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Steve Atkinson MA(Oxon) MBA FIoD FRSA
Chief Executive

Date: 05 December 2014

Hinckley & Bosworth
Borough Council

A Borough to be proud of

To: **Members of the Licensing Committee**

| | |
|-------------------------------|------------------|
| Mr K Nichols (Chairman) | Mr LJP O'Shea |
| Mr MS Hulbert (Vice-Chairman) | Mrs J Richards |
| Mr PR Batty | Mrs H Smith |
| Mr MB Cartwright | Mrs S Sprason |
| Mr DS Cope | Ms BM Witherford |
| Mr JS Moore | |

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 De Montfort Suite - Hub on **MONDAY, 15 DECEMBER 2014 at 6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Officer

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. DRAFT STATEMENT OF LICENSING POLICY (Pages 3 - 58)

Report of the Deputy Chief Executive (Community Direction) attached.

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

Agenda Item 2

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

LICENSING COMMITTEE

4 SEPTEMBER 2013 AT 6.00 PM

PRESENT: Mr S Bray - Chairman

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

140 APOLOGIES AND SUBSTITUTIONS

Apologies were submitted on behalf of Councillor Nichols, with the substitution of Councillor Bray.

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

RESOLVED – that Councillor Bray act as Chairman for this 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.

141 MINUTES

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

RESOLVED – the minutes of the meeting held on 5 November 2012 be approved and signed by the Chairman.

142 ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

No additional business items were declared at this stage.

143 DECLARATIONS OF INTEREST

No interests were declared at this stage.

144 QUESTIONS

No questions were presented at this stage.

145 RE-ADOPTION OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Members were advised of the proposal to readopt the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 within the borough of Hinckley and Bosworth.

Members were asked to recommend to the Executive that the Principal Licensing Officer be authorised to provide notice, in accordance with section 45 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976"), of the council's intention to pass a resolution to adopt the provisions of Part II of the 1976 Act in relation to the council's administrative area.

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

RESOLVED – that it be recommended to the Executive that the Principal Licensing Officer be authorised to give the appropriate notices pursuant to the section 45 of the 1976 Act.

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

No items of urgent business were declared at this stage.

(The Meeting closed at 6.08 pm)

LICENSING COMMITTEE - 15 DECEMBER 2014

STATEMENT OF LICENSING POLICY - LICENSING ACT 2003

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)



Hinckley & Bosworth
Borough Council

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WARDS AFFECTED: ALL WARDS

1. PURPOSE OF REPORT

- 1.1 The Licensing Act 2003 requires that the Council publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.2 The Council's current Policy Statement took effect from 7 January 2011 and at that time the legislation required the Statement of Licensing Policy to be published every three years. Section 122 of the Police Reform and Social Responsibility Act 2011 changed this from every 3 years to every 5 years.
- 1.3 This report provides members with information and guidance on a revised Statement of Licensing Policy required under the Licensing Act 2003 which requires approval for public consultation.

2. RECOMMENDATION

- 2.1 It is recommended that Members approve the Licensing Policy for consultation.

3. BACKGROUND TO THE REPORT

- 3.1 In its role as the licensing authority under the Licensing Act 2003 the Council has a duty to prepare, and keep under review its Statement of Licensing Policy. This sets out how the authority approaches its responsibilities under the Act. There has been a range of legislative and other changes that have prompted a review of this policy, which must be publicly consulted upon before it can be adopted.
- 3.2. Section 5 of the Licensing Act 2003 (the Act) states that –
 - 5 (1) each Licensing Authority must in respect of each 5 year period
 - (a) determine its policy with respect to the exercise of its licensing functions and;
 - (b) publish a statement of that policy before the beginning of that period.
- 3.3 Underpinning that obligation are the four Licensing Objectives which are:
 - The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm
- 3.4 Equal weight is given to all four licensing objectives and the policy must seek to secure the promotion of those licensing objectives throughout the licensing process.

- 3.5 The current statement of Licensing Policy was published by the Licensing Authority on 7 January 2011. At that time the statutory maximum review period was 3 years. That has now changed to 5 years.
- 3.6 The existing policy has been reviewed in regard to its application, suitability and effectiveness since the implementation of the Act in 2003. The current policy had worked reasonably well in the past and had provided a basis for the consideration and determination of less contentious applications.
- 3.7 Since the current policy was approved there has been a range of amendments to the Licensing Act 2003 including Early Morning Alcohol Restriction Orders (EMROs) which allow Licensing Authorities to set an end time for the sale of alcohol between midnight and 6am at all or specific locations within the borough. The new Police Reform and Social Responsibility Act 2011 implemented some new initiatives such as the Late Night Levy (LNL). This allows Licensing Authorities to charge an additional levy to all alcohol licensed premises who wish to open after midnight with 70% of that income which is collected by the Licensing Authority going to the police authority to spend as they wish. As detailed at sections 13 and 14 of the policy there is currently no evidence to support the implementation of either of these schemes in the Borough. These amendments were reported to the Licensing Committee on 28 February 2012.
- 3.8 Also the Live Music Act 2012 and the Licensing Regulatory Reform Order 2013 has resulted in the deregulation of some elements of live music and other regulated entertainment up to 11pm. We await the details of further deregulation of Schedule 1 of the Licensing Act 2003 in 2015 in respect of regulated entertainment and introduction of setting fees locally rather than centrally.
- 3.9 The policy in its current format does not reflect the Licensing Authority's approach to the new initiatives or legislative changes for example the new Temporary Events processes or relaxation of the DPS requirement in community premises. It therefore provides limited direction to support decisions on contentious applications heard by a licensing sub-committee relevant to the aforementioned changes.
- 3.10 The policy should provide greater clarity to applicants and other parties to enhance the application process, to create efficiencies and manage and demonstrate expectations. It should ensure that applicants have a clear understanding of the impacts of their licensed business or proposed activities on others and what they must do to enhance the positive impacts and mitigate any detrimental impacts through their operating schedules and self-imposed licence conditions.
- 3.11 The Licensing Authority must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 when drafting its policy. The latest version which was issued by the Home office in October 2014 has been referred to during the drafting of this policy.

SUMMARY

- 3.12 Improved advice to the licensed businesses and the public to improve knowledge and understanding of the Act and the options available to businesses and residents in relation to applications for licences.
- 3.13 Recognising the introduction of the Live Music Act 2012 and how this can promote an increase in live music venues whilst at the same time maintaining a balance to protect residents.

