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**Steve Atkinson** MA(Oxon) MBA FIoD FRSA  
*Chief Executive*

Date: 06 October 2015

Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**To: Members of the Licensing Committee**

Mrs H Smith (Chairman)	Mr MA Hall
Mrs J Kirby (Vice-Chairman)	Mrs L Hodgkins
Mr Bessant	Mr C Ladkin
Mr MB Cartwright	Mr K Nichols
Mrs MA Cook	Mr M Nickerson
Mr DS Cope	

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, Hinckley Hub on **WEDNESDAY, 14 OCTOBER 2015 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 26 August 2015.

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. GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES (Pages 3 - 38)

This report is brought to the committee post-consultation and members are asked to consider the report a recommend to Council for adoption.

7. LATE NIGHT LEVY (Pages 39 - 44)

Following a request at the previous meeting to give consideration to the Late Night Levy later in the year, and the resolution of Council that the matter be considered prior to approving the Statement of Licensing Policy, members are asked to give consideration to this report and give direction.

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



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# Agenda Item 2

## HINCKLEY AND BOSWORTH BOROUGH COUNCIL

### LICENSING COMMITTEE

26 AUGUST 2015 AT 6.30 PM

PRESENT: Mrs H Smith - Chairman  
Mrs J Kirby – Vice-Chairman  
Mrs MA Cook, Mr DS Cope, Mr WJ Crooks (for Mr MB Cartwright), Mrs L Hodgkins and Ms BM Witherford (for Mr K Nichols)

Officers in attendance: Mark Brymer, Rebecca Owen and Michael Rice

#### 125 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Bessant, Cartwright, Hall, Ladkin, Nichols and Nickerson, with the following substitutions of Councillor Crooks for Councillor Cartwright and Councillor Witherford for Councillor Nichols authorised in accordance with Council Procedure Rule 4.

#### 126 MINUTES

It was moved by Councillor Witherford, seconded by Councillor Hodgkins and

RESOLVED – the minutes of the meeting held on 15 December 2014 be confirmed and signed by the Chairman.

#### 127 DECLARATIONS OF INTEREST

No interests were declared at this stage.

#### 128 LICENSING POLICY REFRESH

Members gave consideration to the Statement of Licensing Policy which had been subject of consultation before being brought to the Licensing Committee and then Council for adoption. The following points were made during the discussion:

- The exclusion of the Crescent development in the saturation area
- The main changes in the revised policy being sections 6 (adult entertainment) and 10 (boxing)
- Recent applications for opening until 5am (which had only been granted until 4am by the committee).

Discussion ensued on the late night levy, which had been considered in 2011 but rejected. Members felt that this should be revisited and asked for a report later in the year.

It was moved by Councillor Witherford, seconded by Councillor Hodgkins and

RESOLVED –

- (i) The report and policy be endorsed and RECOMMENDED to Council for approval;
- (ii) A report on the late night levy be brought to a future meeting.

129 GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES

Members received a report on the proposed revision of the Statement of Principles as required by the Gambling Act 2005. It was reported that this authority had not held any hearings under the Gambling Act, only had nine premises in the borough and had never received any complaints. It was explained that gambling premises were robustly inspected and regularly visited. It was moved by Councillor Cope, seconded by Councillor Crooks and

RESOLVED – the report and Statement of Principles be endorsed for consultation.

(The Meeting closed at 7.00 pm)

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CHAIRMAN



## LICENSING COMMITTEE 14 OCTOBER 2015

### GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)

#### WARDS AFFECTED: 'ALL WARDS'

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#### 1. PURPOSE OF REPORT

- 1.1 To consider the Gambling Policy (Statement of Principles) in light of the recent consultation exercise and for the Committee to recommend the document for adoption by the Council.

#### 2. RECOMMENDATION

- 2.1 That Licensing Committee agrees this Authority's Gambling Policy (Statement of Principles) for approval to full Council for adoption.

#### 3. BACKGROUND TO THE REPORT

- 3.1 The responsibility for regulatory activity has been split between local authorities and the national regulator called the Gambling Commission. The Commission issues Operating licences to gambling operators and individuals and issues guidance to local authorities as to how they should exercise their powers under the legislation. The Commission has powers to impose direct conditions on operators, develop codes of practice and investigate claims of illegal gambling or any breaches of the legislation. Where it considers such action appropriate it will be able to suspend or revoke licences and issue unlimited financial penalties.

Local Authorities – designated as licensing authorities – are responsible for issuing premises licenses to:

- Casinos
- Betting Offices and Race Tracks
- Bingo Clubs
- Adult Gaming Centre (for over 18s only)
- Family Entertainment Centre (where children are allowed)

The local authority also issue permits for gaming machines and for prize draws.

- 3.2 Under the provisions of the Gambling Act 2005 Hinckley & Bosworth Borough Council is the licensing authority for the administration and enforcement in specified circumstances of 'gambling', defined as Betting, Gaming and participating in a Lottery.
- 3.3 Section 349 of the Gambling Act 2005 requires that Hinckley & Bosworth Borough Council as Licensing Authority prepare and publish a statement of principles every three years. The Borough Council's Statement of Principles is due for renewal in 2016.

