

AGENDA

Regulatory Committee

Date: **Friday 12 September 2014**

Time: **2.00 pm**

Place: **Grand Jury Room, Shirehall, St Peter's Square,
Hereford, HR1 2HX**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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Agenda for the Meeting of the Regulatory Committee

Membership

Chairman

Councillor A Seldon

Vice-Chairman

Councillor PJ Edwards

Councillor JM Bartlett

Councillor CM Bartrum

Councillor PL Bettington

Councillor JW Hope MBE

Councillor Brig P Jones CBE

Councillor JG Lester

Councillor SM Michael

Councillor P Sinclair-Knipe

Councillor GA Vaughan-Powell

AGENDA

		Pages
1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the minutes of the meeting held on 5 June 2014.</p>	9 - 12
5.	<p>PROCEDURAL ARRANGEMENTS</p> <p>To note the procedural arrangements for the meeting.</p>	
6.	<p>REVIEW THE IMPLEMENTATION OF THE LICENSING POLICY AND CUMULATIVE IMPACT POLICY - LICENSING ACT 2003</p> <p>(a) To consider the adoption of the licensing policy to be used by Herefordshire Council in respect to carrying out its functions under the Licensing Act 2003.</p> <p>(b) To consider the adoption of a special licensing policy for the cumulative impact of premises in the vicinity of Hereford city.</p>	13 - 120
7.	<p>A REVISED 'STATEMENT OF PRINCIPLES' (POLICY) UNDER THE GAMBLING ACT 2005</p> <p>That the draft Gambling Act Policy Statement of Principles be approved for recommendation to Council.</p>	121 - 184
8.	<p>TO CONSIDER ADOPTION OF SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED BY SECTION 27 OF THE POLICING AND CRIME ACT 2009 - REGULATIONS AFFECTING SEX ESTABLISHMENTS AND APPROVE SEX ESTABLISHMENT POLICY</p> <p>That the following be recommended to Council:</p> <p>(a) Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 be adopted;</p> <p>(b) The draft sex establishment licensing policy be approved.</p>	185 - 238

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Herefordshire Council

Shirehall, St Peter's Square, Hereford, HR1 2HX

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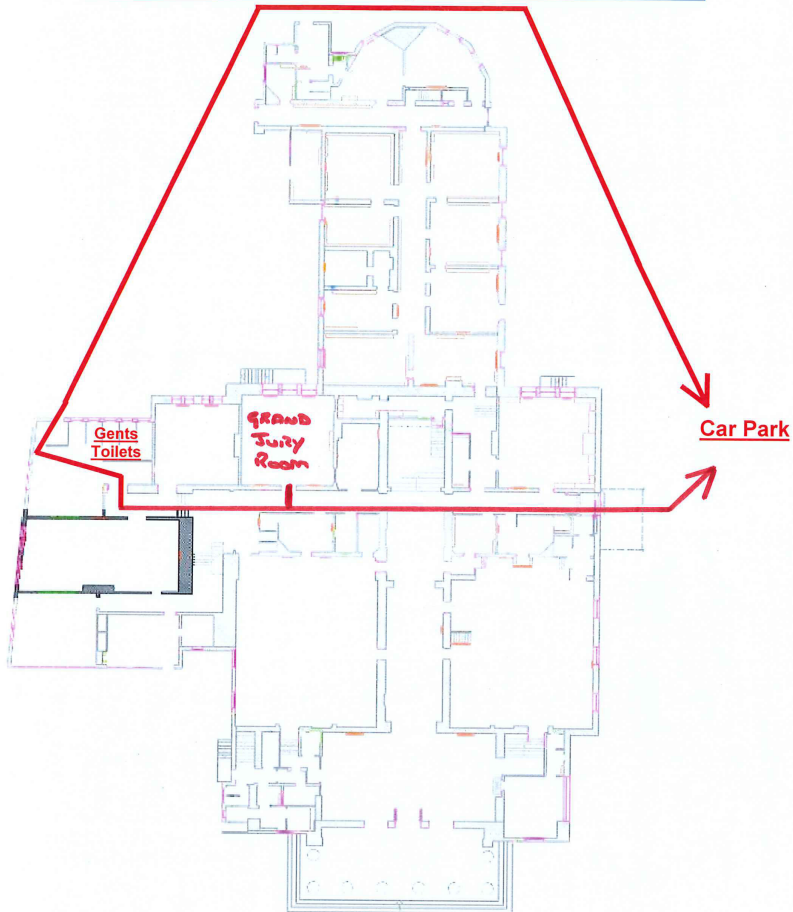
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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Regulatory Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Thursday 5 June 2014 at 2.00 pm

Present: Councillor A Seldon (Chairman)
Councillor PJ Edwards (Vice Chairman)

Councillors: CM Bartrum, PL Bettington, JW Hope MBE, Brig P Jones CBE and SM Michael

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillors JG Lester, P Sinclair-Knipe and GA Vaughan-Powell.

The Chairman noted that this was his first meeting as Chairman of the Committee and thanked his predecessors Councillors JW Hope MBE and Brigadier P Jones CBE.

2. NAMED SUBSTITUTES

There were no named substitutes.

3. DECLARATIONS OF INTEREST

None.

4. MINUTES

RESOLVED: That the Minutes of the meeting held on 6 December 2013 be confirmed as a correct record and signed by the Chairman, subject to the correction of a typographical error.

5. REPORT ON REGULATORY ACTIVITY BY ENVIRONMENTAL HEALTH & TRADING STANDARDS 2013/2014 ANNUAL REPORT

The Committee was invited to note the main regulatory activities of the Council's Environmental Health & Trading Standards (EHTS) service for the year 2013/14 (period 1 April 2013 – 31 March 2014).

The Head of Environmental Health and Development Management (HEHDM) and the Head of Trading Standards and Licensing (HTSL) presented the report.

In discussion the following principal points were made:

- In reply to a question HEHDM commented on the resourcing of the Planning Enforcement Service. He acknowledged the importance of this service and confirmed that there had been a slight reduction in resource. It was his intention to monitor and review the effectiveness of the service.

