

Date: 16 November 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 **WEDNESDAY 24 NOVEMBER 2010** and your attendance is required.

PLEASE NOTE THAT THIS MEETING WILL IMMEDIATELY FOLLOW THE MEETING OF THE LICENSING (REGULATORY) COMMITTEE.

The agenda for the meeting is set out overleaf.

Yours sincerely

Pat Pitt (Mrs.)
Corporate Governance Officer

LICENSING COMMITTEE
24 NOVEMBER 2010
A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED 2. MINUTES

To confirm the minutes of the meeting held on 2 September 2010 - copy attached marked L4.

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 L5 (pages 1-4)

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
2 SEPTEMBER 2010 AT 6.35 P.M.

PRESENT: MR K. NICHOLS - CHAIRMAN
Mr. C.G. JOYCE - VICE-CHAIRMAN

Mr P.R. Batty, Mr J.C. Bown, Mr M.B. Cartwright, Mrs. S. Francks, Mr. D. M Gould, Mr L.J.P. O'Shea and Mrs. S. Sprason

Officers in attendance: Mr. A. Bottomley, Mrs A. Neale, Mr. R. Parkinson, Mrs. P.I. Pitt

183 **APOLOGIES**

Apologies for absence were submitted on behalf of Messrs. S.L. Bray and P.A.S. Hall.

184 **MINUTES (L1)**

It was moved by Mr. Bown, seconded by Mrs Francks and

RESOLVED - the minutes of the meeting held on 25 November 2009 be confirmed and signed by the Chairman.

185 **DECLARATIONS OF INTEREST**

No interests were declared at this stage.

186 **LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY (L2)**

Prior to adoption by Council the Committee was requested to consider and endorse the draft of the revised Statement of Licensing Policy, which would then be consulted upon. Such statement which, when adopted, would remain in force for a three-year period from 7 January 2011 and indicate how the Council deals with applications for alcohol, entertainment and late night refreshment licences.

Members were fully supportive of the proposed policy but did request that when this was presented to Council for ratification the changes between the new and the previous Statement of Licensing Policy be highlighted.

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

RECOMMENDED - the draft revised Statement of Licensing Policy be endorsed and consulted upon prior to consideration and adoption by Council.

187 SEXUAL ENTERTAINMENT VENUES (L3)

The Committee was advised that although this Council had adopted the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in 1983 in the light of changes brought about by the Police and Crime Act 2009 premises offering entertainment such as lap dancing, pole dancing etc now needed to be re-classified as “sex establishments”.

Discussion arose regarding the amount of licence fee payable. Although there were currently no premises within the Borough which provided such entertainment, the fee suggested was the same as that prescribed for sex establishment licenses and would be cost neutral to the Authority.

It was moved by Mr. Cartwright, seconded by Mrs Francks and

RECOMMENDED -

- (i) The Council 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 the Licensing Committee; and
- (ii) Fees for applications for licences for sexual entertainment venues be set at the same level as for sex establishment licences.

(The meeting closed at 6.43 p.m.)

At the conclusion of the meeting the Chairman referred to a licensing training session for Members on 27 October, which would be beneficial to those Members attending Hearings. In response to Members’ questions it was stated that this would take the form of in-house training and that alternative sessions could be arranged for those unable to attend on that date.

(Subsequent to the meeting Licensing Officers confirmed that the date given above was incorrect and that the training session was to be held at 9.30 am on Wednesday, 6 October 2010)

LICENSING COMMITTEE - 24 NOVEMBER 2010

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

1. PURPOSE OF REPORT

- 1.1 To seek Members approval for the final draft of the revised Statement of Licensing Policy.
- 1.2 Section 5 of the Licensing Act 2003 requires a Licensing Authority to prepare and publish a statement of its licensing policy every three years. The statement of Licensing policy must be published before 7 January 2011, enabling the Licensing Authority to then carry out its functions in respect of individual applications made under the terms of the 2003 Act.
- 1.3 It is a further requirement of the Act that the revised Policy must be adopted at a meeting of the full Council.