- 3.14 Detailing the Authority's stance on the Late Night Levy (LNL), Early Morning Alcohol Restriction Orders (EMRO) and Cumulative Impact whilst allowing flexibility in that approach should those matters need consideration for implementation in the future.
- 3.15 Clarity on the application process for all licence types including the Authority's approach to suspension of licences/certificates for non payment of annual fees.
- 3.16 Clarity on the Authority's stance in relation to applications to remove a Designated Premises Supervisor (DPS) from community premises licensed for alcohol sales to allow the sales to be authorised by a management committee. This is to ensure that alcohol sales are responsibly managed in community premises following a relaxation of the requirement to have a DPS.
- 3.17 Clarity and advice on the role, purpose and requirements for clear licence conditions to promote all of the licensing objectives. This will ensure licensees better understand the restrictions on their licences. It will aid residents affected by licensed premises activities to identify and report if breaches and to allow for effective enforcement by the Licensing Authority to ensure promotion of the licensing objectives.
- 3.18 Changes to the process for submitting temporary event Notices (TENS) and the inclusion of Environmental Health as a statutory consultee to improve the knowledge of persons submitting TENS and the authority's expectations of them to promote the Licensing objectives at their temporary event. Changes in the law in relation to Community Ancillary Notices (CAN).
- 3.19 Clarity on the rules around the provision of adult entertainment including exempt sexual entertainment and the relationship between the Licensing Act 2003 and the Local Government (Miscellaneous Provisions) Act 1982. This is to ensure that exempt entertainment (under the LG (MP) Act 1982) is properly regulated under the LA2003 where licences permit it and to ensure the protection of children from harm.

4. FINANCIAL IMPLICATIONS [IB]

- 4.1 None arising directly from this report.

5. LEGAL IMPLICATIONS [MR]

- 5.1 Set out in the report.

6. CORPORATE PLAN IMPLICATIONS [RP]

- 6.1 Will help improve public safety, protect children from harm and prevent public nuisance and crime and disorder within the Borough and thereby contribute towards the Council aims of creating a safe vibrant place to work and live.

7. CONSULTATION [MB]

- 7.1 The Act sets out a list of statutory consultees and also makes provision for other persons/bodies to be consulted as necessary and as requested.

The statutory consultees are:-

- The chief officer of police for the Licensing Authority's area,
- The fire and rescue authority,
- The local authority's Director of Public Health.
- Persons/bodies representative of premises licence holders.
- Persons/bodies representative of club premises certificate holders.

- Persons/bodies representative of personal licence holders.
- Persons/bodies representative of businesses and residents in its area.

7.2 The Draft Policy will be placed on the council website and any other person who wishes to be consulted will be provided with a link to the documents or sent hard copies where that is preferred. A consultation questionnaire has been produced which focusing on new sections within the policy.

8. **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 |

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

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

10. **CORPORATE IMPLICATIONS**

10.1 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.

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

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

Background papers: Home Office Guidance to Local Authorities

Contact Officer: Mark Brymer ext 5645

DRAFT



**Hinckley & Bosworth
Borough Council**

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***Statement of
Licensing Policy***

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

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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 9 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, subject to the conditions, definitions and the exemptions referred to in Schedule 1, the types of entertainment regulated by the 2003 Act (as amended by the Live Music Act 2012 and the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013) are:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment;
- a contest, exhibition or display which combines boxing or wrestling with one or more martial arts ("combined fighting sports");
- a performance of live music;
- any playing of recorded music;
- a performance of dance;
- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

1.4 Policy

1.4.1 The Act requires the Licensing Authority to publish a licensing policy statement after consultation with responsible authorities and other persons and to review the policy every five 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/CPC/CAN/TEN) - 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 under section 5 (3) of the Act 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,
- the local authority's Director of Public Health in England (DPH)
- 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 five year period from 7th January XXXX. 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

Preventing crime, disorder, public nuisance, ensuring public safety and protecting children (those aged under 18) from harm are ongoing responsibilities for all licence holders. Premises operators should address the risks relating to the activities their premises provides. Failure to do so may result in the licence being reviewed and subsequently suspended or revoked.

2.0 PREVENTION OF PUBLIC NUISANCE

- 2.1.1 A recent case has established that there is no distinction between the meaning of public nuisance under the Licensing Act 2003 and its meaning in common law.
- 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 the community at large living, working or otherwise engaged in normal activity in the area. Where an application is opposed or a review has been applied for 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. 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.

Outdoor Music Events

- 2.1.9 The Licensing Authority and the relevant responsible authorities would normally expect licence holders to consider the following matters when compiling their operating schedules where events include outdoor music events in relation to the public nuisance objective:
 - 1. Identify potential noise sources likely to arise from the event (e.g. Amplified music, noise from patrons etc).
 - 2. Prepare a site layout plan detailing the location of speakers taking note of speaker orientation and any “reflective” walls etc. Speakers should point away from residential areas.
 - 3. Monitoring points should be defined and should give an idea of how noise will breakout to the nearest noise sensitive premises.
 - 4. Identify noise control measures and procedures in place to minimise disturbance.
 - 5. Prepare a plan if more than one band is to play to ensure finishing times are strictly adhered to.
 - 6. Designate a responsible person to respond positively to complaints and to monitor noise levels throughout the event. This should include a system to log details of any complaints received in relation to the event and any action taken.
 - 7. Consider how low frequency and bass beat noise will be dealt with.
 - 8. Detail remedial actions that will be taken if noise levels are found to be causing complaints.
 - 9. The timing of the event, considering the day of the week and finish time;
 - 10. The size of the event and expected number of attendees.
 - 11. The proximity of the event to local residents.

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 that the CCTV system is maintained in accordance with the Information Commissioner's CCTV Code of Practice and will operate at all times.
- 3.2.2 Where a system is installed it is recommended that the premises licence holder and designated premises supervisor will ensure that staff will be fully trained in the operation of the CCTV system with images from the system being retained for a minimum of 31 days and made available to Police and other responsible authorities upon request.

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 An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises and carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which does not promote the licensing objectives.
 - Drinking Games
 - Large quantities of alcohol for free or for a fixed price
 - Prizes and rewards

- Discounted Prices in relation to a Sporting Event shown on a premises
- Posters and Flyers which condone, encourage or glamorise anti-social behaviour or refer to the effects of drunkenness a favourable manner.
- Dispensing Alcohol directly into the mouth.

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 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 FROM HARM

5.1 General

- 5.1.1 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated with alcohol but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). "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 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated).
- 5.3.2 Licence holders will be expected to prevent children from viewing films that are unsuitable because of the age classification of the film.

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 volunteers and 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 you instruct your staff to only accept accredited proof of age cards – Validate UK, ONEID4U, Citizen Card, Age Entitlement Card and Young Scot. Other than these, only a UK Passport, Military Identification Card or UK Photo driver licence (Full or Provisional) should be accepted. Student union cards should NOT be accepted.

The above ID cards must show a date of birth, a photograph and a hologram.