- Air quality on the A49 and A465 and the potential for a link road to improve the situation was discussed. Reference was also made to air quality in Bargates, Leominster.
- It was suggested that businesses serving food might usefully be reminded to ensure waste food on external tables was cleared up to discourage the nuisance caused by scavenging seagulls. It was noted that this could be mentioned when the service was carrying out inspections, particularly for the shopping eateries in the new development in Hereford City.
- The limited assurance finding by the Internal Audit service in relation to the electricity utilities payment procedure in the Gypsy and Traveller Service was noted. The HTSL commented that the new service manager had requested the audit and an action plan had been drawn up with the Internal Audit Service to seek the removal of the limited assurance rating as soon as possible.
- The Committee congratulated officers on the results of the Business Satisfaction Survey 2013/14. The survey measured the satisfaction of businesses with local authority regulatory services and had recorded a 90% satisfaction rating. This compared with a satisfaction rating of 74% for the previous year.
- Clarification was sought of the term 'public health' in the context of environmental protection work and the relationship of the environmental health service with the Public Health function. The HEHDM commented that environmental protection work was undertaken under public health legislation covering drainage, pests, filthy housing and other matters and was both preventative and reactive. There was communication between EHTS and the Public Health function within the Council. The HEHDM was a member of the regular Health Protection Committees chaired by Public Health and incorporating Public Health England.

The following action was requested:

- Circulation of a briefing note on the scope for using statutory notices as part of the enforcement process.
- Clarification of the reference in Table 11 in the report (Health and Safety Service Requests) to the significant rise in the number of requests classified as "other".

A number of issues were identified for possible future consideration:

- A seminar on air quality.
- A seminar on the licensing and inspection of residential park/home sites following the implementation of The Mobile Homes Act 2013.
- Exploration of the links between adult wellbeing services and Trading Standards and the scope to work more closely together to protect the vulnerable.
- The need for the Executive to ensure the provision of sufficient resources to meet the growing demand on regulatory services.

RESOLVED: That the report be received and noted.

6. PROPOSED FOOD HYGIENE INSPECTION PROGRAMME FOR 2014/15

The Committee was informed of performance in delivering the 2013/14 Food Hygiene Inspection Programme and invited to approve the proposed Inspection Programme for 2014/15.

Legal advice had been provided to the Chairman, at his request, which, having regard to the law and the Council's Constitution had clarified that the Regulatory Committee was not required to approve the Inspection Programme and that the Council's Executive could discharge that function.

The Chairman informed the Committee that he proposed to recommend that the Committee noted the Inspection Programme. The Committee did not have control over resources and it was therefore more appropriate for the relevant Cabinet Member, who did exercise that control, to be accountable for approving the Programme.

The Head of Environmental Health and Development Management reminded the Committee that the Internal Audit Service had reported in 2012/13 that the Council was not fully compliant with the requisite statutory Codes of Practice in relation to food safety and food hygiene when carrying out its food law enforcement role. As a consequence, a 'Limited Assurance' rating had been issued. He highlighted the comments in relation to the proposed Inspection Programme for 2014/15 set out in the section on risk management at paragraphs 20-21 of the report.

RESOLVED: That performance against the 2013/14 Food Hygiene Inspection Programme be noted and the implementation of a revised Food Hygiene Inspection programme for 2014/15 as detailed in Table 2 in the report also be noted.

7. PROPOSED FOOD STANDARDS INSPECTION PROGRAMME FOR 2014/15

The Committee was invited to endorse the proposed 2014/15 Food Standards and Feed Hygiene Inspection Programmes to be undertaken by the Trading Standards Service in respect of its obligations under the Food Law Code of Practice (England)(April 2012).

The Chairman informed the Committee that he proposed to recommend, as he had for the previous agenda item on the food hygiene inspection programme (minute number 6 refers), that the Committee noted the Inspection Programmes. The Committee did not have control over resources and it was therefore more appropriate for the relevant Cabinet Member, who did exercise that control, to be accountable for approving the Programmes.

The Head of Trading Standards and Licensing presented the report. He informed the Committee that a new risk rating scheme for food standards inspection had been adopted nationally. The Council's proposed Food Standards and Feed Hygiene Inspection Programmes for 2014/15 would comply with the new statutory Codes of practice.

He noted, however, that it was envisaged that, as the inspection programme was undertaken, the number of premises classified as high risk would be likely to increase. This would potentially have an adverse effect on the Service's ability to undertake a compliant Inspection Programme in future years.

RESOLVED: That the implementation of the proposed Food Standards and Feed Hygiene Inspection programme as detailed at Appendix 1 and 2 to the report be noted.

8. REVIEW OF REGULATION OF INVESTIGATORY POWERS ACT (RIPA) POLICY

The Committee was informed of the Regulation of Investigatory Powers Act 2000 (RIPA) policy, which had been reviewed and updated to reflect legislative changes under the Protection of Freedoms Act 2012, and invited to comment if it wished prior to the policy being presented to Cabinet.

The Senior Litigator presented the report.

RESOLVED: That the report for Cabinet on the current legal position with regard to RIPA and the revised policy be noted

The meeting ended at 3.40 pm

CHAIRMAN

MEETING:	Regulatory Committee
MEETING DATE:	12 September 2014
TITLE OF REPORT:	Review the implementation of the licensing policy and cumulative impact policy - licensing act 2003
PORTFOLIO AREA:	Economy, Communities and Corporate Directorate
REPORT BY	Mike Pigrem – Head of Trading Standards and Licensing

CLASSIFICATION: Open

Wards Affected

Countywide

Key Decision

This is a key decision because it is likely to be significant in terms of its effect on living or working in an area comprising of one or more wards in the county.

Purpose

- (a) To consider the adoption of the licensing policy to be used by Herefordshire Council in respect to carrying out its functions under the Licensing Act 2003
- (b) To consider the adoption of a special licensing policy for the cumulative impact of premises in the vicinity of Hereford city.

Recommendation(s)

Members are asked to note the contents of the report and agree the attached draft policies and consultation strategy outlined.