2. RECOMMENDATION

- 2.1 Members are asked to:
 - a) Consider and agree the final draft of the revised Statement of Licensing Policy, attached at Appendix A; and,
 - b) Refer the agreed draft of the revised Statement of Licensing Policy to full Council for approval.

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 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. Significant changes to the policy are shown in italics.

3.9 For completeness the consultation responses are shown at Appendix B.

4. **FINANCIAL IMPLICATIONS [CB]**

4.1 There are no financial implications arising from this report.

5. **LEGAL IMPLICATIONS [MR]**

5.1 As set out 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 consulted 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;

| Management of Significant Risks | | |
|--|---|--------------|
| Risk Description | Mitigating actions | Owner |
| Failure to review and publish a revised Statement of Licensing policy would constitute a contravention of the Licensing Act 2003. 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]. A robust Policy will support and have a positive impact on supporting the reduction of alcohol related crime, disorder and anti-social behaviour in the Borough
- Environmental Implications - None
- ICT Implications - None
- Asset Management Implications - None
- Human Resources Implications - None

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



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

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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.

1.5.4 The Licensing Authority encourages all applicants to contact the appropriate responsible authorities prior to submission of an application. This will ensure that the operating schedule is adequate to promote the four licensing objectives, which could prevent later negotiations, representations and hearings.

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 the Community Safety Partnership will monitor and review crime statistics within the Borough and their association with alcohol.
- 3.1.3 The Licensing Authority will work in partnership with local Pubwatch Schemes in supporting licence holders to 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.
- An age determination policy such as Challenge 21 to prevent underage sales.

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 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. *Challenge 21 requires that any customer that looks under 21 is asked for proof of age to prove that they are 18 or over and old enough to*

buy. 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 Councils website 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 under Services, Licensing.

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

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

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

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

British Board of Film Classification (BBFC)
www.bbfc.co.uk
3 Soho Square,
London
W1D 3HD
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
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
enquiries@culture.gov.uk
2-4 Cockspur Street
London
SW1Y 5DH

Equity
<http://www.equity.org.uk/>
Head Office
Guild House
Upper St Martins Lane
London
WC2H 9EG
Telephone: 020 7379 6000
Email: info@equity.org.uk

Independent Street Arts Network
www.streetartsnetwork.org.uk
54 Chalton Street,
London
NW1 1HS.

Institute of Licensing (IOL)
<http://www.instituteoflicensing.org/>
Institute of Licensing
45 Larcombe Road
St Austell
Cornwall
PL25 3EY

Justices Clerks' Society
www.jc-society.co.uk
E-mail: secretariat@jc-society.co.uk
Tel: 0151 255 0790

Local Government Regulation (LACORS)
<http://www.lacors.gov.uk/>
info@lacors.gov.uk

Licensed Victuallers Associations (LVAs)
<http://www.flva.co.uk/>
Federation of Licensed Victuallers Associations,
126 Bradford Road,
Brighouse,
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National Pub Watch
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NOCTIS (Formerly Bar, Entertainment and Dance Association (BEDA))
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Licensing Act 2003

Statement of Licensing Policy Consultation

This is a schedule of responses to the consultation carried out by Hinckley & Bosworth Borough Council in its capacity as Licensing Authority, pursuant to the Licensing Act 2003.

The consultation process was carried out between 3rd September to 1st November 2010 by means of face-to-face meetings and written consultation. A total of 440 letters including e-mails were sent out, 6 written responses were received. Face to face meetings were also held with representatives of the Chief Officer of Police, the licensed trade and other local authorities.

All participants were provided with a consultation response form and the draft policy was made available.

The schedule sets out comments received either from written representations or from the face-to-face meetings.

Mark Brymer
Principal Licensing Officer

3 November 2010

Summary of responses to consultation: General

The statutory process has been completed. A range of views has been taken into account and relevant amendments have been made to the draft policy.

