



# Hinckley & Bosworth Borough Council

## *Statement of Licensing Policy*

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

**Adopted by the  
Council 15 December  
2020**

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## 1.0 OVERVIEW

### 1.1 Introduction

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

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

- 1 The Prevention of crime and disorder
- 2 Public safety
- 3 The Prevention of public nuisance
- 4 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 and provision of regulated entertainment in clubs (**club premises certificates**) and the permitting of occasional licensable activities (**temporary event notices**).

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

### 1.3 Licensable activities

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

- the retail sale of alcohol
- the supply of alcohol by or on behalf of a club, or to the order of a member of the club
- The provision of late night refreshment (hot food or drink between 11 p.m. and 5 a.m.)
- the provision of "regulated entertainment"

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

- a 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.

1.3.3 Amendments made to the 2003 Act by the Live Music Act 2012 and the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, Legislative Reform Order 2014 and the Deregulation Act 2015, means that a licence is not required for the following activities to the extent that 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, this includes Greco Roman or free style wrestling
- 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 500 people; or
  - performance of live or recorded music on licensed premises which takes -place in the presence of an audience of no more than 500 people, subject to certain conditions being met.
- Recorded music, where recorded music comprises;
  - Any playing of recorded music on licensed premises which takes place in the presence of an audience of no more than 500.
  - Any playing of recorded music in unlicensed premises, subject to certain conditions being met.
  - Dance – no licence is required for performances on any day provided that the audience does not exceed 500

1.3.4 Where de-regulated activities take place on licensed premises any licence conditions relating to ‘live’ music or entertainment will be suspended, but it is possible to impose new, or reinstate existing conditions following a review of a premises licence or club premises certificate.

1.3.5 When considering whether an activity constitutes ‘the provision of regulated Entertainment’, each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance is live music or not, so organisers of events are encouraged to contact the Licensing Authority to discuss whether a licence will be required.

## 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 mandatory 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//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.
- 1.5.5 The Licensing Authority recognises the issues faced by the hospitality industry due to the Covid-19 pandemic and will apply this policy as flexibly as possible to support businesses during their recovery.
- 1.5.6 While the licensing policy should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation. This includes:

The Gambling Act 2005  
 The Environmental Protection Act 1990,  
 The Noise Act 1996  
 The Clean Neighbourhoods and Environmental Act 2005  
 The Regulatory Reform (Fire Safety) Order 2005  
 The Health and Safety at Work etc. Act 1974  
 The Equality Act 2010  
 The Immigration Act 2016  
 Regulators' Code under the Legislative and Regulatory Reform Act 2006  
 The Coronavirus Act 2020  
 The Business & Planning Act 2020

## **1.6 Consultation on 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 (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 16<sup>th</sup> December 2020. During that period, the Licensing Authority will keep the policy under review and may make such changes, as it thinks appropriate.

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

### **2.0 The Prevention of Public Nuisance**

- 2.1.1 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 noise 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 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 or other national governing body.

### **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 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 partnership working 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 any local Pubwatch Scheme and provide guidance where necessary. Officers will attend the local Pubwatch meeting when invited.

### **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.

3.4.2 The Licensing Authority would support the following steps to promote the licensing objectives in pubs and clubs opening beyond midnight that provides 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 Police 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 mobile phones, walkie-talkie radio or social media Apps 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 or Challenge 25 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 the local authority, Leicestershire Police, Fire and Rescue, Licensees, CCTV control centre and local pub-watch schemes. The Licensing Authority 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 limit 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 Police 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 alcohol. Staff should 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 **Child Sexual Exploitation and Child Criminal Exploitation (CSE / CCE)**

- 5.6.1 The licensing authority is committed to protecting children from harm and views this as an important licensing objective. Intelligence sharing and the exchange of information developed by the Police and Local Safeguarding Children Partnership (Leicestershire & Rutland) ensure that the protection of children from harm remains key.
- 5.6.2 Alcohol is also often a factor in child sexual/criminal exploitation, where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.
- 5.6.3 The Local Safeguarding Children Partnership (LSCP) works with the Police, the Licensing Authority and the licensed trade to promote risk management in relation to child sexual/Criminal exploitation. The LSCP can provide advice to assist licensees to identify risk and report concerns at different types of licensed premises so that children remain safe and businesses operate responsibly.
- 5.6.4 The Licensing Authority encourages licence holders and operators of licensed premises:
- To ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime
  - To raise the awareness of their staff about child sexual/Criminal exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.