Reasons for Recommendations

The revised policy 2013-2019 retains the vast majority of the current policy, but has been updated to reflect changes following the legislation having been amended. The introduction of a special policy (cumulative impact policy) is not mentioned in the act but is covered by the Guidance issued to Local Authorities under Section 182 of the Act.

Options

- 1 a) To recommend the statements as published to full council and agree the consultation programme

Further information on the subject of this report is available from
Claire Corfield – Licensing and gypsy traveller manager 01432 383342

- b) To recommend only the main policy but to refuse to recommend the 'special policy'
- c) To make amendments to the proposed policy/policies and then recommend the amended policy/policies to the full council
- d) To refuse to recommend any of the policies
- e) To reach some other decision

Key Considerations

- 2 To approve the amended Policies and Consultation programme.

Introduction and Background

- 3. Section 4 of the Licensing Act 2003 requires the licensing authority to carry out its functions under the Act with a view to promoting the following licensing objectives:-
 - a) the prevention of crime and disorder;
 - b) public safety;
 - c) the prevention of public nuisance
 - d) the protection of children from harm.
- 4. Section 182 of the Act requires the secretary of state to issue guidance for licensing authorities on the discharge of their functions under the Act.
- 5. However, determining and publishing a statement of its policy is a licensing function and as such the authority must have regard to this Guidance when taking this step. A licensing authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. (*Guidance issued under section 182 of the Licensing Act 2003 Para 1.12*)
- 6. Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.
- 7. "Cumulative impact" is not specifically mentioned 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. For example, the potential impact on crime and disorder or public nuisance on a town or city centre is a large concentration of licensed premises in that part of the local licensing authority area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its policy statement.
- 8. Information which licensing authorities may be able to draw on to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives includes:
 - local crime and disorder statistics, including statistics on specific types of crime and crime hotspots
 - statistics on local anti-social behaviour offences;
 - health-related statistics such as alcohol-related emergency attendances and hospital admissions;
 - environmental health complaints, particularly in relation to litter and noise
 - complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;

- residents' questionnaires;
 - evidence from local councillors; and
 - evidence obtained through local consultation
9. The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.
10. West Mercia Police have made representations that they wished the areas shown within the 'special policy' to be included and have provided evidence to support this request

Community impact

11. The statement is likely to have some impact on the community.

Equality and Human Rights

12. There are no equality or human rights issues in relation to the content of this report

Legal implications

The Licensing policy has been drafted to reflect current legislative requirements. All applications for licences, changes to licences, temporary event notices and personal licences have to be made and determined in accordance with the legislation. However where discretion is allowed then the authority must consider the guidance issued under Section 182 of the Act and their licensing policy in reaching their decision. Under the relevant legislation, the authority must have in place a relevant policy. Failure to do so would leave the authority in breach and open to challenge.

Risk management

13. Failure to reach a decision would mean that the licensing authority could not carry out its function under the Licensing Act.

Financial implication

14. The licensing section is required to operate the function on a full cost recovery basis. The fees for Licensing Act applications are set by central government. A robust policy which is fit for purpose is essential if full cost recovery is to be monitored and maintained.

Consultation

15. Before determining the policy the licensing authority must consult –
- a) The chief officer of police for the licensing authority's area.
 - b) The fire authority for that area,

- c) Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority.
- d) Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- e) Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- f) Such other persons as the licensing authority considers to be representative of businesses and residents in its area.

16. The consultation document will be published on the council website.

17. Consultation will also take place by:-

- Publishing notices in the local press.
- Writing to all premises licensed under the Licensing Act 2003
- Notifying local members.
- Writing to local organisations acting on behalf of young people and children.
- Writing to parish councils

18. The responses will be collated and presented to council following the consultation process. If no responses are received members can agree the policy be implemented.

Appendices

19 Draft statement of policy

Background Papers

20 Guidance issued to licensing authorities under Section 182 – June 2013



The Licensing Act 2003

Herefordshire Council: Statement of Licensing Policy 2013/2018



Environmental Health & Trading Standards

COMING INTO EFFECT XXXXXXX

LICENSING SECTION

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DRAFT

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FOREWORD BY COUNCILLOR ALAN SELDON, CHAIR OF LICENSING COMMITTEE (TO BE AGREED/AMENDED BY CLLR HOPE)

This is the fourth Statement of Licensing Policy produced by the Herefordshire Council as the Licensing Authority under the Licensing Act 2003. It is a legal requirement that this policy should be reviewed at least every five years or more frequently if required.

Over the preceding three policies the act has continued to evolve and in some respect matters have become clearer whilst in others what appeared to be clear has been diluted through legal challenge. We have seen an attempt by this government to try and re-balance the Act though bringing about changes in the legislation. We have seen major changes in relation to Temporary Event Notices which have now included the right for an Environmental Health Officer to object as well as the power for the Police and Public Health Authority to add conditions. The Licensing Authority along with the Health Authority has now become responsible authorities. It is encouraging to see that Hereford City and the market towns are still considered to be safe environments in which to socialise. I cannot help but feel that this has been achieved through the hard work of the police and the Licensing Authority who endeavour to achieve the right balance in respect of all matters.

The scope of this Policy covers the following:

- Retail sales 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 regulated entertainment
- The provision of late night refreshment

The purpose of the Statement is to set out the policies and procedures that Herefordshire will apply in relation to its functions under the Act, most

particularly regarding applications for new licences, applications to vary existing licences, applications to review licences and Temporary Event Notices.

Everything the Council does is underpinned by the requirement to promote the four licensing objectives. These four fundamental objectives are:

- The prevention of crime and disorder,
- Public safety,
- The prevention of public nuisance, and
- The protection of children from harm.

All parties have a duty to promote these objectives and we will continue to work closely with statutory responsible authorities, licence holders and their staff, SIA door staff and any other person to include members of the public. The Policy highlights the need for those operating licensed premises to be aware of the effect their premises may have on local residents and to make every effort to minimise anything that adversely affects residents' quality of life.

We will expect anyone appearing in front of a Licensing Sub-Committee to be fully aware of the terms of this policy in order to show that they too, are fulfilling their statutory duty to promote the licensing objectives.