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 Adult Entertainment

- 6.1.1 The potential for the provision of adult entertainment to impact on the licensing objectives is recognised in the prescribed application form and all applicants are required by the prescribed form to indicate in their operating schedules whether they intend to provide any such entertainment which may give rise to concerns in respect of children.
- 6.1.2 The Policing and Crime Act 2009 potentially provides an additional licensing requirement for operators who provide “sexual entertainment venues” to licence them as sex establishments under the Local Government (Miscellaneous Provisions) Act 1982. These are essentially premises which provide live entertainment or performances to a live audience which either involves nudity (such as lap or pole dancing establishments,) or which are for the purpose of sexually stimulating any member of the audience. Whilst these licensing provisions are adoptive and do not necessarily apply in every Licensing Authority’s district, Hinckley & Bosworth Borough Council adopted these provisions with effect from 4th April 2011.
- 6.1.3 Where a business wishes to operate as a sexual entertainment venue it may still need to be licensed under the Licensing Act 2003 for the sale of alcohol and the provision of regulated entertainment. The provision of sexual entertainment will however be regulated under the terms of any sex establishment licence which may be granted under the 1982 Act. The Licensing Act licence will then continue to regulate any other licensable activities.
- 6.1.4 Certain forms of adult entertainment are excluded from requiring sex establishment licences and these will still be regulated under the terms of the Licensing Act 2003.
- 6.1.5 The provision of adult entertainment on premises may necessarily mean that access by children will not be permitted during periods when such entertainment is taking place. Where such entertainment is to be provided under the terms of a Premises Licence or Club Premises Certificate the Authority expects applicants to include arrangements for restricting children from viewing any adult entertainment in their Operating Schedule.
- 6.1.6 The Authority expects licensees to ensure that any age restrictions for shows or entertainment of an adult or sexual nature are properly complied with. In addition it may be appropriate to impose age restrictions for persons working in the premises, and applicants are advised to also consider the wider crime and disorder issues which can be associated with such forms of entertainment such as issues relating to drugs and prostitution.
- 6.1.7 Responsible authorities are likely to continue to consider all applications involving adult entertainment very carefully with regard to the promotion of the licensing objectives within the vicinity in which the premises are located.

7.0 LICENSING HOURS

7.1 General

- 7.1.1 The government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The Act gives the Council the power to make decisions regarding licensed opening hours based on local knowledge and in consultation with other responsible authorities.
- 7.1.2 In some circumstances, staggered licensing hours with regards to the sale of alcohol are important to ensure that the concentration of customers leaving premises simultaneously is reduced. The intention behind this is to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which currently lead to disorder and disturbance.
- 7.1.3 The council supports the development of a wide ranging and culturally diverse night-time economy where this can be achieved whilst promoting the four licensing objectives and without compromising the ability to resource local services associated with the night-time economy such as street cleansing.
- 7.1.4 Under the Act there are no permitted hours for the sale of alcohol. Applicants are able to suggest in their operating schedule the hours they wish to open and to apply to vary their existing licences if they wish to open beyond their current permitted hours. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be the paramount consideration at all times.
- 7.1.5 If relevant representations are made the council will only grant the hours of use proposed where the operating schedule and any risk assessment adequately demonstrates that the applicant has properly considered what is appropriate for the local area when considering:-
- what hours and activities to apply for.
 - the potential effect on the licensing objectives is not significant.
 - the agreed operating schedule demonstrates that the applicant is taking appropriate steps to minimise any adverse impact on local residents and businesses.
- 7.1.6 Restrictions may be made to the proposed hours of use where, after receiving relevant representations, the council considers it appropriate for the promotion of the licensing objectives to do so. The council will take into account the existing pattern of licensed premises in an area when considering what is appropriate to promote the objectives. Applications which are significantly out of character for a locality will need to demonstrate that granting the hours sought will not impact on the licensing objectives, given the potential for neighbouring premises to seek the same additional hours to prevent rivals gaining a commercial advantage.

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

8.0 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.

8.1 Adopting a special saturation policy

- 8.1.1 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 other person, 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.

8.2 Representations

- 8.2.1 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 8.4.1

8.3 Other mechanisms available

- 8.3.1 The authority recognises that once away from licensed premises, there is always a risk that some people 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 public places.
- Police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance under section 160 or 161 of the Act.
- 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.
- Early Morning Restriction Orders.
- Other local initiatives that similarly address these problems.

8.4 Special Saturation Policy (NOW A NEW AREA TBA – POLICE)

8.4.1 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.

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

- 8.4.3 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.
- 8.4.4 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.
- 8.4.5 The authority acknowledges that the impact will be different for premises with different styles and characteristics.
- 8.4.6 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.
- 8.4.7 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.

9.0 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 an 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 (CPC)
- Application for a provisional statement
- Application for variation to a premises licence or CPC
- Application for a minor variation to a premises licence or CPC
- Application to vary a designated premises supervisor
- Application for an interim authority notice
- Determination of a temporary event notice (TEN)
- Disapplication Of Certain Mandatory Conditions for Community Premises
- Application for transfer of a premises licence
- Application for a Community Ancillary Notice (CAN)

9.1 Personal Licences

- 9.1.1 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.
- 9.1.2 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.
- 9.1.3 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.

- 9.1.4 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.
- 9.1.5 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.

9.2 Representations the Power to have your Say

- 9.2.1 Having your say in licensing terms is called 'making a representation' but not everyone has the right to have their say in respect of all applications/notifications. There is a prescribed period from the time the Licensing Authority receive the application for representations to be received. This is usually 28 consecutive days but varies depending on the type of application under consideration. Representations can include positive / supportive representations as well as "objections".
- 9.2.2 "Responsible Authorities" (certain statutory bodies defined by the Act,) and other persons , can have their say whenever the Licensing Authority receive an application for a new licensed premises, for a full variation to an existing authorisation or an application for a review. In addition certain Responsible Authorities (but not other persons) can also make representations on other types of applications and notifications such as applications for personal licences, notifications for temporary events or community ancillary notices. If no representations are received then the application must be granted as applied for (including where appropriate any conditions volunteered by the applicant,) and events become authorised.
- 9.2.3 'Other Persons' - As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious.
- 9.2.4 Whilst any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, or a local ward or parish councillor who can all act in such a capacity.

9.2.5 'Relevant representations' are representations:

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

Frivolous, Vexatious and Repetitious Requests

9.2.6 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.2.7 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

9.2.8 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

9.2.9 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure.

9.2.10 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 other persons will be notified of the grounds for any such decision.

9.3 Temporary Event Notices

- 9.3.1 The Licensing Authority will not seek to attach any terms, limitations or conditions on such events other than those set down in the legislation following an objection notice and subsequent hearing. 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 and Environmental Health, a minimum of ten working days before the event for a standard TEN. The Chief Officer of Police or Environmental Health may object to the event if they are satisfied that any of the four licensing objectives may be undermined.
- 9.3.2 The possibility of intervention by one of these Responsible Authorities 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 and Environmental Health at the earliest possible opportunity about their proposals. The Licensing Authority recommends one month's minimum notice.
- 9.3.3 Since 25 April 2012 it has been possible for individuals to serve a very limited number of "late" temporary event notices each year, providing that these are served on all relevant parties at least five working days before the day on which the event is due to begin.
- 9.3.4 However event organisers should be aware that a late temporary event notice can be prevented by a single objection from the Police or Environmental Health and there is no right to a hearing in such circumstances.
- 9.3.5 Therefore late temporary event notices should normally only be served in exceptional circumstances, such as when an event has to be postponed and rearranged at short notice due to adverse weather conditions. The Licensing Authority does not expect late temporary event notices to be served simply on the basis that the event organiser has been disorganised in addressing the licensing arrangements for their event.
- 9.3.6 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 168-hour limit on such events, and emphasise the need to obtain full premises licence for more major events.

