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Steve Atkinson MA(Oxon) MBA FIoD FRSA
Chief Executive

Date: **26 July 2016**

Hinckley & Bosworth Borough Council

A Borough to be proud of

To: **Members of the Licensing (Regulatory) Committee**

Mrs H Smith (Chairman)
Mr MA Hall (Vice-Chairman)
Mr CW Boothby
Mr MB Cartwright
Mr DS Cope
Mrs L Hodgkins
Mr K Morrell
Mr K Nichols
Mr M Nickerson
Mr SL Rooney
Mrs MJ Surtees

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor,

There will be a meeting of the **LICENSING (REGULATORY) COMMITTEE** in the De Montfort Suite, Hinckley Hub on **WEDNESDAY, 3 AUGUST 2016** at **6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

Rebecca Owen
Democratic Services Officer

LICENSING (REGULATORY) COMMITTEE - 3 AUGUST 2016

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

2. MINUTES (Pages 1 - 2)

   To confirm the minutes of the meeting held on 4 September 2013.

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. QUESTIONS

   To hear any questions in accordance with Council Procedure Rule 10.

6. LICENSING CHARITABLE COLLECTIONS POLICY (Pages 3 - 34)

   To inform members of the draft Charitable Collections Policy and seek support for consultation.

7. STREET TRADING CONSENT POLICY REVISION (Pages 35 - 50)

   To present a revised policy, seek support for requiring traders in Hinckley Town Centre to obtain a Street Trading Consent and support for consultation thereon.

8. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

LICENSING (REGULATORY) COMMITTEE

4 SEPTEMBER 2013 AT 6.15 PM

PRESENT: Mr Bray - Chairman

Mr SL Bray, Mr DM Gould, Mr MT Mullaney, Mrs H Smith, Mrs S Sprason, Mr JS Moore and Ms BM Witherford

Officers in attendance: Mark Brymer, Michael Rice and Helen Rishworth

147 APOLOGIES AND SUBSTITUTIONS

Apologies were submitted on behalf of Councillor Nichols, with the substitution of Councillor Bray. As Councillor Bray was substituting for Councillor Nichols it was proposed that he be appointed Chairman for the purposes of this meeting
RESOLVED – Councillor Bray be appointed Chairman for this committee meeting.

Apologies were also submitted from Councillor Hulbert, with the substitution of Councillor Moore, Councillor Cartwright with the substitution of Councillor Witherford.
Apologies were also submitted for Councillor Batty, Councillor O'Shea and Councillor Richards.
All substitutions were authorised in accordance with Council Procedure Rule 4.1.

148 MINUTES

On the motion of Cllr Gould, seconded by Cllr Moore, it was

RESOLVED – the minutes of the meeting held on 19 April 2011 be approved and signed by the Chairman.

149 ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

No additional business items were declared at this stage.

150 DECLARATIONS OF INTEREST

No interests were declared at this stage.

151 QUESTIONS

No questions were presented at this stage.

152 SCRAP METAL DEALERS ACT 2013

Members were given the licensing requirements of the Scrap Metal Dealers Act 2013 and asked for their approval for the scheme of delegation and licensing fees.

Members were also presented with the facts concerning scrap metal and background history as to how the increased value of metal had caused a growing problem of metal thefts in the whole of the U.K. They were given a comprehensive outlay of what the new licences would entail, how visible the new plates would be and associated licence costs.

Members were asked to consider the following recommendations:

(a) agree that the Executive considers this report with a recommendation that charges be introduced as shown at Appendix 2
(b) that all contested applications be considered by a Licensing Panel made up of three members of the Licensing Regulatory Committee;
(c) that both the designations of Authorised Officers under the Act, as set out in paragraph 3.25, and the Scheme of Delegation as set out at Appendix 1 be considered and agreed by Council.

On the motion of Cllr Witherford, seconded by Cllr Gould, it was

RESOLVED – The above recommendations be agreed.

153 ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

(The Meeting closed at 6.25 pm)

CHAIRMAN

Hinckley & Bosworth Borough Council

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FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

Licensing (Regulatory) Committee	3 August 2016
Council	1 November 2016

WARDS AFFECTED: ALL WARDS

LICENSING CHARITABLE COLLECTIONS POLICY

Report of Deputy Chief Executive (Community Direction)

1. PURPOSE OF REPORT

1.1 To inform the Licensing Regulatory Committee of the draft Charitable Collections Policy and to seek approval from the Committee to undertake a consultation exercise.

2. RECOMMENDATION

2.1 That the Licensing Regulatory Committee approves the draft policy for consultation.

3. BACKGROUND TO THE REPORT

3.1 The aim of the policy is to ensure that residents in the area who want to donate to charity through Street Collections and House to House Collections are able to do so in good faith and secure in the knowledge that an adequate proportion of what they donate will directly benefit the named charity.

Street Collections

3.2 Any collection for money for Charitable purposes in the street must be authorised under the Police, Factories, etc. (Miscellaneous Provisions) Act 1916, with 'Model' street collection regulations drawn from the Charitable Collections (Transitional Provisions) Order 1974. Only the collection of cash and the sale of goods are covered by the Act.

3.3 An example is when a charity collects money in a collecting box in the street or a stall is set up temporarily in the street selling goods with all proceeds going to a fundraising cause.

3.4 Street collections are usually made by or for charities. A charity (or charitable organisation) need not necessarily be a registered charity but should have charitable aims, excluding political, commercial or religious aims.

3.5 The authority issues street collection permits (no charge for the permit) to organisations which are established primarily to benefit particular charitable purposes. The proposed policy states that an organisation shall not be permitted to conduct more than one street collection in the Borough in any one year.

3.6 The reason behind this is to give as many local and national organisations as possible the opportunity of collecting in the Borough.

3.7 The 'Model' Street Collection Regulations stipulate that 'application for a permit shall be made in writing not later than one month before the date on which it is proposed to make a collection'. This is the approach that Hinckley has adopted over the years.

3.8 From 1 April 2015 to 31 March 2016 the authority has issued twenty six charities with street collection permits.

House to House Collections

3.9 House to house collections involve the collection of either money or items directly from a person's property. They are a vital source of funds for many charities as they offer a positive opportunity for the public to support charities. However, they need to be carried out for the benefit of the charity and in accordance with the law.

3.10 House to house collection permits are issued under the House to House Collections Act 1939 and The House to House Regulations 1947 as amended.

3.11 An example is where a charity leaves a bag at residential properties and then returns a few days later to collect any clothing that has been donated. Or a charity that leaves a small envelope for cash donations and then returns to collect the envelope.

3.12 Some of the larger charities hold a National Exemption Order (NEO) which means that they do not have to apply to the local authority for a permit; however, generally they do contact us as a matter of courtesy notify us of the dates. The Minister for the Cabinet Office is responsible for the national exemption order scheme for house-to-house collections under the House to House Collections Act 1939 (as amended). National exemption orders are generally available to charitable organisations that have obtained house to house collection licences in at least 70 local authority licensing areas for the two preceding years and are able to provide evidence of licences and collection returns.

3.13 During the last financial year the Council has been notified by twenty charities with Exemption Orders that they will be collecting within our borough.

3.14 The licensing service restricts the number of House to House Collections to fifteen per month within the Borough. However by recording permits on a calendar residents can check with us which charities can be collecting on a particular day. The legislation allows a permit to be granted for up to 12 months.

3.15 In the period 1 April 2015 to 31 March 2016 the authority has issued forty five house to house collection permits.

3.16 Some commercial companies also collect clothing door to door, however, as they are not collecting for a charity they do not fall under the legislation and so do not need a permit. The local authority has no control over commercial collections and recommends that the public contact Leicestershire Trading Standards directly if they have any concerns.

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

4.1 No exemptions apply and the report is to be considered in open session.

5. FINANCIAL IMPLICATIONS [AG]

5.1 The cost of public consultation exercise will be met by the existing budget.

6. LEGAL IMPLICATIONS [MR]

6.1 Set out in the report.

7. CORPORATE PLAN IMPLICATIONS [RP]

7.1 The policy will help charitable collections in the street from becoming a nuisance to the public within the Borough and thereby contribute towards the Council aims of creating a safe vibrant place to work and live. It supports the Aim of Empowering Communities through creating and support an effective voluntary & community sector.

8. CONSULTATION [MB]

8.1 Nationally holders of a national exemption order and other charities that have applied for a permit with this Council in the last year will be consulted on the draft policy. Locally the Town Centre Manager, Parish Councils and Ward Councillors will be consulted.

