDATION**

- 2.1 The Licensing Committee are recommended to endorse and recommend that Council:

- (i) Re-affirm the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) in relation to the licensing of "sexual entertainment venues" and that responsibility for determination of applications for such licences be delegated to this Committee;
- (ii) The fees for applications for licences for sexual entertainment venues are set at the same level as for sex establishment licences.

**3. BACKGROUND TO THE REPORT**

- 3.1 The Policing and Crime Act 2009 ("the 2009 Act") created a new category of "sex establishment" called a "sexual entertainment venue" in Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982 ("the 1982 Act"). This brings the licensing of lap dancing and pole dancing clubs and other similar venues under the regime set out in the 1982 Act (currently used to regulate establishments such as sex shops and sex cinemas) rather than under the Licensing Act 2003 ("the LA 2003").
- 3.2 A sexual entertainment venue is defined as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer." The meaning of 'relevant entertainment' is defined as "any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)." An audience can consist of just one person (e.g. where the entertainment takes place in private booths).
- 3.3 Guidance issued by the Home Office indicates that whilst local authorities should judge each case on its own merits, it would be expected that the definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

- 3.4 It should be noted that although the definition of relevant entertainment makes reference to a 'live display of nudity', the Guidance indicates that the mere fact that there is a display of nudity does not mean that a sex establishment licence will necessarily be required. For example, if the display forms part of a drama or dance performance in a theatre, in most cases it cannot reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience. 'Display of nudity' is also defined in the Act.
- 3.5 The relevant entertainment must be provided for the financial gain of the 'organiser' or 'entertainer'. The 'organiser' means any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. The Home Office Guidance states that in most circumstances, this will refer to the manager of the premises, but could also refer to someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.
- 3.6 The Guidance indicates that the 'organiser' must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for one person to hold a sexual entertainment venue licence for the premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.
- 3.7 The following are not sexual entertainment venues for the purpose of the 1982 Act:
- (a) sex shops and sex cinemas;
  - (b) any premises that at the time in question:
    - (i) has not provided relevant entertainment on more than 11 occasions within the previous 12 months;
    - (ii) no such occasion has begun within the period of one month beginning with the end of any previous occasion;
    - (iii) no such occasion has lasted for more than 24 hours; or,
  - (c) premises specified or described in an order made by the relevant national authority.
- 3.8 Premises which provide relevant entertainment on an infrequent basis (Para 3.7(b) above) will continue to be regulated under the LA 2003, insofar as they are providing regulated entertainment under that Act. Any premises that provide relevant entertainment on more occasions, more frequently or for a longer period of time than is permitted under the exemption will be operating as a sexual entertainment venue and will have committed an offence unless they hold a sexual entertainment venue licence or the local authority has waived the requirement for such a licence.

3.9 With regard to the latter point, an applicant can apply for a waiver either as part of the application for a licence or separately. The local authority can grant a waiver if they consider that to require a licence would be unreasonable or inappropriate and the waiver may last for such a period that they think fit, but it can be terminated at any time with 28 days notice.

#### **4. Adopting the Provisions**

4.1 The new powers to regulate sexual entertainment venues are not mandatory and will only apply where they have been adopted. Where adopted, the new powers will allow the Authority to refuse an application on potentially wider grounds than is permitted under the LA03 and will give local people a greater say over the regulation of lap dancing in pubs and similar venues in their area by allowing for objections on wider grounds.

4.2 Adoption must be by resolution of the full Council.

4.3 It is recommended that responsibility for determination of applications should be delegated to the Licensing Committee.

4.4 If the Council does adopt Schedule 3 (as amended by the 2009 Act) then they must publish notice that they have passed the resolution for two consecutive weeks in a local newspaper. The first publication must not be later than 28 days before the day specified in the resolution as the date when the provisions come into force. The Notice should state the general effect of the adoption.

4.5 If the Council has not adopted the provisions by 6th April 2011 then it will be necessary to consult local people (people who live or work in the Borough) about whether the local authority should make such a resolution.

#### **5. Applications**

5.1 In general the Authority has discretion whether or not to grant a licence for the use of any premises, vehicle, vessel or stall to be used as a class of sex establishment.

5.2 A Licence cannot, however, be granted to:

- a person under 18;
- a person who has held a licence but has had it revoked within 12 months preceding the date of application;
- to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made;
- to a body corporate which is not incorporated in an EEA State; or
- a person who has within the last 12 months preceding the date of the application been refused a licence in respect of the same premises.