9.4 Provisional Statements

- 9.4.1 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'.
- 9.4.2 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).

9.4.3 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.

9.5 Variations of Premises Licences & Club Premises Certificates

9.5.1 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.

9.5.2 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.

9.6 Transfer of a Premises Licence

9.6.1 The 2003 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. Where it is made electronically via the licensing authority's electronic facility, the licensing authority must notify the police no later than the first working day after the application is given. However, the responsibility to notify the DPS remains with the applicant.

9.6.2 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises.

If the police raise 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.

- 9.6.3 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. Such objections are expected to be rare and arise because the police have evidence that the business or individuals seeking to hold the licence or business or individuals linked to such persons are involved in crime (or disorder). Such objections (and therefore such hearings) should only arise in truly exceptional circumstances.

9.7 Interim Authority Notices and Transfers

- 9.7.1 Following the death or other incapacity of the premises licence holder, in the normal course of events, the licence will lapse. However, there may also be some time before, for example, the deceased person's estate can be dealt with or an administrative receiver appointed. This could have a damaging effect on those with interests in the premises, such as an owner, lessor or employees working at the premises in question; and could bring unnecessary disruption to customers' plans. The 2003 Act therefore provides for the licence to be capable of being reinstated in a discrete period of time in certain circumstances.
- 9.7.2 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.
- 9.7.3 In such circumstances, an "interim authority" notice may be given to the licensing authority within 28 consecutive days beginning the day after the licence lapsed.
- 9.7.4 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.
- 9.7.5 In addition under section 50 of the 2003 Act, where the premises licence lapses (because of death, incapacity or insolvency of the holder) or by its surrender, but no interim authority notice has effect, a person who may apply for the grant of a premises licence under section 16(1) may apply within 28 consecutive days of the lapse for the transfer of the licence to them with immediate effect pending the determination of the application. This will result in the licence being reinstated from the point at which the transfer application was received by the licensing authority. Where the application is made in writing, the person applying for the transfer must copy their application to the chief officer of police. If the application is made electronically the licensing authority must copy the application to the police.

9.8 Review and Suspension of a Premises Licence & CPC's

- 9.8.1 At any stage following the grant of a premises licence or club premises certificate a Responsible Authority or other person may ask for a review.

Evidence will however be required to show that a specific concern exists relating to one or more of the Licensing Objectives.

9.8.2 Where a review hearing is held the Licensing Authority has a variety of options that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the licence. The Guidance reminds the Authority that the powers of review are to be used in the interests of the wider community and not that of the individual licence/certificate holder. Whilst the financial circumstances of the licence/certificate holder will be a consideration for the Licensing Authority the promotion of the Licensing Objectives will be the Authority's primary concern. In some circumstances e.g. the use of premises for the purchase and consumption of alcohol by minors, revocation may be considered an appropriate course of action even in the first instance.

9.8.3 '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 'other person' or a responsible authority, have not been withdrawn and, in the case of representations made by an 'other person' they are not in the Licensing Authority's opinion frivolous or vexatious or repetitious.

'Other Persons'

9.8.4 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises.

- a person living near the premises in question;
- a body representing persons, for example, a residents' association, or a parish or town council;
- a person involved in a business;
- 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.

9.8.5 The Licensing Authority can, of its own motion, instigate the review of a premises licence or club premises certificate, but 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.

9.8.6 The Licensing Act 2003 requires Licensing Authorities to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due unless an administrative error or dispute has been notified to the Licensing Authority. In such cases there will be a grace period of 21 days to allow the matter to be resolved. If the matter is not resolved within grace period the licence must be suspended.

9.8.7 Where such a suspension takes place the Licensing Authority must give a minimum of two days' notice and may inform the police and other responsible authorities of the suspension. All licensable activities must cease when the suspension takes effect. The suspension will only cease on payment of the outstanding fee irrespective of any transfer or hearing which may take place.

9.9 Appeals Against Licensing Sub-Committee Decisions

9.9.1 Following the hearing of an application by a Licensing Sub Committee the applicant or any objector has the right to appeal against the decision to Hinckley Magistrates Court within 21 days.

9.9.2 Where the appeal is brought by an applicant it will be the Licensing Authority's usual policy to defend the Sub Committee's decision. This is because the applicant is asking the Court to grant more than the Council deemed appropriate for the promotion of the licensing objectives.

9.9.3 Where an appeal is lodged by an objector following a Sub Committee hearing, the Licensing Authority will always be a "respondent" along with the licence holder. In such cases the Licensing Authority may choose not to be legally represented at the hearing of the appeal at the Magistrates Court. The licence holder as co-respondent may appoint legal representation.

9.9.4 The Court makes a charge to lodge an appeal (currently£400) but the appellant may be liable to pay the legal costs of the respondent if the appeal is unsuccessful.

9.9.5 Where an appeal to the Magistrates Court is not brought by an objector following a Licensing Sub Committee decision and problems relating to the promotion of the Licensing Objectives do subsequently arise residents can seek a formal Review of the licence. Anyone who wishes to consider this is advised to contact the Licensing service for further advice

9.10 Disapplication of Certain Mandatory Conditions for Community Premises

9.10.1 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.

9.10.2 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).

9.11 Transfer of Premises Licence

9.11.1 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.

9.11.2 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.

9.11.3 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.

9.11.4 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.

9.12 Variation of Licence to add a new Premises Supervisor

9.12.1 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act.

9.12.2 Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with licensing law and licence conditions.

9.12.3 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

9.12.4 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.

9.13 Community Ancillary Notice (CAN)

9.13.1 The Government consulted on two specific policy proposals around “ancillary sellers” of alcohol. Ancillary sellers are businesses selling alcohol as a small or subsidiary part of a wider business contract. The provision of a “complimentary” gift of alcohol in a business context also constitutes a sale in law. At this stage, it is proposed to limit eligible ancillary sellers to accommodation providers who are otherwise unlicensed, for example bed and breakfast providers and guest houses wishing to offer a “complimentary” glass or bottle of wine to customers.

9.13.2 The Government has decided to take the proposal for the new ASN forward but to expand its scope. The proposal covered by this IA takes key elements of the consultation proposals for the ASN and the proposal to make the TENs regime easier for community groups, whilst retaining an element of local discretion. It creates a simple new “licence” process – the CAN - to allow smallscale, “low” risk alcohol sales over 36 months, without the need for a premises licence or TEN providing there is no objection from the police, environmental health authority (EHA) or the LA.