9. RISK IMPLICATIONS

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

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 / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant Risks		
Risk Description	Mitigating actions	Owner
Reputation, Legal, Regulatory	Procedures have been put in place to ensure that the Statement of Licensing Policy is reviewed and subsequently published.	Mark Brymer

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS [RP]

10.1 The policy will have equal impact on all areas of the Borough.

11. CORPORATE IMPLICATIONS

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

- Community Safety implications - None
- Environmental implications - None
- ICT implications - None
- Asset Management implications - None
- Human Resources implications - None
- Planning Implications - None
- Voluntary Sector – None

Background papers:

The Police, Factories (Miscellaneous Provisions) Act 1916 and Charitable Collections (Transitional Provisions) Order 1974;
House to House Collections Act 1939 & the House to House Regulations 1947;
National Association of Licensing and Enforcement Officers (NALEO) – Guidance for Licensing Officers issuing licences for charitable door to door collections;

Contact Officer: Mark Brymer ext 5645
Executive Member: Councillor K Morrell

Hinckley & Bosworth
Borough Council

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House to House and Street Collection Policy

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Appendix A Street Collection Regulations

Appendix B House to House Collections Regulations

1.0 Introduction and Overview

1.1 Hinckley & Bosworth Borough Council (the Council) is responsible for licensing charitable collections within the Borough of Hinckley & Bosworth. Charitable collections fall into two categories: **House to house** collections for money or property and **Street collections**, which include collections for cash or the sale of articles in the street. If articles are sold for personal gain a Street Trading Consent will be required.

1.2 The licensing of charitable collections is regulated by two separate Acts of Parliament: *The 'Police, Factories, etc., (Miscellaneous Provisions) Act 1916*' which regulates collections of money or sales of articles for charitable purposes in streets and public places and '*The House to House Collections Act 1939'* which regulates collections of money or other articles made by means of going from house to house.

Both Acts give District and Borough Councils powers to write regulations and policies to control charitable collections.

1.3 This policy document forms the Council's Charitable Collections Policy ("local policy") that will apply to Street and House to House Collection activities in the Hinckley & Bosworth Borough area to ensure consistency in decision making.

1.4 The aim of the policy is to give detailed guidance on the application of the law relating to charitable collections, that charitable organisations, promoters and collectors must meet before, during and after collections have taken place. It also sets out the administrative procedures involved in obtaining a permit / licence.

2.0 Street Collections Guidance

2.1 An application for a Street Collection Permit must be made to the Council in writing or electronically via our website not later than one month before the proposed collection date.

2.2 Street Collection Permit Application forms may be downloaded from the website www.hinckley-bosworth.gov.uk together with a copy of the street collection regulations or alternatively obtained from the Licensing team located at the following address:

The Licensing Service
Hinckley & Bosworth Borough Council
Hinckley Hub
Rugby Road
Hinckley
LE10 0FR

Tel No: 01455 238141

Email: esadmin@hinckley-bosworth.gov.uk

2.3 The application form must be fully and correctly completed and accompanied where appropriate by any necessary information. Before the Council can grant a street collection permit, it needs to have as much information as possible about the charity, its promoters and collectors. For processions and walks, details of the proposed route must be provided with the application.

2.4 If the Charity has not previously applied for a permit to conduct a collection within the Hinckley & Bosworth Borough, the following must accompany the application: the aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association; details of street collection permits approved or refused (other than within the Councils area); a copy of the organisations most recently audited accounts; and any other relevant information requested by the Council.

2.5 Applications will be considered upon receipt and, where appropriate, additional information may be requested from the applicant. Failure to provide adequate information in the application form or upon request will result in a refusal or a delay in consideration until any outstanding information has been provided.

2.5 Consultations on the Application

2.5.1 The Council reserves the right to make more detailed enquiries about an applicant and the proposed collection in certain circumstances. For example:

- An organisations / individual's past conduct;
- A new collector of concern to the Council;
- Concerns about the integrity of the collection activity (i.e. suspected bogus charity collection);
- Complaints from local residents, businesses or other charity organisations;
- Where the activity raises safety or nuisance/harassment concerns; etc.

2.5.2 Enquiries may be made to the Police and or the Charity Commission for comment/investigation prior to consideration.

2.5.3 The Council may also consult with other council departments responsible for highways or street trading. Where the application for a street collection permit includes a street procession or placing a structure or vehicle on the street/highway; or where the proposed collection relates to the sale of articles in a street/public place designated for street trading, a Street Trading Consent will be required.

2.5.4 If a store/shop gives permission for a collection for a charity, that person must be inside the store/shop. The forecourt of a shop is considered a public right of way in respect of street collections.

2.5.5 Any application where it is proposed to use any structure, table, 'A' board etc., in conjunction with a Street Collection must be supported by Public Liability Insurance and written permission of the Landowner and or Highways Authority.

2.6 **Determination of the Application**

2.6.1 The Council has delegated to the Principal Licensing Officer the authority to consider and determine applications for street collection permits, subject to the criteria set out in the regulations and in this policy document, including any objections/observations/comments received from the Police, Charity Commission, other Local Authorities and persons/organisations consulted with.

2.6.2 Each case will be looked at on its own merits.

2.6.3 The legislation does not include statutory criteria for the approval or rejection of a permit request. This is a matter for the Council's discretion. This policy reflects the wide discretion given to the Council enabling it to grant/decline/ limit permits on various grounds that are not specific within the legislation and regulations.

2.6.4 For the purposes of clarification, applications will be considered by Licensing Officers with reference to the following:

- Information provided by the applicant in the application or such further information provided upon request;
- Any comments received from the Police, the Charity Commission, or other local authorities;
- The organisation's past conduct and the integrity of its collection activities etc., where known, when undertaking collections in the Borough or in other Boroughs;
- Whether the person applying for the licence is a 'fit and proper' person to hold a licence;
- Whether the organisation or its objectives may be considered to be charitable in character;
- Whether a particular collection is considered to be in the public interest;
- The organisation's connection to the local community;
- The Council's street collection policy and regulations; and
- Any other relevant considerations.

The Council will then either:

- Issue a permit specifying the requested date and location; or
- Refuse to issue a permit on certain grounds.

Street Collections Policy

3.0 Introduction

3.1 This part of the document sets out how the Council will deal with charitable organisations that wish to collect monies or sell articles for charitable or other purposes in streets and public places.

3.1.2 "Charity"

For the purposes of the law of England and Wales, "charity" means an institution which:

- is established for charitable purposes only, and
- falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.

3.1.3 "Charitable Purpose"

- the prevention of relief of poverty;
- the advancement of education;
- the advancement of health or the saving of lives;
- the advancement of citizenship or community development;
- the advancement of the arts, culture, heritage or science;
- the advancement of amateur sport;
- the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- the advancement of environmental protection or improvement;
- the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
- the advancement of animal welfare;
- the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services;

3.2 Statutory Powers

3.2.1 The power that enables the Council to regulate charitable street collections and to issue permits is contained in the *Police, Factories, etc., (Miscellaneous Provisions) Act 1916* as amended by the *Charitable Collections (Transitional Provisions) Order 1974*.

3.2.2 In accordance with its powers, the Council has made regulations under this legislation for the control of street collections in the area of Hinckley & Bosworth in respect of the places where and the conditions under which persons may be permitted in any street or public place to collect money or sell articles for the benefit of charitable or other purposes.

3.2.3 The legislation and regulations stipulate that any collection to be undertaken in a street or public place requires a Street Collection Permit. It is a criminal offence to conduct a street collection in any street or public place within the Borough of Hinckley & Bosworth without first obtaining such a permit from the Council.

3.3 Policy Statement

3.3.1 The Council will use the Charity Commissions objectives as a basis for decision- making:

- The public confidence objective.
- The public benefit objective.
- The compliance objective.
- The charitable resources objective.
- The accountability objective.

3.3.2 This section outlines the policies the Council will apply when making decisions on applications for permits. In particular, it explains how the street collection regulations are to be applied; and where and how often an organisation may make a street collection in Hinckley & Bosworth:

3.4 Authorisation for the collection

3.4.1 The promoter of a street collection shall have written authorisation from the organisation that is to benefit from the collection. Such authorisation shall include contact details for the benefiting organisation.

3.4.2 In cases where the benefiting organisation is collecting on behalf of themselves the application shall include details of the promoter's role within the organisation.

3.4.3 Exceptions to the requirements for authorisation may be made with regards to National televised appeals such as Comic Relief, Children in Need and other similar appeals where authorisation is not easily obtained.

3.5 Allocation of street collection days

3.5.1 Street Collection licences will not be issued on Monday and Saturday Market days due to complaints of harassment from shoppers, members of the public, retailers and market traders.

3.5.2 No charity will be granted more than one Street Collection licence per calendar year unless that charity is part of an Emergency Appeal per section 3.7.