In particular, in reviewing its Licensing Policy the Council consulted on whether there was a need to continue with or indeed extend the Cumulative Impact Policy in relation to Hereford City. In essence this decision applies a presumption against extending or granting licences or Temporary Event Notices in the areas to which the policy applies. This special policy will not prevent applications being made in these areas and each case will be determined on its own merits but applicants will have to comprehensively demonstrate in their application that their proposals will not add to existing

problems in the area. Full details and maps of the areas are contained in the text of the policy.

We recognise the very positive contribution that well managed premises can make to the Council's wider objectives through contributing to the economy and helping to tackle crime and disorder.

Through the implementation of the Licensing Act, Statutory Government Guidance and this Licensing Policy and by working closely with both regulatory and business partners we will continue to provide advice and guidance as well as ensuring compliance of standards for both residents and businesses in the County to ensure that licensed premises are well managed and have a positive impact on the cultural, community, leisure and entertainment facilities within Herefordshire.

This Statement will be widely circulated and will be available at all times and be published on the Council's website.

Section 1: Summary of Introduction

This explains that this Policy has been prepared in accordance with guidance, who the Licensing Authority is and what the aim of the Licensing Authority is.

1. INTRODUCTION

This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 (the Act) and guidance issued under Section 182 of the Act by the Home Office.

The licensing authority is the '*Council for the County of Herefordshire*' which shall be referred to as "Herefordshire Council".

Herefordshire Council (in its role as Licensing Authority) is responsible for the licensing of regulated activities under the Licensing Act 2003. This document sets out the principles that the Licensing Authority will apply when making decisions.

The Licensing Authority's aim is for the licensing process to allow the retail sale/supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment, in a way which ensures compliance with the objectives of the Act, which is not to the detriment of residents, nor gives rise to loss of amenity.

It is the Licensing Authority's aim to facilitate this through the licensing process by well run and managed premises, and by licence holders demonstrating and taking action to ensure that the use of their licences will not be to the detriment of any of the licensing objectives. Whilst licensing may not be considered a mechanism for the general control of anti-social behaviour by individuals beyond the direct control of the Premises Licence holder or Club Premises Certificate holder, it is recognised that issues such as anti-social behaviour may be as the direct result of the operation of the

premises. Apart from the licensing process, it could be perceived that there may be a number of other mechanisms which could be available for addressing issues of unruly behaviour. Such mechanisms may include:-

- planning controls;
- positive measures to create a safe and 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, 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;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance;
- the power of the police, other responsible authorities or other persons to seek a review of a licence or certificate;
- Early Morning Alcohol Restriction Orders (EMROs)
- late night levy
- under-age test purchasing

However, this Licensing Authority realises that the above measures may not be sufficient to deal with the promotion of the licensing objectives in relation to a particular licensed premises.

The Licensing Authority recognises that the licensed entertainment business sector and community licensed facilities in Herefordshire contribute to the local economy and social infrastructure, but that this has to be balanced with the impact of such activities on the licensing objectives. The Licensing Authority wishes to encourage licensees to provide a wide range of entertainment activities throughout their opening hours and to promote live music, dance, theatre etc. for the wider cultural benefit. They are a factor in maintaining a thriving and sustainable community, which is one of the Council's aims.

Herefordshire is a mixed commercial and residential area, with many areas lying in tranquil rural surroundings, whose amenity the Council has a duty to protect, and one of the Council's aims is to promote safer and stronger communities. These factors may be taken into account in relation to applications that may have a material impact on a vicinity.

This policy will set out the general approach that the Licensing Authority will take when it considers opposed applications or notices. It will not undermine the right of any individual to apply for a variety of permissions nor undermine the right to have any such application considered on its individual merits. Nor will it override the right of any 'responsible authority' or 'any other person' to make relevant representations on an application or seek a review of a licence where provision has been made for them to do so in the Act.

This Policy has been prepared to assist the Licensing Authority in reaching a decision on applications or notices, setting out those matters that will normally be taken into account. It also seeks to provide information for applicants, residents, businesses in the County and including the responsible authorities of the Licensing Authorities expectations.

Every opposed application will be determined on its own merits following the Licensing Committee having heard all the evidence in relation to the application. The licensing authority will accept all representations made by the police and objection notices (including those voiced by the police at a hearing) and will adopt all recommendations from the police, unless there is clear evidence that these are not relevant.

It is not the purpose of this Policy to reiterate the specific provisions of the Act or the Regulations made there under or reiterate the legal complexities of the legislation, unless it is considered appropriate to do so.

Section 2: Summary of Scope of Policy

This section explains what the Policy covers

2 SCOPE OF THIS POLICY

The Council for the County of Herefordshire is the Licensing Authority responsible for the authorising of licensable activities, the issue of personal licences, and other matters set out in the Licensing Act 2003 (“the Act”) in the County. This document sets out the principles that the Licensing Authority will apply when making decisions upon applications, notices and other authorisations relating to:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of a member of the club
- Regulated entertainment
- The provision of late night refreshment being the supply of hot food or drink from a premises (other than a premise with a Club Premise Certificate or other lawfully exempt premises) between 11.00 pm and 05.00 am.

Regulated entertainment requires a licence or authorisation (unless exempted by the Act) when it is performed in front of an audience and includes the following:

- Performance of a play
- Exhibition of a film
- Indoor sporting event
- Boxing or wrestling entertainment (indoors and outdoors)
- Performance of live music
- Playing of recorded music
- Performance of dance
- Entertainment of a similar description to the performance of live music and/or the playing of recorded music and/or the performance of dance.

The Act sets out four main licensing objectives which the Licensing Authority has a duty to promote in determining applications:-

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

Each of the objectives is considered to be of equal importance.

This Policy shall apply in respect of any new consents, renewals, transfers, variations, reviews and such other notices or authorisations that may be required in relation to:-

- Premises Licence
- Club Premises Certificates
- Provisional Statements

And where appropriate:-

- Personal Licences
- Temporary Event Notices
- Such other applications, authorisations or notices (e.g. interim authorities) as are required under the Act.

Certain areas within Hereford City have in place a Cumulative Impact Policy which is dealt with in Appendix 1.

Section 3: Summary of Policy Consultation and Review

This section states who was consulted and when the policy will be reviewed.