- 3.4 It is a further requirement of the Act that the revised Policy must be approved at a full meeting of the Council. Such approval cannot be granted until consultation has been undertaken with a range of statutory bodies defined by the Act. Additionally the authority is empowered to consult with other organisations as is deemed appropriate.
- 3.5 The statement of principles is required to clearly place the promotion of the licensing objectives of the Act as central to its purpose. These are:
- Preventing gambling from being used as a source of crime or, being associated with crime and disorder or used to support crime;
  - Ensuring gambling is conducted in a fair and open way;
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 3.6 The statement must be produced in consultation with persons and bodies stipulated by the Act. These are:
- Chief Officer of Police for the authority's area;
  - Persons who appear to the authority to represent the interests of gambling businesses in the area;
  - Persons who appear likely to represent or have interests likely to be affected by the exercise of the authority's functions under the Act.
- 3.7 The Council must also ensure that they comply with the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 (S.I 636 of 2006). These regulations govern the form statements must take, the procedure to be followed in relation to the preparation, review or revision of statements and the publication of statements.
- 3.8 The regulations require that a Statement is published by being made available for a period of at least 4 weeks before the date on which it will come into effect:-
- on the Authority's website, and
  - for public inspection in one or more public libraries or other premises in the Borough such as the Council Offices.
- 3.9 The Council must also advertise the publication of the revised Statement of Principles by publishing a notice on the Authority's website and in one or more of the following places:
- a local newspaper circulating in the area covered by the statement
  - a local newsletter, circular, or similar document circulating in the area covered by the statement,
  - a public notice board in or near the principal office of the authority,
  - a public notice board on the premises of public libraries in the area covered by the statement.



3.10 The statement of principles has served the Council well over the last three years and there are only two notable changes to the policy. The two main changes are Local Risk Assessments and Local Area Profiles (to map out any local areas of concern) which have been included as part of the revised changes in the latest version of the Gambling Commissions Guidance to Local Authorities.

#### 4. FINANCIAL IMPLICATIONS [AG]

4.1 None.

#### 5. LEGAL IMPLICATIONS [MR]

5.1 The legal requirements relating to the Statement of Principles and the procedure for agreeing to any amendment are set out adequately in the body of the report.

#### 6. CORPORATE PLAN IMPLICATIONS [RP]

6.1 The Statement of Principles will contribute to the Councils Corporate Plan objectives of supporting individuals and creating a vibrant place to work and live.

#### 7. CONSULTATION

7.1 Consultation has taken place with the following organisations:

- The Chief Constable, Leicestershire Constabulary;
- Leicestershire Safeguarding Children Board;
- Leicestershire County Council Social Services;
- Leicestershire Fire & Rescue Service;
- Gambling Trade associations as appropriate;
- Hinckley & Bosworth Borough Council elected Members;
- Town Centre Partnership / Hinckley BID
- All Town and Parish Councils;
- Neighbouring local authorities;
- Holders of existing licences
- GamCare & Gamblers Anonymous
- Responsibility in Gambling Trust

7.2 In determining its policy the authority has had regard to the guidance issued to accompany the Act, and has given appropriate weight to representations made with regard to:

- Interest and expertise of person making the representation;
- The motivation of those making representations;
- How many people have expressed similar views;
- How far representations relate to matters that should be included in the policy.

## 8. RISK IMPLICATIONS

- 8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Reputation from negative press coverage from enforcement	Ensure enforcement carried out competently and proportionately and in accordance with Enforcement Policies	Mark Brymer
Knowledge and skills of staff	Ensure adequate training given to enforcement staff	Mark Brymer
Legal compliance	Ensure actions in compliance with Central Government Policy	Mark Brymer

## 9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 9.1 There are only two minor changes to the policy which will not have any effect on the existing equality impact assessment and will not impact rural areas of the borough.

## 10. CORPORATE IMPLICATIONS

- 10.1 By submitting this report, the report author has taken the following into account:
- Community Safety implications
  - Environmental implications
  - ICT implications
  - Asset Management implications
  - Procurement implications
  - Human Resources implications
  - Planning implications
  - Data Protection implications
  - Voluntary Sector

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Background papers: Gambling Act 2005  
Gambling Commission - Guidance to Licensing Authorities 5<sup>th</sup> Edition  
Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales)  
Regulations 2006 (S.I 636 of 2006)

Contact Officer: Mark Brymer ext 5645



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

*Gambling Act 2005  
Statement of Principles*

Adopted by the Council on xx XXXXXX, 2015

## Foreword

The [Gambling Act 2005](#) has now been in force since 1<sup>st</sup> September 2007 and this is Hinckley & Bosworth Borough Councils fourth Statement of Principles.

Under the Act, the Licensing Authority is required to prepare and publish a Statement of Principles (Policy). Since the introduction of the Act, the policy has assisted in promoting the three licensing objectives detailed under the Act:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- ensuring that gambling is conducted in a fair and open way, and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Licensing Authority has considered and evaluated the effectiveness of the previous policy and has decided which elements of the Policy should be retained. A new addition to this policy is the Local Risk Assessment and the Local Area Profile which provides an analysis of the number and location of gambling facilities within the Borough.