3.5.3 Whenever it is necessary separate collections may be granted on the same date for the week.

3.5.4 Priority will be given to 'local' charities, associations or organising bodies.

3.5.5 A local charity is a charity that has significant ties to the Borough of Hinckley & Bosworth. It is for the charity to demonstrate to the Council that it has significant ties to or near the Borough of Hinckley & Bosworth. This may be, for example, that it:

- Is based in the borough;
- Conducts work in the borough;
- Spends money in the borough;
- Employs people in the borough;
- Acts for people living in the borough;

This is not an exhaustive list; each application will be considered on its own merits.

3.5.6 The Council operates a diary booking system on a "first come first served" basis for the allocation of street collection dates in order to ensure that all charities have equal access to their preferred collection dates. No guarantee will be given that a charitable organisation's preferred date(s) will be allocated to that organisation. Where an organisation's preferred date(s) cannot be granted, alternative dates may be suggested where practicable.

3.5.7 Transitory collections, e.g. those whose collections pass through the Borough, will be given permits subject to their route not coinciding with a permit already granted. These types of events are normally sponsored walks, street processions, cycle rides or bed pushes.

3.6 Consultation on Applications made

3.6.1 The Council will take into account any decision by another Local Authority to refuse permission for the individual or organisation in question to hold a street or house to house collection, and the reasons for it.

3.6.2 The Council will take into account information or advice supplied by the Police or other relevant bodies in deciding whether to grant a permit.

3.7 Emergency Charitable Collections

3.7.1 Special consideration may be given to emergency disasters, which result in unexpected fundraising activities.

3.7.2 The Council may consider issuing more than one organisation a permit on any one day where the collections are in relation to a particular emergency disaster.

3.7.3 However, Street Collection permits for emergency disasters would not normally be allocated a date and location where a permit has already been authorised for another non-related collection, unless express permission has been received from the organisation granted the original permit.

3.7.4 Emergencies can include local, national and international. If the emergency has been classified as such (by Central Government, for example) the collection will be normally determined by the Principal Licensing Officer for Hinckley & Bosworth Borough Council.

3.8 Applicants suitability to conduct charitable collections

3.8.1 The Council will not issue permits to an individual or organisation that has held an unlawful street or house to house collection within its area, or that of another Local Authority.

3.8.2 The Council will not issue further permits to an individual or organisation that has broken the Street Collections Regulations set by this Council or those of another Local Authority within the last five years.

3.8.3 The Council will not issue permits to an individual or organisation if it is not satisfied that the applicants are ‘fit and proper’ persons to hold such street collection permits. This will include persons convicted of any offence involving dishonesty, fraud, and offences against the person, indecency or offences involving the conduct of collections.

3.8.4 The Council will not issue permits to an individual or organisation whose aims do not appear to be charitable. Where there is any doubt about the aims of the collecting body, it will be asked to provide further evidence to clarify that doubt.

3.8.5 Whilst it is not the Council's policy to require an organisation applying for a permit to collect to be a registered charity, where an application is received that is considered in the Council's judgment not to fulfil the Council's aims, the Licensing Officer for Hinckley & Bosworth Borough Council may refuse the application.

3.8.6 The Council will only issue permits to an individual or organisation which provides adequate information so that the application can be considered properly. This may include any information, which might lawfully be requested by the Council in addition to that given on the application form.

3.9 Face-to-Face Direct Debit (DD) Charitable Street Collections

3.9.1 The Council does not control collections where pledges are collected for direct debit donations (clipboard collectors or 'chuggers') because they do not collect actual money and there are no legal provisions for collections of this type at present. Being asked to donate to a charity on the street through a collecting tin is an entirely accepted practice and the most preferred way to be asked to give. This is a passive approach to fundraising, where people feel in control of the situation and not under pressure. The problem with 'chugging' is that it is seen as, and can be, aggressive, to the point where anecdotal evidence suggests that the presence and activities of 'chuggers' can discourage people from going to nearby shops, or even visiting high streets at all. These are issues of frequency and behaviour – both of which can and should be addressed through regulation.

3.10 Approval of the Application – Issue of a Street Collection Permit

3.10.1 On approving the application, a Street Collection Permit will be issued to the applicant along with:

- A link to the Council's Policy/Regulations for a street collection which must be adhered to during and after collections;
- A copy of the street collections Form of Statement/Returns Form which must be completed not later than one month from the collection date;
- Details of the date, time or frequency of the collection;
- Details of the area within which the collection is to take place;
- Details of the form of collection boxes, other containers and any other articles to be used; and
- Any other restriction relating to the circumstances and conduct of the collection.

3.11 Submission of Statement of income and expenditure

3.11.1 Attention is drawn to section 16 of the regulations which sets out the procedure for submission of a statement of income and expenditure (certified by the applicant and either an accountant or an independent person of good standing acceptable to the Council) etc. All items required under this regulation must be submitted within one month of the date of collection and it is essential that this time scale be adhered to. Failure to comply may prejudice any future applications.

3.12 Duration of Permit

3.12.1 The permission to carry out a street collection is valid only for the period of collection specified in the permit. There are no provisions in the legislation for renewal of permits. Therefore, in all cases where a street collection permit has expired, a new application will have to be made for future collections.

3.13 Refusal of Application / Revocation of Licence

3.13.1 There are no statutory grounds for refusing an application for a street collections permit. However, there is an implied power to refuse if the Council considers that the collections:

- Are not for "charitable or other purposes"
- Contravene the provisions of the Street Collection legislation and regulations.

3.13.2 In addition, the Council can refuse any application that is inconsistent with its general policy requirements for the issue of permits in the Borough. Some of these reasons may include:

- To limit the number of collections.
- If too high a proportion of the proceeds is likely to be spent on expenses.
- If inaccurate information was provided on the licence application.
- If the promoter or any other person involved has been convicted of certain criminal offences, in particular offences of dishonesty e.g. theft, blackmail or fraud etc.
- Once issued, a licence may be revoked if it is believed the objectives are or could be compromised.

3.14 Appeals

3.14.1 Any person/organisation who is dissatisfied with the refusal of an application for a street collection permit may request that the application be considered formally by a sub-committee of the Licensing Committee. This must be made in writing within 21 days of the date of refusal letter.

3.14.2 The Act does not make provision for legal appeals against the decision of the Council in relation to the refusal of Street Collection Permits. Should a person aggrieved by a decision of the Council feel it necessary, they may seek a Judicial Review of the decision.

4 House to House Collection Guidance

4.1.1 Application for a licence must be made in the prescribed manner. The Local Authority cannot grant a licence for a period longer than twelve months and may refuse a licence, or where granted, may revoke it, in circumstances specified in the House to House Collections Act 1939.

4.1.2 House to House application forms can be downloaded from the Authority's website together with a copy of the House to House Collection Regulations, or applied for on-line, or alternatively obtained from the licensing team located at the following address:

The Licensing Service
Hinckley & Bosworth Borough Council
Hinckley Hub
Rugby Road
Hinckley
LE10 0FR

Tel No: 01455 238141

Email: esadmin@hinckley-bosworth.gov.uk

4.1.3 The application form must be fully and correctly completed and accompanied where appropriate by any necessary information. Before the Authority can grant a House to House collection permit, it needs to have as much information as possible about the charity, its promoters and its collectors.

4.1.4 If the Charity has not previously applied for a permit to conduct a collection and/or sale within Hinckley & Bosworth, the following must accompany the application: the aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association; details of house to house collection licences approved or refused (other than with the Councils area); a copy of the organisation's most recent audited accounts; and any other relevant information requested by the Council.

4.1.5 Applications will be considered on receipt and, where appropriate, additional information may be requested from the applicant. Failure to provide adequate information in the application form or upon request will result in a refusal or a delay in consideration until any outstanding information has been provided.

4.1.6 There is a right of appeal to the Secretary of State against the refusal or the revocation of a licence. This should be made within fourteen days from the date on which notice is given of the refusal or the revocation.

4.7 National Exemption Orders

4.7.1 Where the Secretary of State is satisfied that a person pursues a charitable purpose throughout the whole, or a substantial part of England and Wales, and is committed to promoting collections for that purpose, the Secretary of State may by Order direct, in effect, that such person shall be exempt from the requirement to obtain licences from the Licensing Authority, in respect of collections for that purpose in such localities as may be described in the Order.

5 House to House Collections Policy

5.1.1 This part of the Policy sets out how the Council will deal with charitable organisations that wish to collect money or other articles by means of going from house to house which includes places of business such as shops and public houses.