3 POLICY CONSULTATION AND REVIEW

This Policy will take effect from XXXXXXXX and will be subject to a 5 yearly review or sooner if necessary.

In developing its policy the Licensing Authority has consulted widely to ascertain an appropriate licensing framework for its area. The bodies consulted included those specified in Section 3 of the Government Guidance i.e.; -

- Responsible Authorities
- Representatives of the local licensing trade
- Representatives of local businesses and residents

Public consultation has also taken place through Herefordshire's Parish and Town Councils and the Herefordshire Council Web site.

In addition, the authority has consulted:

- Representatives of the Safer Herefordshire Strategy Board
- Hereford and Worcester Ambulance Service
- Herefordshire Primary Care Trust

Comments were invited and all comments received via this consultation process were considered by the Licensing Authority.

The Licensing Authority has also taken into account the guidance issued by the Department of Home Office under section 182 of the Act regarding licensing policies.

Section 4: Summary of Determinations of Applications

This section explains how applications will be determined and explains that the Authority can depart from this policy when it considers it correct and appropriate.

4.0 DETERMINATIONS OF APPLICATIONS

When determining applications, authorisations and notices that have attracted relevant representations and review applications, this Licensing Authority will normally work within the framework of this Policy and also take into account the Guidance issued by the Home Office under section 182 of the Act. However, this Licensing Authority reserves the right to depart from this Policy and the Guidance whenever it considers it correct and appropriate to do so.

If, during the period of this Policy, new Guidance is issued by the Government such Guidance will be taken into account by the Licensing Authority even if it is not yet referred to in the Policy.

When an application has not attracted relevant representations, the Licensing Authority is compelled under the provisions of the Act to automatically grant the application without regard to this Policy. The only exceptions to this are applications for:

- The review of a Premises Licence or Club Premises Certificate;
- A minor variation of a Premises Licence or Club Premises Certificate;
- An application for the mandatory alcohol condition requiring a Designated Premises Supervisor in respect of a premises licence to be dispensed with for a community premises

All opposed applications (with the exception of certain minor variations) will be determined by the Licensing Authority's Licensing Committee or one of its Licensing Sub-Committees.

Section 5: Summary of Administration, Exercise and Delegation

This section sets out how decisions are made and who will make the decision.

5 ADMINISTRATION, EXERCISE AND DELEGATIO

5.1 Licensing decisions and functions

The Licensing Authority is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. The powers under the Act also allow for delegation of powers/functions to Licensing sub-committees or to one or more officers.

This may be taken or carried out by the appropriate licensing committee of Herefordshire Council (except those relating to the making of a statement of licensing policy), however these functions have been delegated to the licensing sub-committee or in appropriate cases to officers of the authority.

As many of the decisions will be largely administrative it is anticipated that in the interests of speed, efficiency, and cost effectiveness on many occasions they will be made by officers. The appropriate licensing committee will receive regular reports on decisions made by officers so that they maintain an overview of the general situation. The power to grant licences and permissions includes the power to renew, vary, refuse, suspend or revoke such licence or permission and the power to impose conditions. The terms of delegation of licensing functions are set out below.

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		If a police objection	If no objections received
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made

Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premise licence holder		If a police objection	All other cases
Request to be removed as designated premise licence holder			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for Interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexations etc			All cases
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a police or Environmental Health representation to a temporary event notice		All cases	
Application for Minor Variation			All cases

5.2 Applications where there are relevant representations will be dealt with by the Licensing Committee/Sub-committee, unless:

- (a) such representations are from 'any other person' and are considered to be irrelevant, frivolous or vexatious, or
- (b) the Licensing Authority, the applicant and everyone who has made relevant representations agrees that a hearing is not necessary, or

(c) the representations are in relation to a minor variation and the power to determine the application has been delegated to the officers of the Licensing Authority

With regard to point (b) above, the Licensing Authority reserves the right to disagree that a hearing is not necessary.

5.3 If a Licensing Committee/Sub-Committee hearing is required under the Act in respect of an application, the hearing will be in public unless there are compelling reasons for it to be heard otherwise. When a hearing is held in public, the Licensing Committee/Sub-Committee can retire into private session to consider their decision. Opposed applications for personal licences will normally be held in a private session.

5.4 Where police request is made that a hearing in relation to an expedited review will provide information which may affect the outcome of natural justice then such hearing may be held in private.

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Section 6: Summary of Responsible Authorities, and any other Person and Representations

This section sets out who the responsible authorities are and how members of the public can make representation. It also gives guidance in respect of making a relevant representation.

6. RESPONSIBLE AUTHORITIES, ANY OTHER PERSON AND REPRESENTATIONS

6.1 The Act sets out the responsible authorities that can make representations about licence applications, or who can apply for a review of an existing licence. In Herefordshire these are:

- West Mercia Police
- Hereford and Worcester Fire and Rescue
- Herefordshire Council Environmental Health (Commercial)
- Herefordshire Council Environmental Health (Pollution)
- Herefordshire Council Trading Standards
- Herefordshire Council Safeguarding and Vulnerable Team
- Herefordshire Council Planning Department
- Health and Safety Executive
- Wye Valley NHS Trust
- Herefordshire Council Licensing Section
- And any other body or person that may be prescribed by regulations at a later date.

A current list of responsible authorities and their addresses can be obtained from the Council's Licensing Team.

6.2 Representations can be made by any other person. Any person may also apply for a review of a Premises Licence or a Club Premises Certificate.

6.3 The responsible authorities and any other person can make representations about:

- Applications for a new Premises Licence
- Applications for the variation of an existing Premises Licence
- Applications for a new Club Premises Certificate
- Applications for the variations of an existing Club Premises Certificate
- Applications for a Provisional Statement
- Review applications

6.4 All representations must be 'relevant', for example they must be about the likely effect of the grant of an application on the promotion of one or more of the licensing objectives of:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

Where a representation is made by a person who is not a responsible authority, the Licensing Authority may reject representations that it considers to be irrelevant, frivolous, vexatious or repetitious.