### **Advice for Licensed Premises**

- 5.6.5 Child sexual exploitation is broadly defined as Vulnerable Young people under 18 who are manipulated into a sexual relationship or situation by an adult. It is known for children as young as 11 to be subjected to this process known as 'Grooming'.
- It involves young people being offered something in return for performing sexual acts.
  - Alcohol, Cigarettes, Mobile Phones, Gifts, Money, Drugs, Love.

### 5.6.6 Potential Issues

Under the Protection of children from harm, and Health & Safety issues think about your booking policy (young unaccompanied guests)

- Negative media attention – reputation.
- We all have a moral responsibility to protect children.
- There may be legal implications for Hotels if activity of CSE/CCE is taking place on their premises and they are failing to act or do not have safeguards in place.

### 5.6.7 How to Protect Your Business

- Age verification checks
- Refusal records
- Incident logs
- Police reporting protocols
- Patrol records/CCTV checks
- Staff training records

### 5.6.8 Training Your Staff

- Checklist of what staff need to know
- Up-to-date records for individual employees
- Regular refresher sessions
- Incentivised schemes for employee training
- Training should include: Age verification; CSE awareness;
- Premises monitoring.

The main thing to remember is **Say Something if you See Something.**



## **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 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. Hinckley & Bosworth Borough Council adopted these provisions on 4<sup>th</sup> April 2011 to give the Council more control including the power to refuse an application.
- 6.1.3 Where a business wishes to operate as a sexual entertainment venue it will 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 2003 licence will then continue to regulate any other licensable activities.
- 6.1.4 There is one exemption from SEV licensing where a premises can provide sexual entertainment on no more than 11 times a year. The exemption states:
- a) no relevant entertainment can be provided on more than 11 occasions within a 12 month period;
  - b) no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
  - c) no such occasion has lasted longer than 24 hours.
- 6.1.5 The provision of adult entertainment on premises will mean that access to the premises by anyone under the age of 18 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 in to include arrangements for protecting performers and restricting anyone under 18 from viewing any adult entertainment in their licence 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.

## **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 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 licensed premises concentrated in one area.

Cumulative impact policies may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on or off the premises, and the provision of late night refreshment. This includes late night fast food outlets which are not licensed to sell alcohol.

### **8.1 Adopting a special saturation policy**

8.1.1 In certain situations the number, type and density of premises selling alcohol or providing late night refreshment is strength, serious problems of nuisance and disorder may arise outside the premises or some distance from those premises. 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 activities mentioned above would undermine one or more 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.

8.1.2 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also increase the incidence of other criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport services, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.

### **8.2 Representations**

8.2.1 The Licensing Authority has received a representation from the Leicestershire Police that the circumstances described above exist in relation to parts of Hinckley town centre, and that the grant of further alcohol licensed and late night refreshment premises licences 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.
- Public Spaces Protection Order (PSPO) is designed to stop individuals or groups committing anti-social behaviour in a public space and gives the police a power to confiscate alcohol from adults and children in designated areas.
- 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 the Licensing Act 2003 and the Anti-Social Behaviour, Crime and Policing Act 2014.
- 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 (EMRO).
- Any other local initiative that similarly may address these problems.

## **8.4 Saturation Policy**

8.4.1 The proposed area is shown on the following page and is described as the area being bounded by and includes the following roads or streets and all streets within in it.

Trinity Lane to its junction with Mansion St, Mansion St. King St, Stockwell Head to its junction with The Borough. The Borough, Market Place, Station Rd to its junction with Lancaster Rd. Lancaster Rd, Rugby Rd to its junction with Trinity Lane.

8.4.2 The area of the Saturation Policy is marked on the map attached (**Appendix A**).

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

8.4.4 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (the cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.4.5 The authority acknowledges that the impact will be different for premises with different styles and characteristics e.g. a family friendly restaurant and recommends applicants discuss their proposals prior to submitting an application.