Definitions

- "Charitable Purpose" means any charitable, benevolent, or philanthropic purpose.
- "Collection" means an appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property; and "Collector" means a person who makes the appeal in the course of such visits.
- "House" includes a place of business.
- "Proceeds" means in relation to a collection, all money and all other property given, whether for consideration or not, in responses to the appeal.
- "Promoter" means a person who causes others to act as collectors for the purposes of the collection.

5.1.2 The promoter of a collection must, within one month of the expiry of the licence, furnish an account of the collection in the form prescribed to the licensing authority or the Secretary of State, as the case may be.

5.1.3 Data Protection Act 1998: Hinckley & Bosworth Borough Council is registered with the Data Protection Act 1998 for the purpose of processing personal data in the performance of its legitimate business. Any information held by the Council will be processed in compliance with the principles set out in the Act.

5.1.4 House to House Collections, as set out under Section 2 of the House Collections Act 1939 and the House to House Collections Regulations 1947, are required to be licensed and regulated by Local Authorities.

5.1.5 In accordance with its powers, the Authority made regulations under this legislation for the control of House to House collections in the area of Hinckley & Bosworth Borough Council.

5.1.6 The Act and the Regulations made there under contain important provisions for The Regulation of House to House Collections for Charitable Purposes, and prescribe fines and/or imprisonment for offences against the Act or the Regulations.

5.1.7 No collection for a charitable purpose may be made in any locality of Hinckley & Bosworth Borough Council unless the promoter is licensed by the Council for the area comprising that locality, and the collectors are authorised by the promoter.

5.1.8 Whilst each application will be decided on merit, at least 75% of the total proceeds of the collection must be given to the charity or cause. No more than 25% of the total proceeds can be deducted by the organisation for expenses/costs relating to the collection.

5.1.9 Under an Exemption Order, the requirement is only to notify the Local Authority of the charity's intention and to send to the Authority the account forms for our inspection files.

5.1.10 Under these instructions the Council have in some weeks had a number of collections put forward during the same period of time. Therefore the Authority may defer a collection to a later date if there is too high a concentration of collections in an area over a period of time.

6. Enforcement

6.1.1 The Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner and will abide by its own enforcement policy.

6.1.2 Licensing Officers aim to work closely with other enforcement agencies when investigating unauthorised Collections and Promoters of those collections and persons causing a nuisance, annoyance or harassment to the public.

6.1.3 Where licensable activities are conducted without the benefit of a licence/permit, the Council will look to gather evidence and take enforcement action as appropriate.

Hinckley & Bosworth
Borough Council

A Borough to be proud of

Regulations made by Hinckley & Bosworth Borough Council with regard to street collections

In pursuance of section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916, as amended by section 251 and Schedule 29 to the Local Government Act 1972, Hinckley & Bosworth Borough Council hereby makes the following regulations with respect to the places where and the conditions under which persons may be permitted in any street or public place within the Hinckley & Bosworth Borough to collect money or sell articles for the benefit of charitable or other purposes.

1. In these Regulations, unless the context otherwise requires:-

   "Collection" means a collection of money or a sale of articles for the benefit of charitable or other purposes and the word "collector" shall be construed accordingly;

   "Promoter" means a person who causes others to act as collectors.

   "The Licensing Authority" means Hinckley & Bosworth Borough Council.

   "Permit" means a permit for a collection.

   "Contributor" means a person who contributes to a collection and includes a purchase of articles for sale for the benefit of charitable or other purposes.

   "Collecting box" means a box or other receptacle for the reception of money from contributors.

2. No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within the Borough of Hinckley and Bosworth unless a promoter shall have obtained a permit from us.

3. Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection, provided that we may reduce the period of one month if satisfied that there are special reasons for so doing.

4. No collection shall be made except upon the day and between the hours stated in the permit.

5. We may, in granting a permit, limit the collection to such streets or public places or such parts thereof we it thinks fit.

6.
   a) No person may assist or take part in any collection without the written authority of a promoter

   b) Any person authorised under paragraph (1) above shall produce such written authority forthwith for inspection on being requested to do so by our duly authorised officer or any constable

7. No collection shall be made in any part of the carriageway of any street which has a footway;

provided that we may, if we think fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.

8. No collection shall be made in a manner likely to inconvenience or annoy any person.

9. No collector shall importune any person to the annoyance of such person.

10. While collecting -

(a) A collector shall remain stationary

(b) A collector or two collectors together shall not be nearer to another collector than 25 metres

We may, if we think fit, waive the requirements of this Regulation in respect of a collection which has been authorised to be held in connection with a procession.

11. No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector. We may permit persons of fourteen years of age or more to act as collectors where we are satisfied that it is reasonable in the circumstances of a particular collection and that collectors under sixteen years of age will be accompanied by an adult.

12.

(1) Every collector shall carry a collecting box

(2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken

(3) All money received by a collector from contributors shall immediately be placed in a collection box

(4) Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter

13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon the name of the charity or fund which is to benefit, nor any collecting box which is not duly numbered.

14.

1) Subject to paragraph (2) below, a collecting box shall be opened in the presence of a promoter and another responsible person

2) Where a collecting box is delivered, unopened, to a bank, it may be opened by a official of the bank

3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person

15. (1) No payment shall be made to any collector

(2) No payment shall be made out of the proceeds of a collection, either directly or indirectly, to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith, except such payments as may have been approved by us

16. (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to us-

(a) A statement in the form set out in the Schedule to these Regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection, and certified by that person and either a qualified accountant or an independent person acceptable to us

(b) A list of the collectors

(c) A list of the amounts contained in each collecting box; and shall, if required by us satisfy it as to the proper application of the proceeds of the collection

(2) The said person shall also, within the same period at the expense of that person and after the certificate under paragraph (1)(a) above has been given, publish in such newspaper or newspapers as the Licensing Authority may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected, and the amount of the expenses and payments incurred in connection with such collection. Provided that we may, if we think fit, waive the requirements of the sub-paragraph in respect of a collection in which the total amount collected does not exceed £150.

(3) We may, if satisfied there are special reasons for so doing, extend the period of one month referred to in paragraph (1) above.

(4) For the purpose of this Regulation a "qualified accountant" means a member of one or more of the following bodies:-

- The Institute of Chartered Accountants in England and Wales
- The Institute of Chartered Accountants of Scotland
- The Association of Certified Accountants
- The Institute of Chartered Accountants in Ireland

17. These Regulations shall not apply -

(a) In respect of a collection taken at a meeting in the open air

(b) To the selling of articles in any street or public place when the articles are sold in the ordinary course of trade

18. Any person who acts in contravention of any of the foregoing Regulations shall be liable on summary conviction to a fine not exceeding level 1 of the standard scale.

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House to House Collections Regulations 1947

SR&O 1947 No 2662

1. Title and extent

(a) These regulations may be cited as the House to House Collections Regulations 1947, and shall come into operation on the twenty-ninth day of December 1947.

(b) These regulations shall not extend to Scotland.

2. Interpretation

(a) In these regulations, unless the context otherwise requires - 'The Act' means the House to House Collections Act 1939;

'chief promoter', in relation to a collection, means a person to whom a licence has been granted authorising him to promote that collection or in respect of whom an order has been made directing that he shall be exempt from the provisions of subsection (2) or section 1 of the Act as respects that collection;

'collecting box' means a box or other receptacle for monetary contributions securely closed and sealed in such a way that it cannot be opened without breaking the seal;

'licence' means a licence granted by a [licensing authority] 1 under section 2 of the Act;

'order' means an order made by the Secretary of State under section 3 of the Act;

'prescribed badge' means a badge in the form set out in the Fourth Schedule to these regulations;

'prescribed certificate of authority' means a certificate in the form set out in the Third Schedule to these regulations;

'receipt book' means a book of detachable forms of receipt consecutively numbered with counterfoils or duplicates correspondingly numbered;

'street collection' means a collection or sale to which regulations made under section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916, apply.

(b) A mark shall for the purposes of these regulations be deemed to have been made on a collecting box if it is made on a wrapper securely gummed to the collecting box.

(c) The Interpretation Act 1889 applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. Local collections of a transitory nature

(a) Every certificate granted under subsection (4) of section 1 of the Act shall be in the form set out in the First Schedule to these regulations, and sections 5 and 6 and subsections

(4) and (5) of section 8 of the Act shall be set forth on the back of every such certificate.

(b) Where such a certificate is granted as aforesaid, the provisions of these regulations shall not apply, in relation to a collection made for the purpose specified on the certificate, within the locality and within the period so specified, to the person to whom the certificate is granted or to any person authorised by him to act as a collector for the purposes of that collection.

4. Applications for licences and orders

(a) An application for a licence shall be in the form set out in the Second Schedule to these regulations, and shall give the particulars there specified.