9.13.3 The CAN is therefore aimed at two eligible groups:

- “Ancillary sellers” (e.g. bed & breakfast providers) that would like to sell (or provide as part of a wider business contract) minimal amounts of alcohol to customers. The definition of ancillary seller will be covered by the parameters that will apply to the amounts and the context (see below).
- “Community groups” (e.g. charities; church choirs; the Women’s Institute) that may regularly hold small “one-off” events at which they wish to sell alcohol. While the law provides for them to do so under a temporary events notice (TEN), they complain of bureaucratic burdens; costs (£21 each) and limits for TENs (12 per year).

9.13.4 It is not possible to simply exempt these groups from licensing altogether given the risks of abuse and loopholes and the need to retain licensing controls, including rights of entry for police and LAs, and powers to prevent such activity.

At this stage, it is envisaged that key elements of the new authorisation will be that:

- A prospective CANs user will give notice to the LA (either on a simple form or via email/letter) that they are going to operate either as (i) an “ancillary” or (ii) “community” seller.
- Notification will specify the relevant premises at which they intend to sell alcohol: in the case of an ancillary seller this can be just one premises; community groups could name up to three premises within their local area.
- The LA may reject or revoke a CAN at any point under a light-touch process to be triggered by an objection from the police or EHA on grounds of the licensing objectives (the prevention of crime and disorder; the prevention of public nuisance, public safety, protection of children from harm).
- Local discretion: LAs could reject CANs in their own cumulative impact policy (CIP) areas.
- CAN users need not hold personal licences (which many consider will be a risk and unfair to the licensed trade) but they could be named as “responsible persons” who could be prosecuted for certain criminal offences under the 2003 Act. It is already the case that community premises such as village and church halls are exempt from the requirements to have a PLH and DPS.
- Licensing costs are recovered from the fees so there would need to be a small processing fee.

The operation of activities (alcohol sales under a CAN) would be subject to certain parameters to provide safeguards against loopholes that could be exploited by unscrupulous operators. At this stage, the Government envisages that they would include the following:

- All sales of alcohol between “low risk” prescribed times, for example, 7am to 11pm.
- “Ancillary sellers” to be strictly defined by reference to business types, for example small Bed and Breakfasts, guest houses and self-catering accommodation providers.
- Ancillary sellers may only supply limited amounts of alcohol to their customers (e.g. up to three units per individual customer over 18 in a 24 hour period) possibly explained in user friendly language e.g. one 175ml “standard” glass of wine), one 75ml bottle of wine in a room per two night stay or between two adults with a meal.
- Alcohol sale must take place within the public facing area of the business which directly relates to the main service being provided.
- A cap on the size of community event (e.g. up to 300 people) and tickets must be sold to the event either before or on the door.
- “Community sellers” are defined as non-profit making bodies, charities, voluntary sector etc.

- Alcohol sold by community sellers must be ancillary to a wider event e.g. a performance or flower show or talk or meal. Only the equivalent of an average of up to three units of alcohol per person over the aged of 18 attending the event and in any 24 hour period may be sold by the community Group.

10.0 PART 3 - REGULATED ENTERTAINMENT & EXEMPTIONS

10.1 The Live Music Act 2012 & Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

10.1.1 Subject to the conditions, definitions and the exemptions referred to in Schedule 1 of the Act, the types of entertainment regulated by the 2003 Act (as amended by the Live Music Act 2012 and the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013) are:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment;
- a contest, exhibition or display which combines boxing or wrestling with one or more martial arts (“combined fighting sports”);
- a performance of live music;
- any playing of recorded music;
- a performance of dance;
- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

10.1.2 More generally, to be licensable, one or more of these activities needs to be provided (at least partly) to entertain that audience; has to be held on premises made available (again, at least in part) for the purpose of enabling that activity; and must also take place either:

- in the presence of a public audience, or
- in private, where a charge is made with a view to profit.

10.1.3 This Policy cannot give examples of every eventuality or possible entertainment activity. However, the following activities are examples of entertainment which are not licensable:

- education – teaching students to perform music or to dance;
- activities which involve participation as acts of worship in a religious context;
- activities that take place in places of public religious worship;
- the demonstration of a product – for example, a guitar – in a music shop;

- the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit (including raising money for charity);
- games played in pubs, youth clubs etc. (e.g. pool, darts, table tennis and billiards);
- stand-up comedy;
- the provision of entertainment facilities (such as dance floors, which were previously licensable under the 2003 Act before its amendment by the 2012 Act).

10.1.4 As a result of amendments to the 2003 Act by the 2012 Act and the 2013 Order, no licence is required for the following activities to the extent that they take place between 08:00-23:00 on any day:

- a performance of a play in the presence of any audience of no more than 500 people;
- an indoor sporting event in the presence of any audience of no more than 1,000 people;
- most performances of dance in the presence of any audience of no more than 500 people; and live music, where the live music comprises:

a performance of unamplified live music;

a performance of live amplified music in a workplace with an audience of no more than 200 people; or

10.1.5 A performance of live music on licensed premises which takes place in the presence of an audience of no more than 200 people, provided that a number of important conditions are satisfied. So, for example, an indoor sporting event that takes place between 07:00 and 23:30 on a particular day is licensable in respect of activities taking place between 07:00-08:00 and 23:00-23:30.

10.1.6 Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500.

10.2 Private Events

10.2.1 Events held in private are not licensable unless those attending are charged for the entertainment with a view to making a profit (including raising money for charity). For example, where a party is held for friends in a private dwelling featuring amplified live music, if a charge or contribution is made solely to cover the costs of the entertainment, the activity is not regulated entertainment. Similarly, any charge made to the organiser of a private event by musicians, other performers, or their agents does not of itself make that entertainment licensable – it would only do so if the guests attending were themselves charged by the organiser for that entertainment with a view to achieving a profit. The fact that this might inadvertently result in the organiser making a profit would be irrelevant, as long as there had not been an intention to make a profit.

10.3 Live music: conditions relating to beer gardens

10.3.1 Beer gardens are often included as part of a premises licence or club premises certificate. Live amplified music that takes place in a beer garden is exempt from licensing requirements, provided the beer garden is included in the licence or certificate applying to the relevant licensed premises, and the performance takes place between 08:00 and 23:00 on the same day before an audience of 200 people or fewer.

10.3.2 Where a beer garden does not form part of the relevant licensed premises and so is not included in plans attached to a premises licence or club premises certificate, it is nevertheless very likely that it will be a workplace. Paragraph 12B of Schedule 1 to the 2003 Act says that a performance of live music in a workplace that does not have a licence (except to provide late night refreshment) is not regulated entertainment if it takes place between 08:00 and 23:00 on the same day in front of an audience of no more than 200 people.

10.3.3 However, a licensing authority may, in appropriate circumstances, impose a licence condition that relates to the performance of live music in an unlicensed beer garden using any associated premises licence or club premises certificate. Provided such a condition is lawfully imposed, it takes effect in accordance with its terms.