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| | Nailstone Parish Council | Please be advised that Nailstone Parish Councillors voted in favour of the current Policy being approved. We are happy to go with the amended policy. | Noted | Noted |
| LC | Leicestershire Constabulary | <p>I have examined the review document for HBBC's Licensing Policy and conferred with Inspector Ward the Local policing Unit Commander.</p> <p>We have no comments to make other than we would wish the Cumulative Impact Policy to remain as part of the overall document.</p> <p>We feel that this has been a successful and is a necessary tool in the prevention of crime and disorder within the town centre.</p> <p>By placing the onus on new premises and existing ones applying for a variation, to actively make provisions and promote the licensing objective of the Prevention Of Crime and Disorder on their applications can only lead to more responsible licensees, better managed premises and potentially a safer environment for people to enjoy.</p> | Noted | Noted |

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| <p>BBPA</p> | <p>BBPA – British Beer & Pub Association</p> | <p>REVIEWS OF LICENSING POLICY STATEMENTS</p> <p>We attached a letter which includes a number of general points which we would appreciate you taking on board when reviewing the licensing policy.</p> <p>Many thanks, Richard Matthews (BBPA Midlands Region Secretary)</p> | <p>Noted</p> | <p>Noted</p> |
| | | <p>The British Beer & Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 96% of beer production and around two thirds of the 52,000 pubs in the UK. Many of our members own and run pubs in your licensing authority area. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies, and the Association actively supports organisations such as National Pubwatch and Best Bar None. Britain’s pubs are an important and</p> | <p>Noted</p> <p>Noted</p> | |

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| | | <p>integral part of the UK's tourism industry. The Prime Minister recently acknowledged that tourism should be regarded as one of the foremost industries in this country, as an important economic driver and job creator which is vital to the well-being of the UK. Pubs are a vital part of the local tourism infrastructure, enhancing other local businesses such as B&Bs, historic sites, caravan and holiday parks</p> <p>With regard to the three year review of policies, the BBPA believes that the current system of triennial review is not conducive to encouraging participation in the licensing process. It is expensive and time consuming to both the licensing authority and to other interested parties such as licensees, pub operators and trade associations. If policies were amended as and when necessary, rather than during an arbitrary review imposed by central Government, this may encourage increased participation across the local community.</p> | <p>Noted</p> <p>Noted</p> | |
| BBPA | Blanket Conditions | Blanket or standard conditions cannot be imposed under the Licensing Act, except where there are valid objections to a licence on | Noted | Blanket or Standard Conditions are not stated within the policy. Each application is looked at on its own merits and conditions would only be |

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| | | <p>the grounds of one of the licensing objectives, i.e. crime and disorder, public safety, public nuisance and the protection of children. The licensing authority can only attach a condition where an objection is upheld following a hearing.</p> | | <p>attached after a licensing hearing to promote the licensing objectives.</p> |
| BBPA | Pubwatch | <p>As a major supporter and funder of National Pubwatch, the BBPA is very keen that public houses participate in their local Pubwatches, but we are opposed to such participation being a condition of the licence. Pubwatches are voluntary organisations and membership must remain voluntary if they are to be effective. They are also co-operative bodies that must be able to determine their own membership, which would become almost impossible if leaving a Pubwatch would result in a breach of condition. We trust that the policy merely seeks to encourage</p> | <p>Noted</p> | <p>Condition has never been added to a licence as pubwatch is a voluntary scheme.</p> |

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| | | Pubwatch membership rather than make it a condition of licences. | | |
| BBPA | Glassware | <p>It would be helpful if the policy could include a reference to the following approach outlined in the National Alcohol Strategy on alternatives to glass, namely a risk based, per premises approach.</p> <p>“The Government believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries.”</p> <p>The BBPA has consolidated good practice on combating violence in licensed premises into a guide to risk assessment available on our website at www.beerandpub.com.</p> | Noted | Covered in 3.5.1 |
| BBPA | Minimum Pricing | The licensing authority should not seek to encourage licensees to breach competition law by advocating a minimum price for alcoholic drinks. Any agreement of a minimum price would be a clear breach of competition law which would leave operators open to prosecution and a financial penalty | Noted | Not applicable. |