(b) An application for a licence or for an order shall be made not later than the first day of the month preceding that in which it is proposed to commence the collection;

Provided that the [licensing authority]' or, as the case may be, the Secretary of State may grant the application notwithstanding that it was not made within the time required by this paragraph if satisfied that there are special reasons for so doing.

5. Responsibility of promoters as respects collectors

(a) Every promoter of a collection shall exercise all due diligence -

(i) to secure that persons authorised to act as collectors for the purposes of the collection are fit and proper persons; and

(ii) to secure compliance on the part of persons so authorised with the provisions of these regulations.

6. Certificates of authority, badges, collecting boxes and receipt books

(a) No promoter of a collection shall permit any person to act as a collector, unless he has issued or caused to be issued to that person -

(i) a prescribed certificate of authority duly completed (except as regards the signature of the collector) and signed by or on behalf of the chief promoter of the collection;

(ii) a prescribed badge, having inserted therein or annexed thereto a general indication of the purpose of the collection; and

(iii) if money is to be collected, a collecting box or receipt book marked with a clear indication of the purpose of the collection and a distinguishing number, which indication and number shall, in the case of a receipt book, also be marked on every receipt contained therein in addition to the consecutive number of the receipt.

(b) Every promoter of a collection shall exercise all due diligence to secure -

(i) that no prescribed certificate of authority, prescribed badge, collecting box or receipt book is issued, unless the name and address of the collector to whom it is issued have been entered on a list showing in respect of any collecting box or receipt book the distinguishing number thereof; and

(ii) that every prescribed certificate of authority, prescribed badge, collecting box or receipt book issued by him or on his behalf is returned when the collection is completed or when for any other reason a collector ceases to act as such.

(c) In the case of a collection in respect of which a licence has been granted -

(i) every prescribed certificate of authority shall be given on a form obtained from Her Majesty's Stationery Office, and every prescribed badge shall be so obtained; and

(ii) every prescribed certificate of authority shall be authenticated, and the general indication on every prescribed badge of the purpose of the collection shall be inserted therein or annexed thereto in a manner approved by the [licensing authority] for the area in respect of which the licence was granted.

7. Duties of collectors in relation to certificates and badges

Every collector shall -

(a) sign his name on the prescribed certificate of authority issued to him and produce it on the demand of any police constable or of any occupant of a house visited by him for the purpose of collection;

(b) sign his name on the prescribed badge issued to him and wear the badge prominently whenever he is engaged in collecting; and

(c) keep such certificate and badge in his possession and return them to a promoter of the collection on replacement thereof or when the collection is completed or at any other time on the demand of a promoter of the collection.

8. Age limit

No person under the age of 16 years shall act or be authorised to act as a collector of money.

9. Importuning

No collector shall importune any person to the annoyance of such person, or remain in, or at the door of, any house if requested to leave by any occupant thereof.

10. Collection of money

(a) Where a collector is collecting money by means of a collecting box, he shall not receive any contribution save by permitting the person from whom it is received to place it in a collecting box issued to him by a promoter of the collection.

(b) Where a collector is collecting money by other means than a collecting box, he shall, upon receiving a contribution from any person, forthwith and in the presence of such person enter on a form of receipt in a receipt book issued to him by a promoter of the collection and on the corresponding counterfoil or duplicate the date, the name of the contributor and the amount contributed, and shall sign the form of receipt, the entries and signature being in ink or indelible pencil, and shall hand the form of receipt to the person from whom he received the contribution.

11. Duty of collectors to return boxes and books

Every collector, to whom a collecting box or receipt book has been issued, shall -

(a) when the collecting box is full or the receipt book is exhausted, or

(b) upon the demand of a promoter of the collection, or

(c) when he does not desire to act as a collector, or

(d) upon the completion of the collection,

return to a promoter of the collection that collecting box with the seal unbroken or that receipt book with a sum equal to the total amount of the contributions (if any) entered therein.

12. Examination of boxes and books

(a) Subject as provided in paragraph (2) of this regulation, a collecting box when returned shall be examined by, and, if it contains money, be opened in the presence of, a promoter of the collection and another responsible person.

(b) Where a collecting box is delivered unopened to a bank, it may be examined and opened by an official of the bank in the absence of a promoter of the collection.

(c) As soon as a collecting box has been opened, the contents shall be counted and the amount shall be entered with the distinguishing number of the collecting box on a list, this shall be certified by the persons making the examination.

(d) Every receipt book when returned and all sums received therewith shall be examined by a promoter of the collection and another responsible person, and the amount of the contributions entered in the receipt book shall be checked with the money and entered with the distinguishing number of the receipt book on a list, which shall be certified by the persons making the examination.

13. Provision for envelope collections

(a) Where the promoter of a collection to whom an order has been granted informs the Secretary of State that he desires to promote an envelope collection, and the Secretary of State is of opinion that the collection is for a charitable purpose of major importance and is suitably administered, the Secretary of State may, if he thinks fit, give permission for the promotion of an envelope collection.

(b) Where an envelope collection is made in accordance with this regulation -

(i) every envelope used shall have a gummed flap by means of which it can be securely closed;

(ii) no collector shall receive a contribution except in an envelope which has been so closed; and

(iii) these regulations shall have effect subject to the following modifications:-

(a) sub-paragraph (c) of paragraph (1) of regulation 6 shall not apply;

(b) regulation 10 shall not apply;

(c) regulations 11 and 12 shall have effect as if each envelope in which a contribution is received were a collecting box;

(d) in regulation 11 for the words ‘with the seal unbroken’ there shall be substituted the word ‘unopened’;

(e) in paragraph (3) of regulation 12 for the words ‘As soon as a collecting box has been opened’ there shall be substituted the words ‘As soon as the envelope has been opened’ and the words ‘with the distinguishing number of the collecting box’ shall be omitted.

(3) In this regulation ‘envelope collection’ means a collection made by persons going from house to house leaving envelopes in which money may be placed and which are subsequently called for.

14. Promoters to furnish accounts

(a) The chief promoter of a collection in respect of which a licence has been granted shall furnish an account of the collection to the [licensing’ by which the licence was granted within one month of the expiry of the licence:

Provided that if licences are granted to the same person for collections to be made for the same purpose in more than one [licensing area] 1 a combined account of the collections made in all or any of those [licensing areas]’ may, by agreement between the chief promoter and the respective [licensing authorities]’ be made only to such of the respective [licensing authorities]’ as may be so agreed.

(b) The chief promoter of a collection in respect of which an order has been made shall furnish an account annually to the Secretary of State so long as the order remains in force, and if the order is revoked a final account shall be furnished within three months of the date of the revocation of the order.

(c) The [licensing authority]' or the Secretary of State may extend the period within which an account is required to be furnished to the authority or to him, as the case may be, if satisfied that there are special reasons for so doing.

(d) The chief promoter of a collection which is made in connection in whole or in part with a street collection of which an account is required to be furnished to a [licensing authority]' by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, may, if the said [licensing authority]' agrees, combine the accounts of the house to house collection, in so far as it is made in connection with the street collection, with the accounts of the street collection, and the amount so included in the combined account shall not be required to form part of the account required to be of this regulation, so, however, that in the case of an account furnished under the said paragraph (2) the account shall show, in addition to an account in respect of moneys received from house to house collections not made in connection with a street collection, a statement showing the total proceeds of all combined collections, the total expenses and the balance applied to charitable purposes.

15. Form and certification of accounts

The account required by the preceding regulation -

(a) where money has been collected, shall be furnished in the form set out in the Fifth Schedule to these regulations and, where property has been collected and sold, shall be furnished in the form set out in the Sixth Schedule to these regulations, and in either case shall be certified by the chief promoter of the collection and by an independent responsible person as auditor; and

(b) where property (other than money) has been collected and given away or used, shall be furnished in the form set out in the Seventh Schedule to these regulations and shall be certified by the chief promoter and by every person responsible for the disposal of the property collected.

16. Vouching of accounts

(a) Every account furnished under paragraph (a) of regulation 15 of these regulations shall be accompanied by vouchers for each item of the expenses and application of the proceeds and, in the case of a collection of money, by every receipt book used for the purposes of the collection and by the list referred to in paragraph (2) of regulation 6 of these regulations and the list referred to in regulation 12 of these regulations.

(2) Paragraph (1) of this regulation shall not apply to an account certified by an auditor who is a member of an association or society of accountants incorporated at the date of these regulations or is on other grounds accepted as competent by the authority to which the account is submitted, but where in such a case the vouchers, receipt books and lists mentioned in the said paragraph (1) are not submitted with an account, the chief promoter shall ensure that they are available for three months after the account is

submitted and shall, if the authority to which the account was submitted so requires at any time within that period, submit them to that authority.