<b>Contents</b>	<b>Page</b>
<b>Part 1</b>	
1. The licensing objectives	4
1.1 Introduction	4
1.2 Declaration	4
1.3 Consultees on the Policy	5
1.4 Licensing Authority Functions	5
1.5 Information Exchange	5
1.6 Enforcement	6
1.7 Responsible Authorities	7
1.8 Interested Parties	7
1.9 Local Risk Assessment	8
1.10 Local Area Profile	8
<b>Part 2 - Premises licences</b>	
2.1. General Principles	10
2.2. Definition of Premises	11 – 12
2.3 Location	13
2.4 Planning	13
2.5 Duplication with other regulatory regimes	13
2.6 Casinos	14
2.7 Bingo Premises	14
2.8 Betting Premises	14
2.9 Tracks	15
2.10 Adult Gaming Centre	16
2.11 Family Entertainment Centre	17
2.12 Travelling Fairs	17
2.13 Provisional Statements	18
2.14 Reviews	19
2.15 Reasons for a Decision	20
2.16 Appeals	20
<b>Part 3 - Permits and Notices</b>	
3.1 Unlicensed Family Entertainment Centre	21
3.2 Alcohol Licensed Premises	22
3.3 Club Gaming & Machine Permits	23
3.4 Prize Gaming & Prize Gaming Permits	24
3.5 Temporary Use Notices	24
3.6 Occasional Use Notices	25
<b>Part 4 – The Licensing Objectives</b>	
4.1 Licensing Objectives	25
4.2 Prevention of Crime & Disorder Objective	25
4.3 Ensure gambling is conducted fairly Objective	25
4.4 Protection of Children & Vulnerable People Objective	25
<b>Part 5 - Complaints &amp; Equality Statement</b>	26
<b>Part 6 – Further Information</b>	27
Appendix A – Consultees	29
Appendix B – Scheme of Delegation	29
Appendix C – Map of the Borough	30

## Glossary of Terms

Licensing Objectives:	As defined in Part 4 of the Statement of Principles
Licensing Authority	Hinckley & Bosworth Borough Council
Borough:	The area administered by Hinckley & Bosworth Borough Council (Map appended at Appendix C)
Licensing Authority Functions:	Applications for licenses and permits as defined in section 1.4
Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Mandatory Condition:	Set by the Secretary of State (some set out in the Act) and some to be prescribed by regulations.
Default Condition:	To be prescribed in Regulations made by the Secretary of State to be attached to all classes of premises licence, unless excluded by Hinckley & Bosworth Borough Council
Specific Condition	Conditions that can be attached to an individual premises by the Licensing Authority. (However these conditions cannot prevent compliance with operating licence conditions.)
Responsible Licensing Authority:	The following are responsible authorities: <ol style="list-style-type: none"> <li>1. The Licensing Authority in whose area the premises are wholly or mainly situated (HBBC)</li> <li>2. The Gambling Commission;</li> <li>3. The Chief Officer of Police for Leicestershire;</li> <li>4. Leicestershire Fire and Rescue Service;</li> <li>5. The Local Planning Licensing Authority (HBBC)</li> <li>6. A Licensing Authority with functions in relation to pollution of the environment or harm to human health;</li> <li>7. A designated body to advise on the protection of children;</li> <li>8. HM Customs and Excise.</li> </ol>
Interested Party:	For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the license or to which the application is made, the person:- <ol style="list-style-type: none"> <li>a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;</li> <li>b) Has business interests that might be affected by the authorised activities;</li> <li>c) Represents persons who satisfy a) or b) above.</li> </ol>
Categories of machines	A= Unlimited, B1 = £10000 B2 = £500 B3 = £500 B4 = £400, C = £100, D = £ 5 or up to £ 50 non-monetary prize.

## **Licensing Objectives under the Gambling Act 2005**

The Gambling Act 2005 (The Act) sets out three clear licensing objectives which are:-

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
2. Ensuring that gambling is carried out in a fair and open way;
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

This Licensing Authority is aware that, under Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant Codes of Practice under section 24 of the Act.
- in accordance with any relevant Guidance issued by the Commission under section 25 of the Act.
- in accordance with this Statement of Principles, and
- reasonably consistent with the licensing objectives.

### **1.1 Introduction**

Hinckley & Bosworth Borough Council became the Licensing Authority under the Gambling Act 2005. The Council's Geographical area is shown in Appendix C.

Licensing authorities are required by the Gambling Act 2005 to publish a statement of principles to apply when exercising their functions. The statement must be published every three years. This statement will come into effect one month after adoption by the Council and will be valid for three years; the statement must also be reviewed from time to time and re-consulted upon. The statement would then be re-published.

### **1.2 Declaration**

The Licensing Authority declares that this Statement of Principles has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005.

This Statement of Principles can be viewed on Hinckley & Bosworth Boroughs website: - [www.hinckley-bosworth.gov.uk](http://www.hinckley-bosworth.gov.uk)

The policy was approved at a meeting of the Full Council on 10<sup>th</sup> November 2015 and will be published via the Council's website. Copies are available upon request.

### **1.3 Consultees on the Statement of Principles**

The Statement of Principles has been subject to formal consultation with:-

1. Leicestershire Constabulary;
2. Representatives of the holders of the various licences for premises within the Borough who will be affected by this Policy;
3. Persons/bodies representing the interests of persons likely to be affected by this policy.

A full list is shown in Appendix A.

### **1.4 Licensing Authority Functions**

The Licensing Authority is required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences.
- Issue Provisional Statements (a premises that he or she, expects to be constructed; altered; or acquires a right to occupy).
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits.
- Issue Club Machine Permits to commercial clubs.
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres.
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines.
- Issue Licensed Premises Gaming Machine Permits for premises licensed, under the Licensing Act 2003, where there are more than two machines.
- Register small society lotteries below prescribed thresholds.
- Issue Prize Gaming Permits.
- Receive and endorse Temporary Use Notices.
- Receive and acknowledge Occasional Use Notices.
- Provide information to the Gambling Commission regarding details of licences issued (see section below on 'information exchange').
- Maintain registers of the permits and licences that are issued under these functions.

It should be noted that local licensing authorities are not be involved in licensing remote gambling at all (internet gambling). This will fall to the Gambling Commission via operating licences.

Spread betting is regulated by The Financial Services Authority and the National Lottery is now regulated by The Gambling Commission.