8.4.6 If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.

8.4.7 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.

8.4.8 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.

The CUMULATIVE IMPACT POLICY was reviewed by the Principal Licensing Officer in August 2020 and at that time no further changes to the policy were required.

## **9.0 DETERMINING APPLICATIONS**

The following matters will be determined by a Licensing sub-committee:

- 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 to vary a designated premises supervisor
- Determination of a temporary event notice (TEN)
- Disapplication Of Certain Mandatory Conditions for Community Premises
- Application for transfer of a premises licence

### **9.1 Personal Licences**

- 9.1.1 Individuals applying for a personal licence must be entitled to work in the UK. The Immigration Act 2016 amended the Licensing Act 2003, this came into effect in April 2017.
- 9.1.2 Applications made on or after this date by someone who is not entitled to work in the UK will be rejected.
- 9.1.3 Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.
- 9.1.4 In order to carry out this duty, licensing authorities must be satisfied that an applicant has the right to work in the UK. They require applicants to submit an identification document, to show that they have permission to be in the UK and to undertake work in a licensable activity.
- 9.1.5 Where the licensing authority has granted a personal licence and becomes aware that a licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, the licensing authority may revoke the licence or suspend it for a period of up to six months.
- 9.1.6 The Policing and Crime Act 2017 gives licensing authorities the power to revoke or suspend personal licences.
- 9.1.7 Every sale of alcohol at licensed premises 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 daily basis, and to be available on the premises throughout most of the day to deal with circumstances requiring their expertise and authority.

- 9.1.8 When applying for a personal licence, the Licensing Authority will expect applicants to produce an up to date Disclosure Barring Service certificate. All applicants would also be expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or an equivalent foreign offence.
- 9.1.9 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" (A Statutory Body designated under the Act) and other persons, can make a representation when the Licensing Authority receives an application.
- 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, or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition 'other 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.
- 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.

### **9.3 Temporary Event Notices**

- 9.3.1 Part 5 of the Licensing 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 to the chief officer of police and Environmental Health services for the area no less than ten working days before the event. The chief officer of police or Environmental Health services may object to the event if satisfied that any of the four licensing objectives would be undermined.
- 9.3.2 "Late" TENS are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. Late TENS can be given at any time as long as the limits specified, within guidance issued under section 182 of the Licensing Act 2003, are not exceeded. Late TENS can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless electronically given to the licensing authority, must also be sent by the premises user to the police and Environmental Health Services. A late TEN given less than five days before the date of the event to which it relates will be returned as void and the activities to which it relates will not be authorised.



- 9.3.3 The Licensing Authority considers that it is important that the police and Environmental Health services have sufficient time to properly evaluate the likely impact of a temporary event. Where insufficient notice of the event is given this may lead to objections being made that may have been unnecessary if a fuller evaluation had been possible. Equally, if notice of an event is given too far in advance it may be difficult to evaluate because of future uncertainty.
- 9.3.4 The Licensing Authority suggests as best practice that temporary event notices are served one or two months ahead of the event taking place.

## **9.5 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, 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 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.
- 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 Licence Review**

- 9.7.1 At any stage following the grant of a premises licence or club premises certificate a Responsible Authority or other person may apply for a review. Evidence will however be required to show that a specific concern exists relating to one or more of the Licensing Objectives.
- 9.7.2 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.

## Reviews Arising in Connection With Crime

- 9.7.3 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 9.7.4 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.
- 9.7.5 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;
  - for the organisation of racist activity or the promotion of racist attacks;
  - for knowingly employing a person who is unlawfully in the UK;
  - for unlawful gambling; and
  - for the sale or storage of smuggled tobacco and alcohol.
- 9.7.6 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

- 9.7.7 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.
- 9.7.8 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.
- 9.7.9 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 the 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 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.

## **9.11 Variation of Licence to add a new Premises Supervisor**

- 9.11.1 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.
- 9.11.2 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.
- 9.11.3 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.
- 9.11.4 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.