10.4 Conditions relating to combined fighting sports and Boxing

10.4.1 The 2013 Order amended the existing descriptions of regulated entertainment to make clear that both an indoor boxing or wrestling entertainment cannot also be an indoor sporting event, and that any contest, exhibition or display combining boxing or wrestling with one or more martial arts ('combined fighting sports') is – whether indoors or not – a boxing or wrestling entertainment.

10.5. Bare Knuckle Boxing

10.5.1 Bare knuckle boxing ("BKB") can be considered as "boxing or wrestling entertainment" under the Licensing Act 2003. Boxing is regulated entertainment under the Licensing Act, both indoors and outdoors. So whether an event can go ahead, or not, is primarily a licensing question.

10.5.2 A licensing authority would need to consider the licensing objectives in determining whether to grant a Premises Licence for a BKB event. However, Hansard at the time of the Licensing Bill shows that the Government at the time did not consider the health of the participants to be a factor for a licensing authority to consider when ensuring public safety is promoted. In other words it is not the job of a licensing authority to make boxing safer for the boxers. However, the degree of violence and the likelihood of serious injury to the boxers could still be factors for a licensing authority to consider in assessing an application.

10.5.3 More relevant are the licensing objectives in relation to preventing disorder and public nuisance. The crowds at boxing events have generally been considered more of a threat to these objectives than performances of other martial arts (such as judo), which is why indoors and outdoors boxing has

historically been licensed. Licence conditions could be imposed to minimise the risk to the licensing objectives, including restrictions on the sale and consumption of alcohol, timing of the event and the provision of medical facilities.

10.5.4 Professional boxing in the UK is licensed by the British Boxing Board of Control (BBBC). The term 'unlicensed fight' often therefore refers to fights involving fighters of bouts not licensed or otherwise approved by the BBBC. Licensed fights must follow the guidelines set out by the BBBC (such as allowing knocked-down fighters time to get up, and the provision of medical services for injured boxers). Such fights have generally been deemed legal boxing contests; however it does not necessarily follow that all boxing events must be licensed by the BBBC to be legal. The BBBC is a national governing body for a sport. The BBBC does not condone or support Bare Knuckle Boxing.

10.5.5 In terms of the criminal law, the legality of boxing contests has grown out of the historical treatment of contests by case law. 'Prize fighting', akin to BKB, was considered illegal under public policy grounds in a 19th century case. However, the covering of the knuckles by cloth, and properly ordered rules, referees and medical staff arguably makes modern contests (such as Ultimate Fighting Championship) potentially legal. However much depends on the circumstances of the fight and whether the degree of violence and injuries inflicted is excessive to the extent that the Police should put a stop to it and arrest the participants. Evidently, it is difficult for the Police to assess whether the degree of violence involved is criminal in advance. This is why bare knuckle boxing remains a legally grey area and why responsible authorities do not permit it.

10.5.6 In terms of an authorisation under the Licensing Act 2003, it is a matter for Hinckley & Bosworth Borough Council as the Licensing Authority.

10.5.7 **Policy decision** to promote the four licensing objectives under the licensable activity of boxing.

- No Bare Knuckle Boxing event will be permitted.
- No Bare Knuckle Combined Fighting Sport will be permitted.
- No event advertised or promoted as Bare Knuckle Boxing or Bare Knuckle Fighting will be permitted.

10.6 Travelling Circuses

10.6.1 Travelling circuses will be exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00 on the same day, with no audience limit.

PART 4 – INTEGRATING STRATEGIES

11.0 OTHER MEASURES

11.1.1 Community Safety - 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.

11.1.2 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.

11.2 Planning

11.2.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

11.2.2 There are circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. **Where these hours are different to the licensing hours, the applicant must observe the earlier closing time.** Premises operating in breach of their planning permission would be liable to prosecution under planning law.

11.3 Cultural Strategy

11.3.1 The Council is committed to the Cultural Strategy (The Strategy).

11.3.2 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.

11.3.3 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”.

11.3.4 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.

11.4 Promotion of Equality

11.4.1 The Licensing Authority recognises that the Equality Act 2010 places a legal obligation on the Council to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

11.4.2 The Licensing Authority also recognises that this policy should promote equality in a wider sense and has therefore assessed the potential impact on a variety of groups. It has considered and consulted with this in mind.

11.4.3 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 feel 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.

11.4.4 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.

11.5 Access for Disabled People

11.5.1 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 Equality Act 2010. The law provides that any person providing facilities, goods or services to the public must make reasonable adjustments to enable disabled people to access the service.

11.6 Tourism & Local Economy

- 11.6.1 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.
- 11.6.2 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 encourages other public and voluntary sector landowners of community facilities (e.g. parish councils, the County Council) to adopt a similar approach.
- 11.6.3 As per paragraph 11.6.2 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.

11.7 Transport

- 11.7.1 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 209. 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.
- 11.7.2 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.
- 11.7.3 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 ranks, which operate only at night.

11.8 Health and Safety

- 11.8.1 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.

11.9 Fire Safety

11.9.1 Premises and their operators must comply with current fire safety regulation orders. It is desirable that applicants operating schedules 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.

11.10 Food Hygiene

11.10.1 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.

11.11 Noise

11.9.1 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.

12.0 Enforcement

12.1.1 We will support businesses to comply with the law but view offences and breaches of licence conditions seriously.

12.1.2 The Licensing Authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this. The Licensing Authority will work closely with the Police and has established protocols to ensure an efficient deployment of Police and Licensing Officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that High-risk premises receive the highest priority.

The enforcement action will be:

- Targeted toward those premises presenting the highest risk
- Proportional, to the nature and seriousness of the risk those premises present
- Consistent, so that we take similar approaches in similar situations
- Transparent, so those who are subject to enforcement action know what to expect
- Accountable, so that we take responsibility for our actions.

12.1.3 The Licensing Authority has instructed its officers to adopt a zero tolerance approach to offences and breaches of licence conditions. In practice this means that licensing officers will investigate all complaints alleging breaches of the Act or licence conditions and act on all sources of reliable intelligence (including local residents and businesses) with a view to establishing if offences have been committed.

Such matters may include:

- Unauthorised licensable activities or breach of licence conditions
- Allowing disorderly conduct on licensed premises
- Sale of alcohol to children and the consumption of alcohol by children
- Sale of alcohol to a person who is drunk

Where licensing officers have such evidence they have a range of enforcement options including:

- Offering advice /guidance (verbal or written)
- Informal written warnings
- Formal cautions
- Prosecutions
- Review of Premises Licences where there are problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm
- Closure of premises that are experiencing disorder or causing a nuisance.

The Licensing Authority encourages a graduated approach to enforcement as set out in the Environmental Health enforcement policy however in the cases of offences relating to:-

1. The deliberate and persistent provision of unlicensed activities especially the sale of alcohol.
2. The breach of licensing conditions resulting in substantial risk to the promotion of the licensing objectives (crime and disorder, public safety, public nuisance or protection of children from harm)
3. Persistent underage sales.
4. The use of licensed premises in connection with organised criminal activity.
5. Allowing disorderly conduct on licensed premises.
6. Delivering alcohol to children.
7. Allowing the sale of alcohol to children.