5.3 Paragraph 10 (15) of Schedule 3 of the 1982 Act gives a statutory right to any person to object to an application.

- 5.4 If objections are received then details of the objections must be provided to the applicant, although names and addresses may not be divulged without the objector's consent.
- 5.5 An applicant must be given the opportunity of appearing before the body making the decision before an application is refused.
- 5.6 An application for the grant or renewal of a licence may be refused on one or more of the following grounds:
- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
  - (c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
  - (d) that the grant or renewal of the licence would be inappropriate, having regard to:
    - (i) the character of the relevant locality; or
    - (ii) the use to which any premises in the vicinity are put; or
    - (iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 5.7 An applicant whose application for the grant or renewal of a licence is refused, or whose licence is revoked, on any ground specified in paragraph 5.2 above does not have a right of appeal unless the applicant seeks to show that the ground did not apply to him.
- 5.8 Similarly, an applicant whose application for the grant or renewal of a licence is refused on either ground specified in paragraph 5.6 (c) or (d) above does not have the right to appeal the decision. In such cases the applicant can only challenge the refusal by way of judicial review.
- 5.9 The Council can prescribe Standard Conditions to be applied to licences for sex establishments, i.e. terms, conditions and restrictions on or subject to which the licences are in general to be granted, renewed or transferred.
- 5.10 These Conditions may regulate:
- the hours of opening and closing of the sex establishment;
  - displays or advertisements on or in such establishments;
  - the visibility of the interior of sex establishments to passers-by; and,
  - any change from one kind of sex establishment to another kind of sex establishment.

- 5.11 Different provisions may be made for sexual entertainment venues, sex cinemas and sex shops, and as well as for different kinds of sexual entertainment venues, sex cinemas and sex shops.
- 5.12 Where these Conditions have been made every Licence granted, renewed or transferred by the Authority will be presumed to have been done so subject to the relevant Standard Conditions.
- 5.13 This Authority already has Standard Conditions prescribed in respect of sex shops but these are not appropriate for sexual entertainment venues. If the provisions are adopted then it is proposed to bring a further report on suggested standard conditions.

## **6. Transitional arrangements**

- 6.1 The 'transitional period' will last for 12 months beginning with the date that the local authority resolves that the new provisions will come into force in their area ('the 1st appointed day'). Six months following the 1st appointed day will be known as the '2nd appointed day' and the day on which the transitional period ends will be known as the '3rd appointed day'.
- 6.2 Under these arrangements any existing lap dancing clubs or similar venues who wish to continue to provide "relevant entertainment" will be required to apply for a new sex establishment licence without the benefit of grandfather rights.
- 6.3 It should be noted that there are currently no premises within the Borough providing "relevant entertainment" that would need to convert under the transitional arrangements.
- 6.4 Between the 1st and 2nd appointed days, applicants would be able to submit applications to be considered by the authority. At the end of this period, all applications received during this period would be considered together and licences would be granted until all the applications had been considered. Consequently any applications received after the 2nd appointed day would be considered individually.

## **7. Fees**

- 7.1 The 1982 Act states, with regard to fees for this function, that the "applicant for the grant, renewal or transfer of a licence under this Schedule shall pay a reasonable fee determined by the appropriate authority".
- 7.2 Fees for Sex Establishment (Sex Shop) Licences, under the 1982 Act, are set to recover the costs of carrying out the function under the Act; in other words that the service would be cost neutral to the Authority. Under the Act the process for the renewal of a Licence is the same as that followed for the grant of a Licence hence the fees for both functions are identical.
- 7.3 The process for sexual entertainment licences is the same as for sex establishment licences and it is therefore recommended that the fees be set at the same level.

## **8. FINANCIAL IMPLICATIONS [CD]**

8.1 As no such establishments currently exist in the Borough, and the recommended fee is to remain the same, this report will have no effect on the Council's finances.

9. **LEGAL IMPLICATIONS [MR]**

9.1 Contained in the body of the report.

10. **CORPORATE PLAN IMPLICATIONS [MB]**

10.1 Objective 3 – Safer and Healthier Borough

11. **CONSULTATION [MB]**

11.1 None.

12. **RISK IMPLICATIONS [MB]**

12.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

12.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision have been identified, assessed and that controls are in place to manage them effectively.

12.3 The significant risks associated with this report were identified from the assessment as follows;

<b>Management of Significant Risks</b>		
<b>Risk Description</b>	<b>Mitigating actions</b>	<b>Owner</b>
Reputation	Ensure that no adverse impact of character of locality.	Mark Brymer
Legal Compliance	Ensure that premises operating in compliance with legislation.	

13. **RURAL IMPLICATIONS**

13.1 The adoption of the legislation will equal impact on all areas of the Borough.

14. **CORPORATE IMPLICATIONS**

14.1 By submitting this report, the report author has taken the following into account:

- Community Safety Implications [ SS]
- Environmental Implications - None.
- ICT Implications - None.
- Asset Management Implications - None.

- Human Resources Implications - None

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Background Papers: Policing and Crime Act 2009  
Home Office Guidance – Sexual Entertainment Venues

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