6.5 It is important to note that responsible authorities or any other person may make representations on any of the 4 licensing objectives (for example the Fire Brigade could make representations about crime at a premises or Trading Standards on the basis of public nuisance).

6.6 Relevant Representation

A relevant representation has been defined in a number of stated cases which have appeared before the High Court and which are binding on the Licensing Authority. Of particular note is the case of *Daniel Thwaites Plc v Wirral Borough Magistrates' Court and The Sauehall Massie Conservation Society and Wirral Metropolitan Borough Council [2008] EWHC 838 (Admin)*. In brief it was said that a licensing authority should look for some real evidence to support the representation made. Fears and speculation as to what might happen will not be enough. Whilst this case remains relevant, Herefordshire Council will expect a representee to give evidence to

substantiate a conclusion that the application as applied for is unlikely to promote the licensing objectives.

- 6.7** Furthermore the case *R (on the application of Hope & Glory Public House Ltd) v City of Westminster Magistrates' Court [2009] EWHC 1996 (Admin)* established the fact that a representation made in relation to public nuisance must be more than a private nuisance and that a single person is incapable in law of constituting "the public" for the purposes of satisfying the test of "public nuisance" pertinent to the licensing objective.
- 6.8** Therefore the Licensing Authority will deem that any representation which is not supported by any evidence of some description is not a relevant representation. Acceptable evidence will normally relate to real and reliably witnessed events at the premises. However evidence may also be considered when arising from very similar events which having taken place at another location and were run by the same applicant / promoters. An aggrieved representee whose evidence has not been accepted by the Licensing Service can informally appeal to his or her councillor for assistance when a representation has not been accepted.
- 6.9** Furthermore, where only one public representation is received in respect of the public nuisance licensing objective, then this too will be deemed not to be relevant on the grounds that it is a private nuisance. However, in such a circumstance the licensing service will refer a single complainant to the environmental health service for investigation as a potential statutory nuisance.
- 6.10** Applications for the review of an existing Premises Licence or Club Premises Certificate can be made by a responsible authorities or any other person but the reason for the calling of the review must address one or more of the four licensing objectives.
- 6.11** Only the Police can make representations about applications for:
- Transfers of premises licences,

- Variations to change the Designated Premises Supervisors at a premises,
- Applications for personal licences,
- Interim authority notices, and

In above cases, the representations from the Police have to be restricted to the licensing objective of the prevention of crime and disorder.

6.12 The police or an Environmental Health Officer may make representation about a Temporary Event Notice.

6.13 All representations must be received by the Licensing Authority within the statutory deadlines set out in either the Act or the Regulations made under the Act. The Licensing Authority cannot legally accept any late representations. In the cases of applications for new Premises Licences/Club Premises Certificate and variations, the deadline for receipt of any representation and the address that they must be sent to will be shown on a notice(s) displayed at the premises and in a notice placed in a local newspaper by the applicant.

6.14 When considering applications for new, or variations (under sections 34 and 84 of the Act) to existing Premises Licences /Club Premises Certificates the responsible authorities and any other person should consider the adequacy of any measures intended by the applicant to deal with any potential for public nuisance, crime and disorder, public safety, and the protection of children from harm. Any such proposed measures should be included in the application form submitted to the Licensing Authority by the applicant. If any responsible authority or any other person is not satisfied with any of the proposed measures they may make representations against the application to the Licensing Authority.

6.15 Applications for 'minor' variations under section 41A or section 86A of the Act do not have to include details of the steps that the applicant intends to take to promote the licensing objectives. Nor can the Licensing Authority

convert any intended steps that may be included in the application into additional licence conditions. It is recommended that:

- Applicants take this into account when applying for a 'minor' variation in relation to the receipt of any representations against the applications, and
- The responsible authorities and any other person also take this into account when considering whether the application will have any effect on the licensing objectives.

NB: It is important for applicants, responsible authorities and any other person to note that the Licensing Authority may only grant this type of application in its entirety or they must completely refuse it. Any agreements (e.g. concerning additional conditions) made between the applicant and those making representations are of no effect under the Act and cannot be taken into account when the Licensing Authority makes its determination on the application.

6.16 The Licensing Authority will not remove any personal details from representation made by members of the public, unless either requested in writing to do so, or if the Licensing Authority feel that by disclosing the person's details, natural justice may be affected.

Section 7: Summary of Application Consultation

This section explains the application process and the procedures which should be followed to make a successful application.

7 APPLICATION CONSULTATION

- 7.1** The aim of consultation is to provide the opportunity for any other person to be involved in the licensing process. The consultation procedure required for each type of application is prescribed within the Act and Regulations made there under.
- 7.2** The Act itself is sometimes confusing and misleading. To overcome problems associated with different types of applications the Licensing Authority has put in place various processes.
- 7.3** An application for a new/variation to a premises licence or a new/variation to a club premises certificate requires the applicant to advertise both on the premises (at the start of the consultation period) and in a local newspaper in circulation in the area within 10 working days.
- 7.4** The authority would accept a publication which is circulated in the immediate vicinity of the premises or in the Hereford Times or the Journal.
- 7.5** The consultation period commences on the day after a **completed** application was given to the Licensing Authority. (Completed means that no information is missing from the application or the plan and the correct fee and required documents have been received).
- 7.6** The term used within the act is 'was given' to the Licensing Authority. An application is only given to the Licensing Authority when it is received by them. Sometimes application will be delayed by post and where this occurs the terms under the Interpretation Act 1978 will be applied which states that a letter sent by first class mail is deemed to be delivered on the second working day after posting. (For example: Where an application is

posted today [Tuesday] then it is deemed delivered not tomorrow but on Thursday. For this reason the Licensing Authority will keep all envelopes used to post applications).