### **1.5 Information exchange**

In fulfilling its functions under sections 29, 30 and 350 of the Act with respect to the exchange of relevant information with other regulatory bodies the Council will establish protocols in this respect. In exchanging such



information, the Council will conform to the requirements of the Data Protection Act 1998 in accordance with the Council's existing policies. Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

## **1.6 Enforcement**

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified. This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised.
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny.
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly and
- Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives.
- The relevant codes of practice.
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

This licensing authority also keeps itself informed of developments as regards the work of the [Better Regulation Delivery Office](#) (BRDO) in its consideration of the regulatory functions of local authorities.

## **1.7 Responsible Authorities**

In exercising this licensing authority's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

- The need for the body to be responsible for an area covering the whole of the licensing authority's area.
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.

In accordance with the Gambling Commission's Guidance for local authorities this authority designates the Local Safeguarding Children's Board in conjunction with Leicestershire Police.

## **1.8 Interested Parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities.
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b).

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at 8.9 to 8.17 It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the Councillor / MP represents the Ward likely to be affected. Likewise, parish councils likely to be affected

will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application.

### **1.9 Local Risk assessment**

The Gambling Commission's [Licence Conditions and Codes of Practice](#) (LCCP) (issued in February 2015) require licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures in place to mitigate those risks.

As part of the application process licensees are required to submit a local risk assessment.

- to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy.
- when applying for a variation of a premises licence and
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks.
- in any case, undertake a local risk assessment when applying for a new premises licence.

This Licensing Authority will require a licensee to share their risk assessment with the authority. The risk assessment will set out the measures the licensee has in place to address specific issues where concerns exist over new or existing risks. By adopting this proactive approach Licensing Authorities and licensees should be able to reduce the occasions on which a premises review is required.

### **1.10 Local Area Profile**

The following area profile has been included to facilitate operators being able to better understand the environment within Hinckley & Bosworth Borough Council and therefore proactively mitigate risks to the licensing objectives.

At the time of publication the Borough of Hinckley & Bosworth has a total of nine gambling premises licences. All premises licensed under the Gambling Act 2005 within the borough may be accessed by adults (over 18's) only.

The breakdown of those licences by location and type are given below:

### **Location**

Hinckley	5 Betting Premises	1 Adult Gaming Centre
Grobby	1 Betting Premises	
Earl Shilton	1 Betting Premises	
Burbage	1 Betting Premises	

### **Premises type**

8 Betting Premises  
1 Adult Gaming Centre

### **Betting Premises**

There are currently only eight betting premises within the borough. Following recent enquiries from a trade association the Licensing Authority has made contact with local betting premises in relation to the category B2 gaming machines known as fixed odds betting terminals (FOBT). The information obtained shows that there is no excessive use of the machines and proper control and monitoring of these machines by the licence holders are in place. No complaints have been received about individual betting premises since 2007 when the Council became the Licensing Authority. Betting premises may only be entered by persons over the age of 18. This Council will continue to monitor premises to ensure compliance levels are maintained.

### **Adult Gaming Centre (AGC)**

There is one Adult Gaming Centre in Hinckley town centre. They are able to make category B, C and D gaming machines available for use. Only persons over the age of 18 can enter these premises.

### **Casino**

There are no licensed casinos in the borough.

### **Tracks**

There are no track betting premises in the borough.

### **Family Entertainment Centre**

There are no family entertainment centres in the borough.

### **Bingo Hall**

There are no bingo halls in the borough.

## **Part 2 – Premises Licensing**

### **2.1 General Principles**

Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions as detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission.
- in accordance with any relevant guidance issued by the Gambling Commission.
- reasonably consistent with the licensing objectives and
- in accordance with the Licensing Authority's statement of licensing policy.

It is appreciated that "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for the Licensing Authority.

### **2.2 Definition of Premises**

Definition of "premises" – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, the licensing authority will pay particular attention if there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the 5<sup>th</sup> edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

This licensing authority takes note that: care should be taken in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular officers should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names on the premises licence.

Officers will take into account the following factors:

- Do the premises have a separate registration for business rates?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

**The relevant access provisions for each premises type is as follows:**

### **Casinos**

- The principal access entrance to the premises must be from a street.
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises.

## **Betting Shops**

- Access must be from a street or from another premises with a betting premises licence.
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

## **Tracks**

No customer should be able to access the premises directly from:

- a casino.
- an adult gaming centre.

## **Bingo Premises**

No customer must be able to access the premise directly from:

- a casino.
- an adult gaming centre.
- a betting premises, other than a track.

## **Family Entertainment Centre**

No customer must be able to access the premises directly from:

- a casino.
- an adult gaming centre.
- a betting premises, other than a track.

## **Premises “ready for gambling”**

A licence to use premises for gambling will only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling.
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

### **2.3 Location of Premises**

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

### **2.4 Planning**

In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

### **2.5 Duplication with other regulatory regimes**

Duplication with other regulatory regimes - This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.



When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

## **2.6 Casinos**

There are currently no casinos operating within the Borough.

There is no resolution to prohibit casinos in the Borough at present. However the Council reserves the right to review this situation and may, at some time in the future, resolve not to permit casinos.

Should the Licensing Authority choose to make such a resolution under section 166 of the Act, this will be a resolution of Full Council following considered debate, and the reasons for making the resolution will be given. There is no right of appeal against this resolution.

## **2.7 Bingo Premises**

Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

This authority also notes that regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate eight category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

## **2.8 Betting Premises**

Betting machines - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **2.9 Tracks**

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. This licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter. At present there are no tracks within the Borough.