It is the expectation that Formal Action (including Fixed Penalty Notices, Formal Cautions, Reviews and / or Prosecution) will be the preferred approach.

Where Members of a Licensing sub-committee hear an application to 'Review' a licence they will give appropriate consideration and weight to the relevant representations and evidence as well as the decision of the High Court in *Bassettlaw District Council v Worksop Magistrates Court* 2008 EWHC 3530 (Admin), that deterrence is an appropriate consideration when dealing with Reviews where that has been activity in connection with criminal activity.

13.0 Early Morning Restriction Orders (EMRO)

The power conferred on licensing authorities to make, vary or revoke an EMRO (or propose to take any of these steps) is set out in sections 172A to 172E of the Licensing Act 2003. This power came into force on 31st October 2012 and the Government provided guidance as part of the S182 Guidance to Licensing Authorities.

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

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

An EMRO:

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

Before a licensing authority determines to recommend that the full council make a proposed EMRO, it should be satisfied that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The requirement to take an evidence-based decision to promote the licensing objectives should enable licensing authorities to draw on the experience from other licensing decisions they make under the Licensing Act 2003. The licensing authority should consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

An EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the time at which the EMRO applies. The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO.

These measures might include:

- Introducing a cumulative impact policy;
- Reviewing licences of specific problem premises;
- Encouraging the creation of business-led best practice schemes in the area.

It is the intention of the licensing authority to support businesses, whilst ensuring the promotion of the licensing objectives. However where this has deemed to fail then an EMRO could be considered as a possible solution.

There are currently no EMROs in place in the Borough.

14.0 Late Night Levy

The Late Night Levy is a power, conferred on Licensing Authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the Authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.

The Levy is a power and the Government has recognised that some licensing authorities will not consider that it is appropriate to exercise it.

The decision to introduce the levy is for the Licensing Authority to make. However the Licensing Authority will keep the need for a levy under review in consultation with the Chief Officer of Police and Police and Crime Commissioner ("PCC") for the police area.

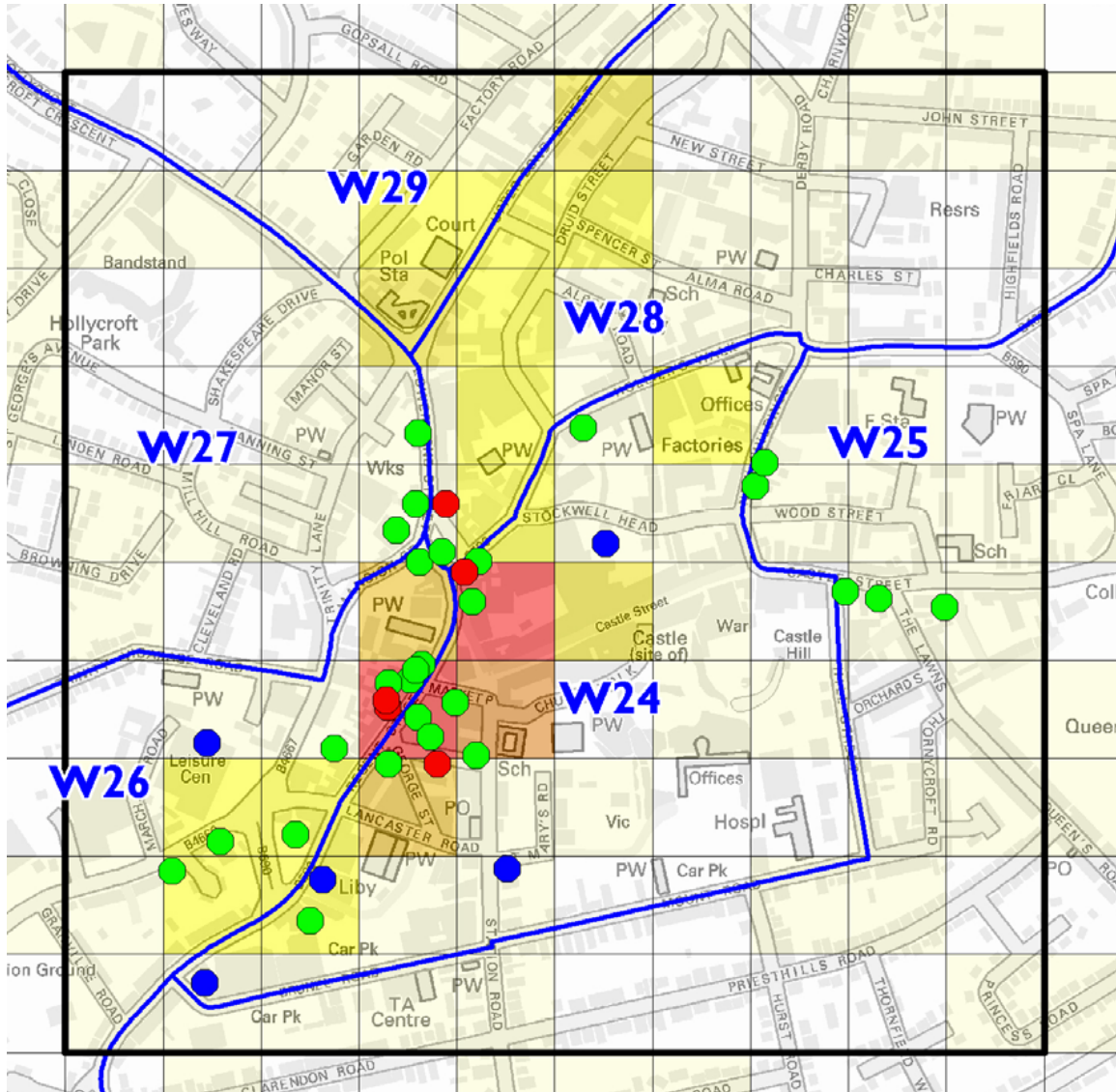
When considering whether to introduce a levy the Licensing Authority notes that any financial risk (for example lower than expected revenue) rests at a local level and this will be fully considered prior to making any decision about local implementation.

The Licensing Authority will decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process.

If the Licensing Authority decides to give further consideration to the introduction of a levy in the future, it will do so in accordance with the relevant regulations and with reference to any relevant guidance issued by the Home Office.

Any decision to introduce, vary or end the requirement for the levy will be made by the Full Council. Other decisions in relation to the introduction and administration of the levy would be delegated to the Licensing Committee.

APPENDIX A



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

APPENDIX B

Useful References (organisations)

Association of Convenience Stores (ACS)

<http://www.thelocalshop.com/tls/index.asp>

Federation House,
17 Farnborough Street,
Farnborough,
Hampshire,
GU14 8AG.