- 7.7** The Licensing Authority will also write to the applicant notifying them of the date that the 28 day period will start and the date for which it must appear in an advertisement.
- 7.8** To avoid additional cost, applicants are advised not to advertise in a local newspaper until such time as they have been informed by the Licensing Authority that the application has been accepted.
- 7.9** Where an application is submitted and found to be defective, the Licensing Authority will always try and contact the applicant by phone to advise of the deficiency and the required action. However, it may not always be possible to speak to the applicant. On all occasions the Licensing Authority will return the application together with a letter explaining what action is required to make the application complete.
- 7.10** Only once an application is complete can the consultation period commence.
- 7.11** There is no discretion over the application process under the Act and applicants should therefore consult the regulations which cover the application process [The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005].
- 7.12** An event organiser can give notification to the Licensing Authority, the Environmental Health Officer and the Police of a temporary event by way of a temporary event notice (TEN) where the event will involve less than 500 people, but this application must be made no later than 10 working days before the event. This period does not include the day the application is received nor the day on which the event is to start; there is no discretion available to shorten this notice period.

- 7.13** It is also possible to apply for a Temporary Event Notice up to 5 days prior to the event (Late Temporary Event Notice). However, this can be a risky process because if either the police or the Environmental Health Officer object, where they feel that the Licensing Objectives may not be promoted, the notice is automatically refused.
- 7.14** The Police or Environmental Health Officer may intervene to prevent the event taking place or agree a modification of the temporary event notice. . Notice may be given in advance of the minimum requirement and this is encouraged. The police have a preferred contact point for the submission of TENs which is The Licensing Unit, West Mercia Constabulary, Bath Street, Hereford, HR1 2HT, Tel: 0300 333 3000.
- 7.15** Applicants who intend to hold large one-off events are recommended by the Local Authority to consider making application for a premises licence at least 3 months prior to the event, to allow sufficient time for the licence to be determined.
- 7.16** The Licensing Authority will make copies of applications available for inspection by the public by publishing them on the website.

Section 8: Summary of premises Licences

This section explains that new applications should contain sufficient details and gives guidance in respect of matters which should be considered when making an application. It also covers applications made in relation to variations to premises licences, change of DPS, Wholesale of Alcohol, Internet and mail order sales, Regulated Entertainment, Late Night Refreshment, Bingo Clubs, Petrol Stations, Vehicles and Moveable Structures, Vessels and Ships, Sports Grounds and Hotel Mini Bars

8 PREMISES LICENCES

8.1 New Applications

The application form should include sufficient information to enable the Licensing Authority, any other person and any responsible authority to assess the steps intended by the applicant to promote the Licensing Objectives. A description of the business to be conducted on the premises must also be included in the application form.

8.2 Where alcohol is to be sold for consumption on the premises it would be valuable to know the extent of seating and the type of activities available on the premises whether licensable under the Act or not.

8.3 Full details of information required in the application form include:-

- Relevant licensable activities to be conducted on the premises
- Times/days of the week including holiday periods or different times of the year, that the activities are to take place.
- Any other times when the premises is open to the public
- Where the licence is required for a limited period, that period
- If the activities include the supply of alcohol, the name and address of the designated premises supervisor
- If alcohol is to be supplied, if it is to be consumed on/off the premises or both

- If adult entertainment or services of any description (whether licensable or not) are to be provided at the premises, full details must be given
- The steps the applicant proposes to promote the Licensing Objectives.
- The applicant will be expected to undertake a thorough risk assessment with regard to each of the licensing objectives when preparing their applications and specify the steps that they will take to promote the licensing objectives.

8.4 Applicants are recommended to acquaint themselves with:

- The contents of this Policy dealing with the four licensing objectives
- The Guidance issued by the Home Office under section 182 of the Act and other guidance available on Government websites
- Herefordshire Council 'Pool of Model Conditions'.

8.5 The Licensing Authority will expect Operating Schedules to satisfactorily address the issues of the licensing objectives, from the design of the premises through to the daily operation of the business.

8.6 Particular consideration will be given to the following:

- Safety arrangements e.g. premises must be constructed or adapted in such a way that they are safe and appropriate and have a safe capacity assessment etc.
- The steps that will be taken to prevent the underage sale of alcohol
- The steps the applicant has taken or proposes to take to prevent public nuisance. Such steps may include the management of customers' behaviour, installation of sound proofing, air conditioning, acoustic lobbies, sound limitation devices, parking provision, notices at exits and in the car park.
- What measures will be taken to prevent disorder and nuisance and to also secure public safety e.g. the use of CCTV, the employment of registered door supervisors, means of access/exit, types of drinking utensils used such as glass, plastic, no bottles etc.

- The measures proposed to prevent the consumption or supply of illegal drugs, possession of offensive weapons including any search procedures and entry policies.
- The likelihood of any public disorder, violence or other alcohol related crime arising if a licence were to be granted.

8.7 Variations to existing Premises Licences

The holder of an existing Premises licence may apply for a variation of the licence (e.g. to change the licensed hours or activities) under either section 34 of the Act ('full variations') or in the case of 'minor' variations under section 41A of the Act. For a 'full' variation the applicant is expected to complete the application form with the steps they intend to take to promote the licensing objectives.

8.8 The Licensing Authority expects an applicant for a variation to look at the current conditions attached to their premises licence to establish whether the licence is still fit for purpose. Any conditions on the existing licence should meet the following and are:

- appropriate for the promotion of the licensing objectives
- enforceable
- unequivocal/unambiguous
- proportionate and
- do not duplicate other statutory provisions

8.9 Where they do not meet these criteria the applicant is expected to offer conditions which do. A model pool of conditions can be found on our website at <http://www.herefordshire.gov.uk/docs/Conditions.doc>

8.10 Designated Premises Supervisor

Where a premises sells alcohol, a Personal Licence holder will be identified in the Premises Licence as the Designated Premises Supervisor for the premises. This is to ensure that there is always one specified individual who can be readily identified for the day to day running of the premises.

8.11 Where the Designated Premises Supervisor is not available for a significant period of time (e.g. on holiday) they should nominate in writing somebody who is authorised to act on behalf Designated Premises Supervisor, as a point of contact

8.12 Community premises can apply to have the requirement for a Designated Premises Supervisor removed from their premises licence.

8.13 Wholesale of Alcohol

The wholesale of alcohol to the public is a licensable activity under the 2003 Act and a Premises Licence and a Designated Premises Supervisor will be needed where such transactions take place.