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes.
- CCTV.
- Supervision of entrances / machine areas.
- Physical separation of areas.
- Location of entry.
- Notices / signage.
- Specific opening hours.
- Self-exclusion schemes.
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

### **Gaming machines**

Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

### **Betting machines**

This licensing authority will, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

## **Applications and plans**

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place.

### **2.10 Adult Gaming Centre**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes.
- CCTV.
- Supervision of entrances / machine areas.
- Physical separation of areas.
- Location of entry.
- Notices / signage.
- Specific opening hours.
- Self-exclusion schemes.

- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

### **2.11 Family Entertainment Centre**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV.
- Supervision of entrances / machine areas.
- Physical separation of areas.
- Location of entry.
- Notices / signage.
- Specific opening hours.
- Self-exclusion schemes.
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

### **2.12 Travelling Fairs**

This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land.

This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## 2.13 Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed.
- expects to be altered or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage.
- which in the authority's opinion reflect a change in the operator's circumstances or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 2.14 Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- in accordance with any relevant Code of Practice issued by the Gambling Commission.
- in accordance with any relevant guidance issued by the Gambling Commission.
- reasonably consistent with the licensing objectives and
- in accordance with this authority's statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

- add, remove or amend a licence condition imposed by the licensing authority.
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion.
- suspend the premises licence for a period not exceeding three months and
- revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided

facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them. Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder.
- the applicant for review (if any)
- the Commission.
- any person who made representations.
- the chief officer of police or chief constable and
- Her Majesty's Commissioners for Revenue and Customs (HMRC).

## **2.15 Reasons for a Decision**

It is a requirement of the Act that a licensing authority gives reasons for a rejection of an application but it is good practice for reasons to be given in relation to all decisions.

A failure to give reasons may result in an appeal of the decision or the suggestion that the licensing authority did not have regard to all the relevant information when making its decision, in line with its obligation under s.153 of the Act.

## **2.16 Appeals**

An appeal against a decision of this licensing authority has to be made to the Magistrates' Court for the local justice area in which the premises concerned are situated.

To begin an appeal, the appellant must give notice of their appeal within 21 days of their having received notice of the relevant decision. During that period, and until any appeal that has been brought has been finally determined, a determination or other action by the licensing authority will not have effect unless the licensing authority so directs.

If the licence holder or the person who made the application appeals, the licensing authority will be the respondent. If the appeal is made by someone else, then the licence holder / applicant will be a respondent to the appeal along with the licensing authority.

There is a further right of appeal from the Magistrates' Court to the High Court in England and Wales.

## **Part 3 - Permits / Temporary & Occasional Use Notice**

### **3.1 Unlicensed Family Entertainment Centres (UFEC)**

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.

This Licensing authority will want all applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres.
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act and
- that staff are trained to have a full understanding of the maximum stakes and prizes.

It should be noted that the licensing authority cannot attach conditions to this type of permit.

#### **Statement of Principles**

This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

### **3.2 Alcohol Licensed premises gaming machine permits - Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.



To promote best practice Hinckley & Bosworth Borough Council produce a Summary document and request that premises licence holders (Licensing Act 2003) display it as good practice. By displaying a summary of gaming machine entitlement the designated premises supervisor (DPS) is showing co-operation with the fair & open objective of the Gambling Act by letting people know what the machines actually are that they may be playing and that the premises is licensed to operate those machines. The summary also contributes towards keeping crime out of gambling by letting people see that if a premise is licensed for two machines but has four on the premises there is an avenue to raise that with the Local Authority and/or the Gambling Commission.

<http://www.gamblingcommission.gov.uk/pdf/code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf>

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives.
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with).
- the premises are mainly used for gaming or
- an offence under the Gambling Act has been committed on the premises.

### **Permit: 3 or more machines**

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant.”

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **3.3 Club Gaming Permits & Club Machine Permits**

The Licensing Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming and games of chance as prescribed in regulations.

Club machine permits allow the provision of no more than three gaming machines. These may be from categories B, C or D. The club is permitted to choose the combination of machines on its premises. The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit. The Authority only refuses an application for a machine permit if the:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied.
- (b) the applicant's premises are used wholly or mainly by children and/or young persons.
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities.
- (d) a permit held by the applicant has been cancelled in the previous ten years or
- (e) an objection has been lodged by the Commission or the police.

### **3.4 Prize Gaming & Prize Gaming Permits**

Gaming is defined as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.

A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

An application for a permit can only be made by a person who occupies or plans to occupy the premises an individual, must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises.

### **3.5 Temporary Use Notices**

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **3.6 Occasional Use Notices**

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **Part 4- The Licensing Objectives**

### **4.1 Licensing Objectives**

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below

#### **4.2 Preventing gambling from being a source of crime and disorder; being associated with crime and disorder or being used to support crime**

This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

#### **4.3 Ensuring gambling is conducted in a fair and open way**

This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

#### **4.4 Protecting children and other vulnerable persons from being harmed or exploited by gambling – Licensing Objective**

This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective.

Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

The Gambling Commission has confirmed to this authority that there is no evidence of child sexual exploitation neither within the gambling industry, nor instances of grooming occurring in gambling licensed premises.

## **Vulnerable Persons**

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

## **5 COMPLAINTS AGAINST PREMISES LICENSED UNDER THE ACT**

This Licensing Authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a license to be reviewed, this Licensing Authority may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the Licensing Committee consider their valid objections or for any licence holder to decline to participate in a conciliation meeting. Due consideration will be given to all relevant representations.