17. Disposal of disused certificates of authority, etc

Due diligence to secure that all forms of prescribed certificates of authority and prescribed badges obtained by him for the purposes of the collection are destroyed when no longer required in connection with that collection or in connection with a further collection which he has been authorised to promote for the same purpose.

[1]Substituted by the Local Authorities (Miscellaneous Provisions) (No 2) Order 1974 (SI 1974 No 595).

[2]Amended by the House-to-House Collections Regulations 1963 (SI 1963 No 684).]

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Hinckley & Bosworth Borough Council

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FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

Licensing (Regulatory) Committee	3 August 2016
Council	1 November 2016

WARDS AFFECTED: Hinckley Castle

STREET TRADING CONSENT POLICY REVISION

Report of Deputy Chief Executive (Community Direction)

1. PURPOSE OF REPORT

1.1 To secure a revised Council resolution requiring street traders to obtain a `Street Trading Consent` if they wish to trade in Hinckley town centre as per Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and, approval of a revised Street Trading Consent Policy. A copy of this revised Policy is attached to this report at Appendix A.

2. RECOMMENDATION

2.1 That the Licensing (Regulatory) Committee:

i) endorse the need for Council to adopt a revised resolution requiring street traders to obtain a `Street Trading Consent` if they wish to trade in Hinckley town centre as per Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

ii) endorse the revised policy (Appendix A to this report)

iii) agree to commencement of the consultation process on a revised resolution.

3. BACKGROUND TO THE REPORT

3.1 Hinckley & Bosworth Borough Council, at the Council Meeting of the 20 January 1987 resolved that the streets in Hinckley Town Centre and any associated pedestrianised areas be designated as Consent Streets for the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The effect of this meant that traders which sell their goods or services in these streets need the consent of the Council to do so and for which there is a fee, currently £970

per annum. Certain exemptions apply for market traders on market days, roundsmen, charities and small community groups etc.

3.2 Currently there are two businesses trading with consent, one being a hot potato trader the other sells ice cream from two locations.

3.3 Given that the street configuration in Hinckley Town Centre has changed due to the Crescent development, it is necessary for Council to revise the resolution of 1987 and at the same time revise the accompanying Street Trading Consent Policy last reviewed in 2009.

3.4 The process of reviewing the Council resolution is laid out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Essentially the Council is required to pass a resolution confirming the application of `Consent Streets` and this resolution takes effect one month after adoption. Prior to passing the resolution the Council has to publish a notice in the local paper and consult with Police and Highway Authority and take into account any representations received before considering the resolution.

3.5 Following adoption of the resolution by Council, a further notice has to be displayed in the local paper for two weeks advertising the resolution has been passed.

3.6 The accompanying Street Trading Consent Policy has worked well since 2009 and as such the revised version, apart from the alteration to the street layout has not been substantially changed. The only proposed changes therefore only relate to:

- updating the Equal Opportunities statement and including statements relating to large print and other language versions being available (Section 2 and Appendix A):

- removing Waterloo Road and Brunnel Road from the schedule of consent streets (Appendix A):

- requiring that any food businesses must maintain and provide evidence for, a rating equivalent to 3 or higher in the Food Standards Agency national Food Hygiene Rating Scheme (Section 11.2).

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

4.1 The report is to be taken in open session.

5. FINANCIAL IMPLICATIONS [AG]

5.1 At present it is difficult to foresee the numbers of businesses who would trade with consent. However, a budgetary provision as per the financial procedure rules will be required once we have definite information

6. LEGAL IMPLICATIONS [AR]

6.1 The body of this report has outlined the statutory requirements as set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

7. CORPORATE PLAN IMPLICATIONS

7.1 In controlling consents the policy will allow for local shopping needs, diversity, balance and conflict with nearby commercial shops to be taken into account and thereby contribute towards the Council aims of creating a vibrant place to work and live, support individuals in developing their business and providing value for money and pro-active services in enforcement of controls.

8. CONSULTATION

8.1 In the process of amending Council resolution consultation will be had with current traders, BID, public, Police and Highways Authority.

9. RISK IMPLICATIONS

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

9.2 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 / project have been identified, assessed and that controls are in place to manage them effectively.

9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Legal compliance	Ensure actions in compliance with Central Government Policy including EU Service Directive	Environmental Health Manager (Commercial)
Reputation with traders may be harmed if allow indiscriminate trading.	Application of policy in fair and consistent manner	Environmental Health Manager (Commercial)
Economic vitality of town centre may be at risk by allowing too many traders selling similar goods.	Application of policy in fair and consistent manner allowing account to be taken for local shopping needs, diversity, balance and conflict with nearby commercial shops.	Environmental Health Manager (Commercial)

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

10.1 No implications as the issue of Street Trading consent will be carried out in accordance of the policy to ensure consistency.

10.2 An Equality Impact Assessment has been undertaken on the revised policy.

11. CORPORATE IMPLICATIONS

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

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: Appendix A – Street Trading Consent Policy

Contact Officer: Steven Merry Ext 5735

Executive Member: Councillor Mr. K. Morrell

06/16

Appendix A

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

Hinckley & Bosworth
Borough Council

A Borough to be proud of

STREET TRADING CONSENT POLICY

1.0 Introduction

1.1 This policy covers street trading within the Borough of Hinckley and Bosworth (the Council).

1.2 The granting of the street trading consents is made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4.

1.3 For the purpose of the policy, all streets within Annex 1 are consent streets as designated in the Act.

1.4 Subject to statutory exemptions a street trading consent is required for the sale of any goods from land to which members of the public have access to without payment.

2. 0 Equal Opportunities Statement

In developing this policy, the Council has recognised its responsibility under the Equality Act 2010 to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not

The Act and the Council seeks to outlaw unlawful discrimination against a person or group of people because of their:

- Age
- Disability
- Gender reassignment

- Marriage and civil partnerships (in respect of the requirement to have due regard to the need to eliminate discrimination)
- Pregnancy and maternity
- Race
- Religion
- Sex
- Sexual orientation.

The council will not be affected by improper or undue influence from any source. To assist in this:

- The 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.
- Support will be offered to individuals who are socially excluded to assist in their understanding of legislation and legal requirements
- Action will be taken to ensure that all enforcement action, particularly against those individuals from disadvantaged groups or who share protected characteristics, is dealt with fairly.
- An Equality Impact Assessment has been completed for this policy.

3.0 Policy

3.1 The Council's street trading policy is to create a street trading environment which:

- compliments premises-based trading;
- provides diversity and consumer choice;
- seeks to enhance the character and vibrancy of the area;
- is sensitive to the needs of residents;
- is safe;
- is welcomed by the communities it serves.

3.2 Consents will be valid for a **maximum period of one year**.

4.0 Process

4.1 The Environmental Health Manager (Commercial) shall have delegated responsibility for approving Street Trading Consents, with appeals being dealt with by a panel of members from the Licensing (Regulatory) Committee on request.

4.2 It is the responsibility of each individual trader to seek advice from the Council's Planning Services as to whether planning consent is required. This is likely to be more pertinent if the trade is likely to operate for more than 28 days in any one year.

5.0 Locations:

In considering the suitability of a street trading location account will be taken of:

- road safety;
- existing traffic restrictions;

- obstruction of free and safe passage;
- loss of public amenity.

6.0 Type of Goods For Sales

6.1 The suitability of goods to be sold will be determined on a case by case basis. The Council will be mindful of and take account of all relevant matters, including local shopping needs, diversity, balance and conflict with nearby commercial shops and trading vehicles.

6.2 The following are likely to be considered not suitable:

- Age restricted products;
- Second hand gas and electrical appliances;
- Pets & livestock;
- Explosive and inflammable products;
- Motor vehicles;
- Fast food including (burgers, hot dogs, fish & chips, pizza, other odorous foods)
- Alcohol
- such other goods as may be identified by the Licensing (Regulatory) Committee.

6.3 The types of goods approved as part of this policy for street trading will include; (subject to the pitch location)

- Arts/Crafts
- Jewellery
- Candles
- Paintings (include portraits/face painting)
- Balloons
- Confectionary/Nuts/Doughnuts
- Ice cream
- Hot potato vendors
- Crepes/Waffles

6.4 The Environmental Health Manager (Commercial) along with the Councils` Town Centre Manager shall have authority to determine which pitches are suitable for the sale of what types of goods.

6.5 Requests to sell goods which do not fall within the description in paragraph 6.3 above shall be referred to a panel of members from the Council's Licensing (Regulatory) Committee for decision, in the absence of agreement by the Environmental Health Manager (Commercial) and Town Centre Manager.