## **9.12 Immigration Act 2016**

- 9.12.1 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amends the 2003 Act and introduces immigration safeguards in respect of licensing applications made in England or Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.
- 9.12.2 The statutory prevention of crime objective in the 2003 Act includes the prevention of immigration crime and the prevention of illegal working in licensed premises. Licensing authorities should work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.
- 9.12.3 The Home Secretary (in practice Home Office (Immigration Enforcement)) is added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences), and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence.
- 9.12.4 Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.

## **Entitlement to Work**

- 9.12.5 Individuals applying for a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK. This includes applications made by more than one individual applicant. An application made by an individual without the entitlement to work in the UK must be rejected. This applies to applications which include the sale of alcohol and the provisions of late night refreshment, but does not include applications which apply to regulated entertainment only.
- 9.12.6 Applicants must provide copies of Identification documents to verify their entitlement to right to work within the UK. The documents, which may be relied on in support of an application demonstrating an entitlement to work in the UK, are the same for the personal.

## **10.0 PART 3 COMBINED SPORTS & BOXING**

### **10.1 Conditions relating to combined fighting sports and Boxing**

10.1.1 In 2013 an 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.

### **10.2. Bare Knuckle Fighting (Boxing)**

10.2.1 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.

10.2.2 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.

10.2.3 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, 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.

10.2.4 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.

10.2.5 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.

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

10.2.7 **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.
- Any person who has had any involvement in or has taken part in any contest, event or exhibition of a bare knuckle boxing or bare knuckle fighting will not be permitted to promote any boxing, fighting or sporting contest in this Borough.

### **10.3 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 Council 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 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.

11.3.2 The strategy supports Hinckley & Bosworth Borough Council's cultural offer for arts, children and young people services, events, health and wellbeing interventions, heritage, museums, play, sport and tourism. It seeks to enhance and enrich the lives of our residents and visitors to the borough via the delivery of a diverse range of high quality services through partnership engagement in our communities.

11.2.3 The Culture & Sport Strategy 2018 – 2023 has six delivery themes and each supports one or more of the council's Corporate Plan 2017 to 2021 themes aligned to People, Places and Prosperity. This policy will seek to maintain a balance between regulation and supporting cultural activity.



## **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 may be offered to licence applicants, licence holders and potential objectors who feel socially excluded.
- 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, cinema, 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) holds 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 has encouraged 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 their plans integrating strategies that links all modes of urban and rural transport and currently runs until 2026. 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 Each licensed premises is required by law to provide a written fire safety risk assessment of their premises to comply with The Regulatory Reform (Fire Safety) Order 2005, this risk assessment should include safe occupancy limits. Leicestershire Fire Service is the Responsible Authority for this area, further information can be found via this link <https://leics-fire.gov.uk/your-safety/at-work/licenced-premises/>

## **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 Public Health**

11.11.1 The Licensing Authority recognises the role of the Director of Public Health acting in its role as a Responsible Authority. Public Health can make representations in response to either a full licence application or an application for a variation in the conditions of an existing licence. They can also call for the review of a licence if they feel it breaches a licensing objective. Any representation must relate specifically to the premises in question and cannot be a general objection.

## **11.12 Noise**

11.12.1 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.

## **12.0 Enforcement**

12.1.1 We will support businesses to help them 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 works closely with the Police and has established protocols to ensure efficient deployment of officers engaged in enforcing licensing law and inspecting licensed premises.

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 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.

12.1.4 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
- Child protection issues

12.1.5 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
- Prosecution
- Review of Premises Licences
- Closure Notice

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.
2. Persistent underage sales.
3. The use of licensed premises in connection with criminal activity.
4. Allowing disorderly conduct on licensed premises.
5. Delivering alcohol to children.
6. 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 *Bassetlaw District Council v Worksop Magistrates Court* 5008 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 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 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 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.

#### **14.0 Late Night Levy**

The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011.

The Late Night Levy is a power, conferred on Licensing Authorities by provision in 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.

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 proposed area is shown below and is described as the area being bounded by and includes the following roads or streets and all streets within in it.

Trinity Lane to its junction with Mansion St, Mansion St. King St, Stockwell Head to its junction with The Borough. The Borough, Market Place, Station Rd to its junction with Lancaster Rd. Lancaster Rd, Rugby Rd to its junction with Trinity Lane.