Email: acs@acs.org.uk

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

Licensed Victuallers Associations (LVAs)
<http://www.flva.co.uk/>
Federation of Licensed Victuallers Associations,
126 Bradford Road,
Brighouse,
West Yorkshire
HD6 4AU

National Association of Local Government Arts Officers
<http://www.nalgao.org/>
nalgao
Oakvilla,
Off Amman Road,
Brynamman,
Ammanford,
Neath
SA18 1SN
Phone & Fax: 01269 824728

National Pub Watch
<http://www.nationalpubwatch.org.uk/index.php>
National Pubwatch,
PO Box 3523,
BARNET,
EN5 9LQ

NOCTIS (Formerly Bar, Entertainment and Dance Association (BEDA))
<http://www.noctisuk.org/>
5 Waterloo Road
Stockport
Cheshire, UK
SK1 3BD

The Portman Group
4th Floor,
20 Conduit Street,
London,
W1S 2XW

www.portman.org.uk
info@portmangroup.org.uk
0207 290 1460

Appendix C

There are a number of other local and national policies, strategies, responsibilities, and guidance documents which should be taken into account in order to complement the authority's licensing policy.

Strategies and Policies

Alcohol Strategy

Best Bar None

British Beer and Pub Association Partnerships Initiative

Community Safety Strategy

Council's own Enforcement Policy

Cultural and Tourism Strategies including promotion of live music and community events

Home Office: Selling Alcohol Responsibly: Good Practice Examples from the Alcohol Retail and Hospitality Industries

Home Office: Guidance on banning the sale of alcohol below the cost of duty plus VAT

Local Development Framework

Local Transport Plan

National and local Pubwatch schemes

Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

Purple Flag (ATCM)

Related Legislation

Policing and Crime Act 2009

Anti-Social Behaviour Act 2003

Crime and Disorder Act 1998

Crime and Security Act 2010

Criminal Justice and Police Act 2001

Private Security Industry Act 2001

Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000

The Clean Neighbourhoods and Environment Act 2005

The Health Act 2006

Violent Crime Reduction Act 2006

The Live Music Act 2012

Guidance Documents

[Home Office S182 Guidance](#)

[Test Purchasing Guidance](#)

[Protecting young people from alcohol related harm](#)

[Licensing large scale events \(music festivals etc\)](#)

[Licensing Village Halls](#)

[Councillor Handbook: Licensing Act 2003](#)

[Councillor Handbook: Community Events](#)

[Managing Crowds Safely](#)

[5 Steps to Risk Assessment](#)

[The Guide to Safety at Sports Grounds](#)

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Hinckley & Bosworth Borough Council is the Licensing Authority for its Borough and required under Section 5 of the Licensing Act 2003 ("the Act") to review and publish a Statement of Licensing Policy every 5 years.

The current Statement of Licensing Policy came into effect on 7 January 2011 and it is proposed that the existing Policy be reviewed and updated.

Updated sections within the draft policy are shown below:-

S2 - Prevention of Public Nuisance
S2 - Protection of Children from Harm
S2 - Prevention of Crime & Disorder
S7 - Licensing Hours
S8 - Cumulative Impact
S9 - Determining Applications (Representations, TENS, Interim Authority Notice)
S12 – Enforcement
Appendix B – Contact List of Trade Bodies

New sections within the policy are shown below:-

S 6 - Adult Entertainment
S9 – Determining Applications (Community Ancillary Notice)
S10 - Live Music, Private Events, Boxing and Circuses
S13 - Early Morning Restriction Orders
S14 - Late Night Levy
Appendix C – Other Policies, legislation and Guidance

This consultation closes on 1st March 2015.

About You

Thank you for taking the time to complete this questionnaire.

Title: Mr. Mrs Miss Dr. Other

Name: _____

Address: _____

Email: _____

| | |
|--|--|
| Are you a resident in the Borough of Hinckley and Bosworth? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Do you carry out or run a business in Hinckley and Bosworth? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Do you hold a personal licence granted under the Licensing Act 2003? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Do you hold a premises licence granted under the Licensing Act 2003? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Are you responding on behalf of a responsible authority under the Licensing Act 2003? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Are you responding as a representative of licensed premises or a trade group? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Is there anything within the Policy that you feel is unreasonable? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Does the Policy make clear that all applications must be considered on their own merits. | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Should the Policy act as a document to guide applicants, responsible authorities and residents. | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Should the Policy act as a document to advise the Licensing Committee in making their decisions? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| The Licensing Act 2003 has been and is currently being amended by further legislation. The Governments purpose for this is to deregulate regulated entertainment. The new policy contains updates to legislation, amendments and additions. | |
| Do you think that deregulating entertainment will have a positive impact on the licensed trade? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Should the Policy include a section on the exemptions for sexual entertainment that can be carried on in licensed premises without a licence and the Licensing Authorities expectations of licence holders? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| The Community and Ancillary Sellers Notice (CAN) will be a new authorisation under the Licensing Act 2003 which will benefit particular small businesses and community groups who wish to sell or provide small amounts of alcohol in limited circumstances as an ancillary part of a wider service or an organised event, without any other form of licensing authorisation. Do you think that this is a good idea? | Yes <input type="checkbox"/> No <input type="checkbox"/> |

| | |
|---|--|
| Where the activities of more than one type of premises cumulatively undermine the licensing objectives it is open to the Licensing Authority to adopt a saturation policy. Such a policy would state that no new licences would be granted in that area, unless the applicant could demonstrate that they would not add to the cumulative impact. | |
| Apart from Hinckley Town Centre do you believe that any other area of the Borough is suffering from the cumulative effect of too many licensed premises of one type? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Do you have any evidence that any area of the Borough is suffering from the cumulative effect of too many premises of one type? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Regulated Entertainment – Boxing. The Council has made a Policy decision regarding what is termed as “bare knuckle boxing”. The decision is that no bare knuckle boxing or fighting event will be permitted. Do you agree with this decision? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| The Licensing Authority can resolve to adopt an early morning restriction order (EMRO) where it is appropriate for the licensing objectives to do so. Such an order can restrict the sale of alcohol between 12am and 6am. | |
| Do you believe that an EMRO is appropriate for the promotion of the licensing objectives? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Do you have any evidence that an EMRO is appropriate for the promotion of the licensing objectives? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| The Licensing Authority can resolve to adopt a Late Night Levy (LNL) requiring all premises that trade after a time specified by the authority between 12am and 6am pay an extra fee to contribute to the cost of the policing of the night time economy. | |
| Do you believe that an LNL is appropriate for the promotion of the licensing objectives? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Do you have any evidence that an LNL is appropriate for the promotion of the licensing objectives? | Yes <input type="checkbox"/> No <input type="checkbox"/> |

Your answers to the above questions will help us determine our Policy but they may not have allowed you to fully express your opinion. Please feel free to expand on your answers or offer any further comments on a separate sheet of paper. Alternatively email us on esadmin@hinckley-bosworth.gov.uk

We would particularly like to hear about your experiences and any evidence you have to support your opinions. This evidence would allow us to consider what further measures may be necessary, such as restricting the hours when alcohol can be sold.

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