7.0 Trading Hours

Street trading is not permitted between the hours of 11:30 pm and 6am.In all cases the trading hours will be stated in the consent and must be adhered to.

8.0 **Street Trading Consent Fees**

8.1 The level of fees will be reviewed annually as part of the normal budget exercises.

8.2 Consent fees are payable in addition to any market rental fees. The minimum and maximum consent period is 12 months.

8.3 Fees are payable in advance or by Direct Debit agreement with the Council's Finance Department. Any default on payment of fees will render the consent void. There will be no refunds for early surrender or removal of the consent.

9.0 **General**

9.1 Street trading consents do not apply on market days within the boundary of the market, however traders are required to pay the appropriate trading fees to the Council and where appropriate hold a Market Traders License.

9.2 The granting or renewal of a street trading consent is controlled by the consent document which attaches conditions relating to such issues as:-

- Obstructions
- Nuisance or annoyance
- Location of trading
- Operation times
- Litter control
- Any other conditions reasonable necessary.

9.3 The Council's Licensing (Regulatory) Committee shall be the instigator of new conditions. A panel of members from the Licensing (Regulatory) Committee will be the arbiter in any appeals about conditions.

9.4 Street trading consents will be issued for a maximum of 12 months only.

9.5 In relation to the Christmas Market or other organised events, some of the designated pitches may be affected. Such pitches will be incorporated into the event or an alternative location offered for the duration of the event. The vendor shall have the option of being involved in the event subject to any additional rental costs being met by the vendor.

9.6 Registered charities and market traders (on market days only) who hold licences from the Council are exempt from the requirements to hold a street trading consent. Additionally small scale community type events and traders associated with the Tin Hat Fair where street trading takes place will not incur a consent fee. Any other commercial operation vendor attending such events will be required to hold a consent and a consent fee will be payable.

9.7 The Environmental Health Manager (Commercial) shall have the discretion to decide on the commercial status of the vendor with the right of appeal to a panel of members form the Council's Licensing (Regulatory) Committee.

9.8 Enforcement of street trading will be undertaken by officers authorised under delegated powers by the appropriate Deputy Chief Executive.

9.9 The Environmental Health Manager (Commercial) or other appropriate officers will have the discretion to refer any matters to Licensing (Regulatory) Committee or a panel of members of that committee for consideration, where considered appropriate.

10.0 Definitions

10.1 **"Street trading"** is selling, offering or exposing for sale any article in a road, street, footway or other area to which the public have access without payment except for the following which are not **"street trading"**;

- trading under the authority of a pedlar's certificate;
- Market trading on market days on payment of market rent
- trading as a roundsman e.g. milkman
- trading as a newspaper vendor from a small kiosk;
- trading from the forecourt of a petrol filling station.

(the above activities are specifically excluded from the definition of "street trading" - Schedule 4, Local Government (Miscellaneous Provisions) Act, 1982).

10.2 **"Street"** means any area where the public has free access without payment and includes part of a street.

10.3 **"Consent street"** means a street in which street trading is prohibited without the Council's consent.

10.4 **"Operator"** means the consent holder and any person employed by the consent holder to assist at the consent location

10.5 **"Vehicle"** includes any stall, barrow, cart etc. used in connection with trading.

10.6 **"Trading"** means the offering of any goods or items including food.

10.7 Any other term shall have the same meaning as in the Local Government (Miscellaneous Provisions) Act, 1982.

11.0 Conditions:

11.1 The grant of a street trading consent must not be regarded as signifying any other consent or permission nor be regarded as signifying compliance with any other legal requirement whatsoever.

11.2 Consents will be subject to the general conditions stated below and any particular conditions as may be specified in the consent document;

- Breach of any condition may render the consent liable to be forfeit;
- Consent is personal to the consent holder and cannot be assigned or transferred to any other person;
- Consents must be surrendered to the Council if the consent holder ceases trading;
- The trading area to which the consent applies is to be used solely by the consent holder and is not to be let, hired or loaned or in any other way used by any other person;
- The consent holder is required to be in regular attendance at the site;

- The consent shall be available at all times for production at the request of an authorised officer of the Council or a police officer;
- The consent licence provided by the Council shall be displayed in a conspicuous place on the vehicle at all times the consent is in operation;
- Consent holders must notify the Council in writing of any permanent change of address or other details for themselves or any assistant they employ as soon as is practicable and in any event within 28 days;
- Consent holders must notify the Council in writing of any convictions for offences committed by themselves or any assistant they employ. Notification must be as soon as practicable and in any event within 28 days of the conviction;
- Consent holders must maintain public liability insurance cover in the sum of not less than £5,000,000 and produce documentary evidence of such cover at the request of an authorised officer of the Council;
- Consent holders must maintain appropriate road traffic insurance and produce documentary evidence of such cover at the request of an authorised officer of the Council;
- Vehicles must not be parked or sited in a prohibited area at any time;
- Except from locations as are designated sites, operators must not:
    - obstruct the free passage of pedestrians;
    - park or site a vehicle where it might interfere with the safe use of a school entrance;
    - park or site a vehicle within 20 metres of a road junction
- Traders' pets or other animals, except registered assistance dogs, are not allowed at a street trading location;
- A consent holder must not trade in a manner that is likely to cause a nuisance or annoyance;
- A consent holder shall only sell the type of item specified in the consent;
- A consent holder shall not trade outside the hours permitted in the consent;
- A consent holder shall provide and maintain adequate refuse receptacles for litter and shall remove all litter in the vicinity of the site. Also the surrounding area shall be kept clean and tidy;
- Operators shall prevent refuse from being deposited in the street and shall not discharge water, effluent or other waste into the street or any drains;
- Vehicles used for the purpose of street trading shall be constructed and maintained to the satisfaction of the Council;
- Any other equipment used for the purpose of street trading shall be of a design approved by, and maintained to the satisfaction of, the Council;
- Units must be free standing and on wheels so that they can be readily moved in an emergency;
- The use and storage of inflammable materials shall comply with the requirements of the Fire Service;
- Generators may not be employed unless expressly permitted in the consent;
- Only lighting that is expressly approved in the consent may be provided by the consent holder at the site;
- Devices for the reproduction of sound shall not be employed;
- Advertisements or other notices must not be placed outside the perimeter of the site without express approval in the consent;
- The operator shall comply with all reasonable requirements or requests from an authorised officer of the Council, a fire officer or a police officer;
- A consent holder must not trade in food unless registered with the Council under Food Safety legislation;

- Food businesses must maintain a rating equivalent to 3 or higher in the Food Standards Agency national Food Hygiene Rating Scheme and at all times whilst trading display their award.
- Operators shall comply with consumer protection and fair trading requirements;
- Consents do not authorise trading on occasions of special events which are notified as such to consent holders in advance;
- Conditions may be added or amended at any time by giving 28 days notice in writing to consent holders.

12.0 **Applications**

12.1 A trader may trade at any location in a consent street subject to an application process, consultation and the imposition of any conditions that may be imposed and any regulations that may be drawn up regarding the general suitability of locations, vehicles/units and trade lines.

12.2 In considering applications for street trading consent relevant enforcement agencies may be consulted.

12.3 Applications will not be accepted from persons under the age of seventeen – Schedule 4 paragraph 7(1)(a) Local Government (Miscellaneous Provisions) Act,1982.

12.4 Consents are personal in nature and applications will only be accepted from 'natural persons' not legal entities.

12.5 Each application will be determined on its own merits taking into account, amongst other matters, issues of:

- public safety;
- public order;
- public nuisance;
- the needs of the area.

12.6 Application forms must:

- be properly made out with all relevant sections completed;
- be accompanied by the correct fee
- be accompanied by two passport type colour photographs of the applicant and of any assistant the applicant seeks to employ;
- applicants for street trading consents have a public inter face, often with children. Applicants will therefore be required to submit a Basic Disclosure Notice from the Criminal Records Bureau in Scotland (or equivalent successor) for themselves and for each assistant the applicant seeks to employ. Such certificates shall be issued no earlier than one calendar month before submitting the application to the Council
- be accompanied by evidence of current third party liability insurance in the sum of £5,000,000;
- be accompanied by evidence of appropriate motor insurance;
- be accompanied by full details with pictorial representation in colour of the vehicle to be used.
- be accompanied by a map of the proposed trading location. Maps shall be of a minimum scale of 1:2500.