## **Equal Opportunities Statement**

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

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

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

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

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

- The Policy and associated documents will be available on the Internet, and in other formats upon request.
- Multi-language sections may be included in all leaflets upon request.
- Support will be offered to individuals who are socially excluded to assist in their understanding of legislation and legal requirements
- Action will be taken to ensure that all enforcement action, particularly against those individuals from disadvantaged groups or who share protected characteristics, is dealt with fairly.

An Equality Impact Assessment has been completed for this policy.

## **6 FURTHER INFORMATION**

Further information about the Gambling Act 2005, this Statement of Principles or the application process can be obtained from:-

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

Tel: 01455 238141  
Fax: 01455 251172  
E-mail: [esadmin@hinckley-bosworth.gov.uk](mailto:esadmin@hinckley-bosworth.gov.uk)  
Website: [www.hinckley-bosworth.gov.uk](http://www.hinckley-bosworth.gov.uk)

The Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6500  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## Appendix A – Consultees On Policy

The Licensing Authority has sent copies of the policy to the following to consult on the content of this Statement of Principles:-

- The Chief Constable, Leicestershire Constabulary.
- Leicestershire Safeguarding Children Board.
- Leicestershire County Council Social Services.
- Leicestershire Fire & Rescue Service.
- Trade associations as appropriate.
- Association of British Bookmakers.
- Hinckley & Bosworth Borough Council elected Members.
- All Parish and Town Councils.
- Neighbouring local authorities.
- A selection of holders of existing licences, permits and registrations that will be affected by the provisions of the Act.
- GamCare & Gamblers Anonymous.
- Responsibility Gambling Trust.

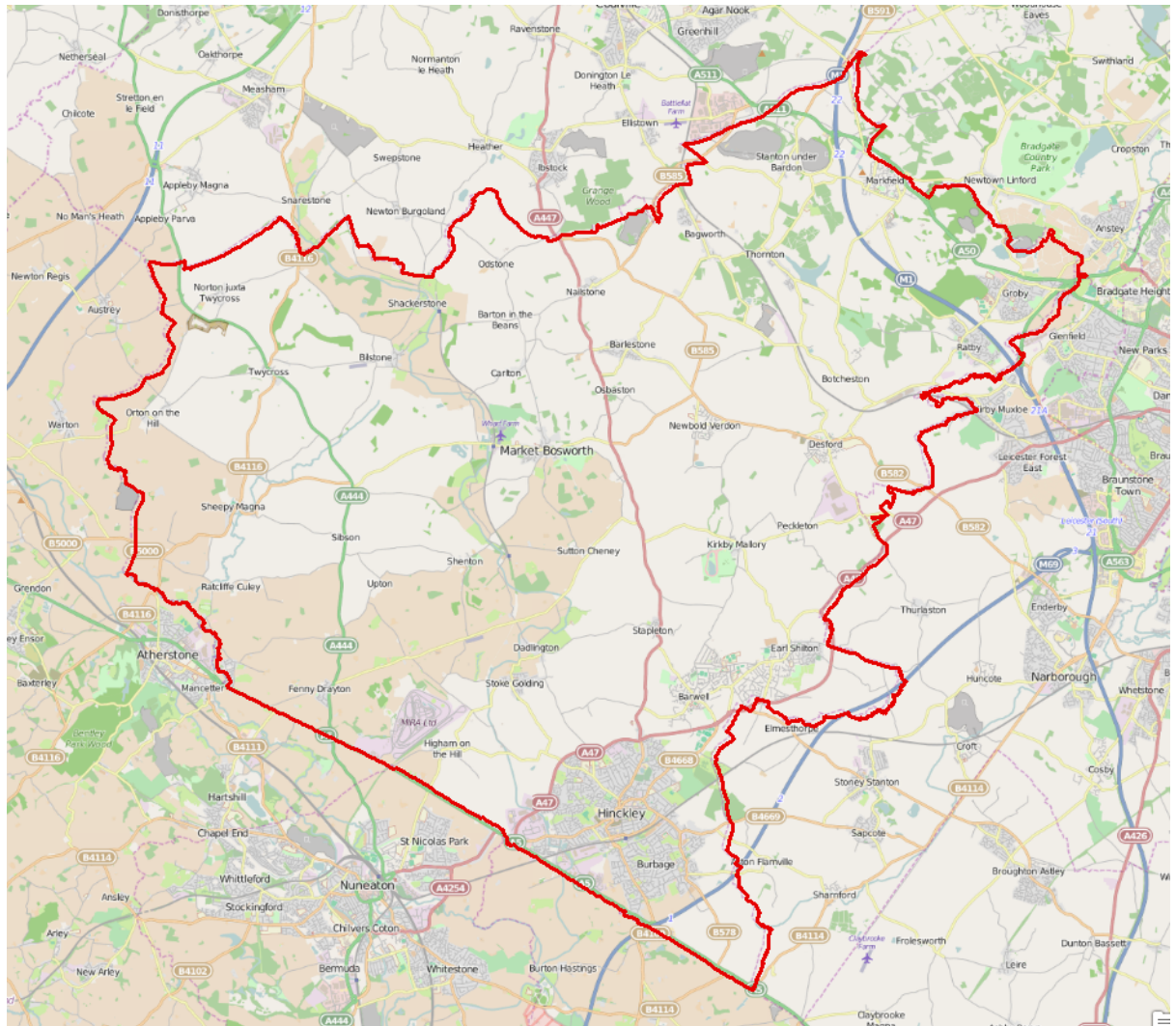
## Appendix B - Gambling Act 2005 Scheme of Delegation