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| | | <p>of 10% of turnover. Any condition of this nature would clearly be unlawful.</p> <p>There have been examples of local authorities/police attempting to use 'voluntary' agreements and the Mandatory Code on Alcohol sales to justify a minimum price in a specific area. This is illegal as stated above.</p> | | |
| BBPA | Mandatory Code on Alcohol | <p>The conditions relating to promotions, direct dispense into the mouth and tap water was introduced in April 2010. Conditions relating to age verification policies and smaller measures of alcohol came into force on 1st October 2010. If Mandatory Conditions are referenced in the policy, it should also make reference to the Home Office guidance available to download at www.beerandpub.com</p> | Noted | No amendment necessary. |
| | Smoking | <p>Where customers are outside the premises because they are smoking, there should not be an automatic assumption that this will lead to unacceptable noise nuisance. If it does, then interested parties and responsible authorities are legitimately entitled to raise the issue as they would for any other</p> | Noted | Noted |

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| | | <p>cause of noise nuisance. In the event that customers outside a licensed premises give rise to noise nuisance and representations are made to the licensing authority on these grounds, then the matter can be dealt with via the processes contained in the Licensing Act 2003. Therefore, any conditions on a licence should be evidence based and relate to noise nuisance and not smoking. Smoking itself is not, of course, a licensable activity.</p> | | |
| | <p>Risk Assessments</p> | <p>The Association is very much in favour of the use of risk assessments, but the provision of a risk assessment to support an application is not a requirement under the Licensing Act 2003, therefore the licensing authority has no powers to demand to be shown risk assessments. We believe that this reference should either be removed or amended to as to be a recommended practice rather than a requirement. During the recent World Cup, some Local Authorities and police issued inappropriate risk assessments for pubs to sign, and assessments such as these should not be required by the licensing policy.</p> | <p>Noted</p> | <p>No amendment.</p> <p>Steps to promote the licensing objectives must be shown in section P of the application form.</p> <p>The applicant should take steps to ensure that the highlighted potential issues will be alleviated and that the measures they propose will ensure that the licensing objectives will be achieved.</p> <p>A risk assessment will help them achieve this but it is recognised that the risk assessment will not form part of the application itself.</p> |

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| | <p>Cumulative Impact Policy</p> | <p>The policy should make it clear that applications within the cumulative impact policy area will be considered on their own merits, and determined by the Licensing Committee in the event of relevant representations being received. Where there are no relevant representations, the application must still be granted.</p> | <p>Noted</p> | <p>No amendment necessary.</p> |
| | <p>Designated Premises Supervisor</p> | <p>If the policy contains the expectation that the DPS will spend a significant amount of time on the premises, or should be on the premises at all times, this should be deleted. There is no legal obligation for the DPS to be on the premises at all times, but they do, of course, remain responsible for the premises in their absence.</p> <p>There is no mechanism in the Licensing Act for licensing authorities to:</p> <ul style="list-style-type: none"> • insist that the DPS be on the premises at all times • to make a fit and proper judgement on individuals nominated as the DPS | <p>Noted</p> | <p>No amendment necessary.</p> |

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| | | <ul style="list-style-type: none">• insist on experience, training or qualifications in addition to the personal licence qualification• insist on more than one personal licence holder for the premises. <p>The law simply requires a DPS to be nominated for licensed premises where the sale of alcohol is to take place. The DPS must hold a personal licence. We welcome the clarification in the revised Government Guidance to the Licensing Act on this issue.</p> <p>The DCMS guidance also outlines good practice for the authorisation of the sale of alcohol. Written authorisation may be appropriate for some premises, but not all, and is not a legal requirement. Ultimately, it is for the DPS to decide how to manage this issue. There is also no legal requirement for daily authorisation of the sale of alcohol, which would, in our view, be unenforceable and impose an unnecessary burden on operators.</p> | | |
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| <p>Env Health</p> | <p>Environmental Health Commercial Manager</p> | <p>Section 4.14 "Act" before etc requires removal as in twice.</p> <p>Would it be worth while mentioning in some relevant context that the Council has declared DPPO since the original policy to help prevent crime and disorder.</p> | <p>Noted</p> <p>Noted</p> | <p>Amended as necessary</p> <p>Covered under 7.3.1 - Other Mechanisms Available</p> |
| <p>Env Health</p> | <p>Environmental Health Pollution Manager</p> | <p>Mark, that looks fine. Thank you.</p> | <p>Noted</p> | <p>No amendment necessary.</p> |