- be accompanied by evidence of registration under food safety legislation and food hygiene rating (if relevant);
- be accompanied by evidence of waste removal arrangements from the site (if relevant);

12.7 In processing an application the Council may seek comment from the following consultees:

- Police
- Fire Service
- Ambulance Service
- Trading Standards
- Town Centre Manager
- Environmental Health
- Licensing Enforcement
- Traffic Management
- Disability Forums
- Any other person or body whom the Council feels it appropriate to consult

13.0 **Licensing (Regulatory) Sub-Committee Hearings**

13.1 A panel of members from the Licensing (Regulatory) Sub-Committee will be set up to hear any appeal of a decision of the Environmental Health Manager (Commercial) in relation to the refusal of a consent , goods deemed not suitable for sale or against a condition imposed on a consent. The panel of members will be made up of not less than three elected members.

13.2 In all cases where an adverse Criminal Records Bureau disclosure is received the application will be determined by a panel of members from the Licensing (Regulatory) Sub-Committee in accordance with the Guidelines on the relevance of convictions (detailed below).

13.3 Applications will normally be determined within 60 days and applications for renewals must be submitted no less than 60 days prior to the lapse of the consent to be renewed.

14.0 **Guidelines Relating to the Relevance of Convictions:**

14.1 These guidelines are applicable to:

- applicants for the grant or renewal of a street trading consent,
- persons who wish to be registered to assist a holder of a street trading consent
- holders of a street trading consent and persons registered to assist a consent holder.

14.2 General Policy:

- Each case will be decided on its own merits.
- A person with a current conviction for serious crime need not be permanently barred from obtaining a street trading consent but should be expected to remain free of conviction for three to five years according to the circumstances before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating

circumstances. However the overriding consideration should be the protection of the public.

- In considering previous convictions the following matters will be taken into account:
  (a) whether the conviction is relevant;
  (b) the seriousness of the offence;
  (c) the length of time since the offence occurred;
  (d) whether there is a pattern of offending behaviour;
  (e) whether that person's circumstances have changed since the offence occurred;
  (f) the circumstances surrounding the offence and the explanation offered by that person.

14.3 Dishonesty

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest trader or assistant to take advantage of the public. Members of the public using a street trading outlet expect the holder and any assistant to be honest and trustworthy. For these reasons a serious view will be taken of any conviction involving dishonesty. In general, an applicant for the grant or renewal of a street trading consent is unlikely to be granted a street trading consent where the application is made within 3 to 5 years from the date of conviction. Similarly a person wishing to be registered as an assistant to a street trading consent holder is unlikely to be registered where registration is sought within 3 to 5 years from the date of conviction.

14.4 Violence

As street traders and their assistants have close contact with the public, a firm line will be taken with applicants who have convictions for violence. Generally, a period of 3 to 5 years free of conviction will be required before an application is likely to be considered favourably.

14.5 Drugs

An applicant with a conviction for a drug related offence should be required to show a period of at least three years free of convictions before an application is entertained.

14.6 Indecency Offences

As the holders of street trading consents and their assistants, and in particular those who sell ice cream, have access to children, applicants who have convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences are likely to have their application refused until they can show a substantial period of at least three to five years free of such offences. More than one conviction of this kind is likely to preclude consideration for at least five years.

14.7 Motoring Convictions

Motoring offences are unlikely to be relevant when deciding if an applicant for a street trading consent or to be registered as an assistant to the holder of a street trading consent is a suitable person. However, there may be instances

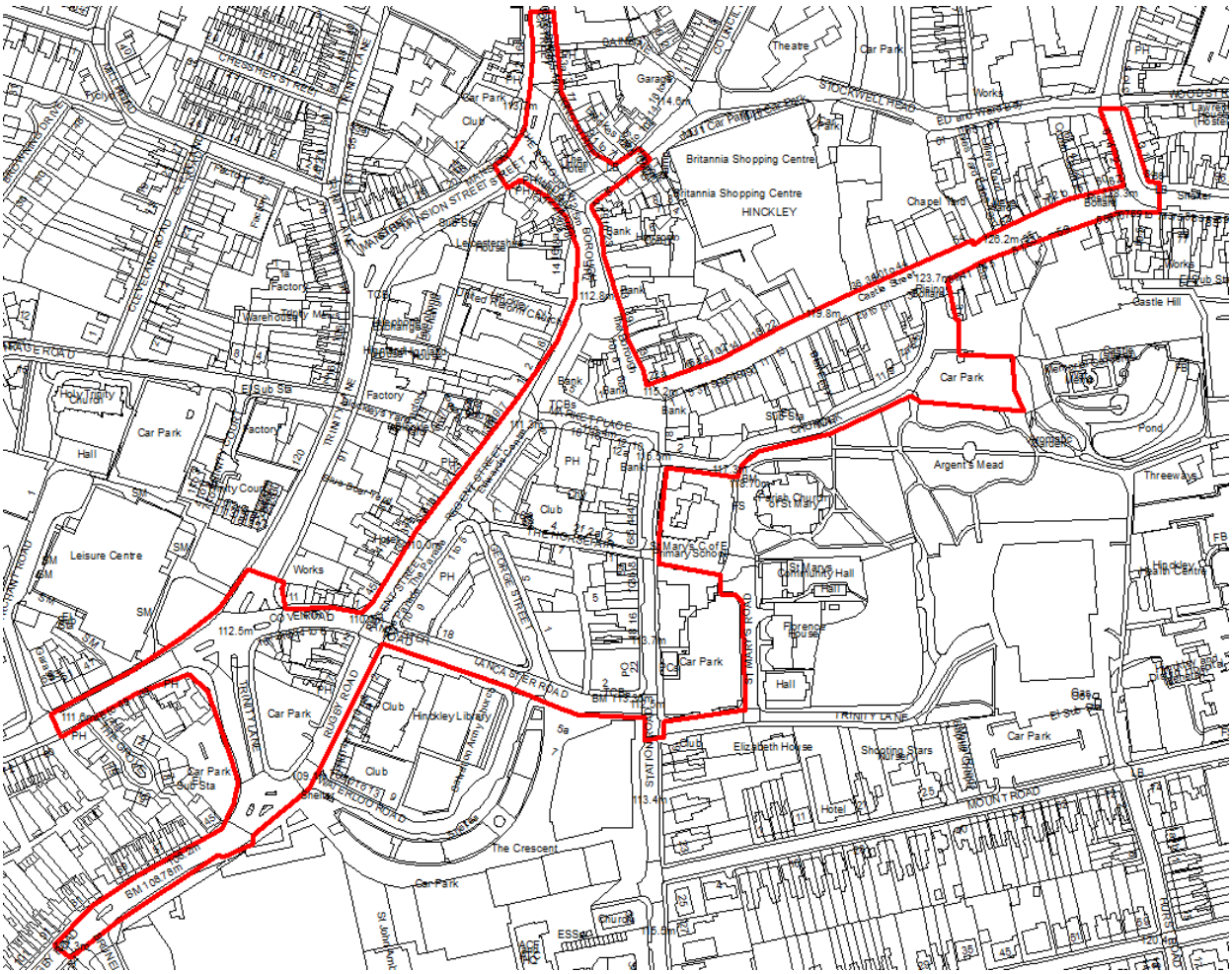
where the offences are not isolated and are of a very serious nature. In such circumstances the applicant should be required to show a period of one to three years free of conviction.

14.8 Formal Cautions and fixed penalty notices

For the purposes of these guidelines, the Council may treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as convictions.

Annex 1

Designated Consent Streets in Hinckley Town Centre made under the Local Government (Miscellaneous) Provisions Act 1982,Schedule 4



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Hinckley & Bosworth Borough Council, at the Council Meeting of the ??? 2016, minute ???, resolved that the following streets in Hinckley Town Centre and any associated pedestrianised areas as Consent Streets for the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:

Parts of :	Castle Street	New Buildings
	Rugby Road	Station Road
	Trinity Lane	Council Road
	King Street	Lower Bond Street
	Mansion Street	
The Whole of :	Church Walk	George Street
	Lancaster Road	Market Place
	Regent Street	The Borough
	The Horsefair	

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Telephone:01455 238141. Email: customer.services@hinckley-bosworth.gov.uk

অন্যান্য ভাষায় অনুবাদ এবং বড় ছাপা অক্ষর বা অডিও'তে আরো কপি নিম্নের ঠিকানায় পাওয়া যায় ঃ
Hinckley and Bosworth Borough Council
Hinckley Hub, Rugby Road, Hinckley, Leics LE10 0FR টেলিফোন ঃ 01455 238141 ই-মেইল ঃ
customer.services@hinckley-bosworth.gov.uk

બીજી ભાષાઓના ભાષાંતરમાં અને મોટા અક્ષરોમાં અથવા ઓડિઓના રૂપમાં વધારાની નકલો નીચેના સરનામા ઉપર ઉપલબ્ધ છે:
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