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Committee / Sub-Committee</b>	<b>Officers</b>
<b>Final approval of the 3 year Statement of Principles</b>	X		
<b>Review of 3 year Statement of Principles</b>		X (Full Committee only)	
<b>Policy not to permit casinos</b>	X		
<b>Fee setting (when appropriate)</b>		X (Full Committee only)	
<b>Application for premises licences</b>		Where representations have been received and not withdrawn (Sub-Committee)	Where no representations received / representations have been withdrawn
<b>Application for a variation to a licence</b>		Where representations have been received and not withdrawn (Sub-Committee)	Where no representations received / representations have been withdrawn

<b>Application for a transfer of a licence</b>		Where representations have been received from the Commission or responsible authority  (Sub-Committee)	Where no representations received from the Commission or responsible authority
<b>Application for a provisional statement</b>		Where representations have been received and not withdrawn  (Sub-Committee)	Where no representations received / representations have been withdrawn
<b>Review of a premises licence</b>		<b>X</b>  (Sub-Committee)	
<b>Application for club gaming/club machine permits</b>		Where objections are made and not withdrawn	Where objections are not received or are withdrawn
<b>Cancellation of club gaming/club machine permits</b>		<b>X</b>  (Sub-Committee)	
<b>Applications for other permits</b>			<b>X</b>
<b>Cancellation of licensed premises gaming machine permits</b>			<b>X</b>
<b>Applications for small scale lotteries registration</b>		Where objections are made and not withdrawn (Sub)	Where objections are not made or are withdrawn
<b>Consideration of temporary use notice</b>			<b>X</b>
<b>Decision to give a counter notice to a temporary use notice</b>		<b>X</b>  (Sub-Committee)	
<b>Determination of vexatious or frivolous representations or representations which will certainly not influence the authority under the 2005 Act</b>			<b>X</b>



## Appendix C – Map of The Borough



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## LICENSING COMMITTEE – 14 OCTOBER 2015

### LATE NIGHT LEVY REPORT OF DEPUTY CHIEF EXECUTIVE – (COMMUNITY DIRECTION)

#### WARDS AFFECTED: 'ALL WARDS'

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#### 1. PURPOSE OF REPORT

- 1.1 To reports seeks to inform Members of the Late Night Levy power under the Police Reform and Social Responsibility Act 2011.

#### 2. RECOMMENDATION

- 2.1 That the Committee give clear direction in how they wish to proceed.

#### 3. BACKGROUND TO THE REPORT

- 3.1 The late night levy (“the 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 (“the 2011 Act”). 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 where there is evidence the night time economy is being affected by alcohol related crime and disorder and normal policing methods are not effective.

- 3.2 The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate (“holders”), in relation to premises in the authority’s area, which authorise the sale or supply of alcohol on any days during a period (the “late night supply period”) beginning at or after midnight and ending at or before 6 am.

- 3.3 The decision to introduce, vary or end the requirement for the levy must be made by the full Council. Other decisions in relation to the introduction and administration of the levy may be delegated in the manner which the licensing authority considers most appropriate.

#### **The Local Night time Economy**

- 3.4 Licensing Officers have had discussions with the local police regarding Hinckley’s night time economy. The police have informed us that due to a decrease in the number of customers visiting the town centre on Friday and Saturday less officers are needed to police the town centre and are now utilised elsewhere. During the last six months two town centre pubs in Hinckley have closed as it was no longer viable to keep them open.

### **The Introduction of a Levy**

- 3.5 The decision to introduce the levy is for the licensing authority to make. The licensing authority is expected to consider the need for a levy with the chief officer of police and police and crime commissioner (“PCC”) for the police area in which it is proposed the levy will be introduced.
- 3.6 The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that some authorities may not have a large number of premises which are licensed to sell alcohol during the late night supply period. At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.
- 3.7 The late night supply period must begin at or after midnight and end at or before 6am. The period can be for any length of time within these parameters but must be the same every day. If licensing authorities decide that it would be appropriate that certain types of premises should not pay the levy, they can set the late night supply period to suit the opening times of premises in their local area (for example the supply period could begin at 1am).
- 3.8 The licensing authority must consider the desirability of introducing a levy in relation to the matters described in section 125(3) of the Police Reform and Social Responsibility Act 2011. These matters are the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am.

### **The Design of the Levy**

- 3.9 The levy must apply to the whole of the licensing authority’s area. It will apply to all holders (on and off-trade) of relevant late night authorisations situated in the licensing authority’s area. Any such holder will be liable to pay the levy, regardless of whether the holder’s premises are actually operating during the period. For example, a holder in relation to a supermarket with a 24 hour licence will be required to pay the levy regardless of its actual opening hours.

### **Exemptions to the Levy**

- 3.10 Licensing authorities may consider that there are some types of premises in relation to which the holder should not make a contribution towards the cost of policing the night-time economy through the levy. This is a local decision – the licensing authority should make its decision based on its knowledge of the night-time economy in the area, including information gathered through the consultation process.
- 3.11 Licensing authorities can decide, when considering the levy design, if any of the following permitted categories of premises should be exempt from the requirement to pay the levy. These exemption categories are specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.

- *Premises with overnight accommodation*
- *Theatres and cinemas*
- *Bingo halls*
- *Community Amateur Sports Clubs (“CASCs”)*
- *Community premises*
- *Country village pubs*
- *Business Improvement Districts (“BIDs”)*

### **Reductions**

- 3.12 Eligible premises could receive a 30% reduction from the levy. There will be no cumulative discounts available for holders in relation to premises that are eligible for more than one reduction category. At this stage it is not possible to calculate which premises may be eligible for a reduction. This will only be possible if and when the Council agree to consult on a late night levy and would only be decided after careful consideration by the Licensing Committee following a full consultation. Regarding the costs of administering such a levy it is not possible to calculate the total costs until such a process has taken place.
- 3.13 Licensing authorities can offer a reduction to best practice schemes that meet the following benchmarks specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012:
- A clear rationale as to why the scheme’s objectives and activities will, or are likely to, result in a reduction of alcohol-related crime and disorder.
  - A requirement for active participation in the scheme by members.
  - A mechanism to identify and remove in a timely manner those members who do not participate appropriately.

### **Levy Revenue**

- 3.14 The net levy revenue must be split between the licensing authority and the relevant PCC. The licensing authority must pay at least 70% of the net levy revenue to the police.
- 3.15 There are no restrictions on what the PCC’s portion of the levy revenue can be spent on, in line with standard practice on the allocation of police funds. The licensing authority is able to retain up to 30% of the net levy revenue and must use the revenue to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy.

Specifically, these activities must have regard to the connection with the supply of alcohol during the late night supply period and related to arrangements for:

- The reduction of crime and disorder;
- The promotion of public safety;

- The reduction or prevention of public nuisance; or
- The cleaning of any relevant highway or relevant land in the local authority area.

3.16 A licensing authority can deduct the costs it incurs in connection with the introduction, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned between the police and licensing authority. Any financial risk relating to the levy revenue, such as lower than expected revenue or higher than expected costs rests at a local level.

### **Levy Charges and the Collection Process**

<b>Fee Band</b>	<b>Rateable Value</b>	<b>Rate of Levy</b>	<b>No of Properties</b>	<b>Total Amount</b>
A	Nil to £4,300	£299	10	£2,990
B	£4,301 to £33,000	£768	63	£48,384
C	£33,001 to £87,000	£1,259	18	£22,662
D	£87,001 to £125,000	£1,365	1	£1,365
E	£125,001 and above	£1,493	5	£7,465
<b>TOTAL</b>				<b>£82,866</b>

3.17 The levy charges are based on the current licence fee system under the 2003 Act, with holders being placed in bands based on their premises rateable value.

3.18 The levy will be collected at the same time as the annual licence fee. The holder will, therefore, be required to pay the levy on an annual basis. Any payment of the levy which is owed to the licensing authority can be recovered as a debt due to the authority. Non-payment of the levy can result in suspension of a premises licence or suspension of club premises certificate.

### **Previous Consideration**

3.19 In February 2012 Members were advised of the consultation on legislation for the late night levy which sought to extend times during which an additional charge could be imposed to help fund policing requirements resulting from late night or early morning drinking.

3.20 Members expressed concern that imposing more charges would damage the night-time economy particularly in Hinckley, which had already suffered from reduced business in the evening over the last few years.

3.21 Concern was expressed that the legislation was designed more for cities and not for towns with a small night-time economy.

### **Late Night Levy Locations**

3.22 The following authorities have introduced a Late Night Levy:-

Newcastle City, the City of London, Nottingham City, Southampton City, Islington, Chelmsford, and Cheltenham.

3.23 The following authorities have rejected a Late Night Levy:-

Plymouth at a meeting held on 25 March, the Cabinet unanimously voted to postpone the introduction of a levy in favour of working with the local trade and awaiting the impact of the Home Office's consultation on locally set fees.

Woking - The Licensing Committee convened on 15<sup>th</sup> of October 2013 and voted not to introduce either a Late Night Levy or an Early Morning Restriction Order at this time.

Milton Keynes The full Licensing Committee approved the levy on 18<sup>th</sup> September and confirmed that the proposed implementation date is 1<sup>st</sup> May 2014. Full Council convened on 23 October 2013 and rejected the Late Night Levy proposal.

York - No current plans to have a levy and there is a partnership working with the BID in dealing with the late night economy.

4. FINANCIAL IMPLICATIONS [AG]

4.1 The maximum income from the levy will be £24,860. This represents thirty percent of the total income of £82,866. PCC will receive seventy percent of income. Members should note that as the licensing authority the Council is expected to consider the need for a levy in consultation with the PCC.

4.2 A deduction would need to be made for administration costs before income is apportioned. Administration costs for running the levy are still to be finalised.

4.3 The scheme has to be cost neutral; therefore any surplus arising from the levy will need to be reinvested for the benefit of night time economy.

4.4 If endorsed by the committee and the PCC, income and expenditure budgets and any money to be reinvested in the night time community will need to be approved in accordance with financial procedure rules.

5. LEGAL IMPLICATIONS [MR]

5.1 Contained in the body of the report.

6. CORPORATE PLAN IMPLICATIONS [RP]

6.1 May 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

7.1 No consultation has been undertaken as the report is for information only.

## 8. RISK IMPLICATIONS

- 8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.
- 8.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Negative Press	The Council can prove that a late night levy is necessary for this borough and to ensure that the Council carry out a full consultation with all businesses that may be affected if it decides to implement a levy.	Mark Brymer

## 9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 9.1 The report is for information only and informs members on what the late night levy power is. Should a Late Night Levy be introduced it will have an impact on all areas of the Borough.

## 10. CORPORATE IMPLICATIONS

- 10.1 By submitting this report, the report author has taken the following into account:
- Community Safety implications
  - Environmental implications
  - ICT implications
  - Asset Management implications
  - Procurement implications
  - Human Resources implications
  - Planning implications
  - Data Protection implications
  - Voluntary Sector

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Background papers:

The Late Night Levy (Application and Administration) Regulations 2012.

Contact Officer: Mark Brymer ext 5645