8.14 Internet and mail order sales

A Premises Licence will be required for the warehouse/storage facility of the alcohol, when the alcohol is delivered/dispatched from that place to the public. However, the call centre where the order was placed would not be licensable. The Operating Schedule must include procedures for ensuring that sales of alcohol are not made to persons under the statutory age limit (currently 18 years of age).

8.15 Regulated Entertainment

Regulated entertainment will require (subject to certain exemptions) a Premises Licence, a Club Premises certificate or a Temporary Event Notice. The forms of regulated entertainment are: -

Performance of a play

Exhibition of a film

Indoor sporting event

Boxing or wrestling entertainment (indoors and outdoors)

Performance of live music

Playing of recorded music

Performance of dance

Entertainment of a similar description to the performance of live music and/or the playing of recorded music and/or the performance of dance.

8.16 Late Night Refreshment

The provision of hot food and/or hot drink for consumption either on or off the premises is licensable under the 2003 Act from the hours of 11.00 pm and until 5.00 am.

Some premises are exempt from this licensing requirement:

- clubs, serving hot food and hot drink only to their members
- hotels, or comparable premises, serving hot food and hot drink only to those who will be staying at the hotel that night
- premises serving hot food and hot drink only to their own employees
- premises serving hot food and hot drink only to guests of those falling in the categories outlined above.

8.17 Bingo Clubs

Where activities which are licensable under the Act are carried out in Bingo Clubs the conditions imposed will apply alongside those conditions imposed under the Gambling Act 2005.

8.18 Petrol Stations

There are restrictions of the sale of alcohol from petrol stations. The Licensing Authority expects an applicant to demonstrate the primary use of the premises in order to establish whether the premises licence should be rejected. Each case will be judged on the individual circumstances of the application.

8.19 Vehicles and Moveable Structures

The sale of alcohol or the carrying out of other licensable activities from vehicles/moveable structures may only be carried out from a premises or site which holds a Premises Licence. It should also be noted that the provision of any entertainment or entertainment facilities on premises consisting of or forming part of any vehicle whilst it is in motion and not permanently or temporarily parked is not to be regarded as a regulated entertainment for the purposes of the 2003 Act. For example, a band

performing on a moving float in a parade would not require a premises licence if performances only take place while the vehicle is in motion.

8.20 Vessels and Ships

Vessels or ships are licensable by the Licensing Authority where they are usually moored.

8.21 Sports Grounds

On premises that are subject to the Safety at Sports Ground Act 1975 requirements, the Safety Certificate issued for the premises will normally take precedence over the licence conditions relating to safety whilst the premises is in use under the Safety Certificate.

8.22 Hotel Mini Bars

Hotels that have mini bars in their rooms will have to ensure and demonstrate that they have put adequate measures in place to ensure that alcohol cannot be obtained by underage persons.

Section 9: Summary of Club Premises Certificates

This section deals with the application for Club Premises Certificates and the rules in relation to Clubs.

9 CLUB PREMISES CERTIFICATES

- 9.1** A 'Qualifying Club' may apply for a Premises Certificate. The Licensing Act 2003 stipulates the requirements of a 'Qualifying Club' as specified in Sections 61-64 of the Act. The club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of the organisation for supply to members and their guests. The Licensing Authority must be satisfied these conditions have been met, including evidence to support that any gain from its activities is applied for the benefit of the club and its members and that there is a minimum of 48 hours delay between application and the acceptance of new members. The Club must have a minimum of 25 members.
- 9.2.** In order for Qualifying Clubs to supply alcohol and provide other licensable activities on Club premises, a Club Premises Certificate is required, and there is no requirement to specify a Designated Premises Supervisor as there are technically no retail sales of alcohol.
- 9.3** The Licensing Authority will require the Club Secretary's current contact details to be readily available.
- 9.4** The procedures, guidance and this Licensing Authority's Policy in relation to Club Premise Certificates are identical to that for Premises Licences.

Section 10: Summary of Provisional Statements

This section deals with the application for a Provisional Statement.

10. PROVISIONAL STATEMENTS

- 10.1** Applicants may need to apply for a Provisional Statement where premises are being constructed, extended or substantially changed structurally for the purpose of licensable activities.
- 10.2** This Licensing Authority's Policy in relation to Provisional Statements are identical to those for Premises Licences. Before premises with a Provisional Statement may be used for licensable activities an application must be made and granted for a Premises Licence or Club Premises Certificate.
- 10.3** If representations are received in respect of an application for a Provisional Statement, conditions may be imposed on the provisional Statement in the same manner as if it were a Premises Licence or the application may be refused by the Licensing Authority.

Section 11: Summary of Conditions on Premises Licences and Club Premises Certificates

This section explains about the mandatory conditions and the power to attach further conditions.

11 CONDITIONS ON PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

11.1 The Act sets out mandatory conditions that are applicable to Premises Licences and Club Premises Certificates according to the activities that they are authorised for.

11.2 The Licensing Authority may impose additional conditions as a result of representations against a licence. Each case will be on its own merits, and any additional conditions will be appropriate to the nature of the activities and hours applied for and shall reflect the four licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation. When no representations have been received against an application, the Licensing Authority reserves the right to convert the steps that an applicant has put into their application into licence conditions whenever such conditions are appropriate to the licensing objectives. The Licensing Authority will normally take these from their model pool of conditions which can be found on our website (<http://www.herefordshire.gov.uk/docs/Conditions.doc>).

11.3 The additional conditions that may be attached to licences and certificates upon consideration of relevant representations will be tailored to the individual circumstances and characteristics of the premises and events concerned to meet the licensing objectives. For example, conditions may be imposed to prevent unnecessary noise and disturbance to local residents by way of limited hours and/or restrictions on sound levels.

11.4 Apart from being able to impose additional conditions, the Licensing Authority has the power to refuse applications in their entirety.

Section 12: Summary of Film Classification

This section explains that, other than in exceptional circumstances, the Licensing Authority will expect films to have a British Board of Film Classification.

12 FILM CLASSIFICATION

- 12.1** The admission of children to any film exhibition shall be restricted in accordance with the classification given to that film by the British Board of Film Classification (or in exceptional circumstances this Licensing Authority). No person under the age of 18 shall be admitted to any film that has not been classified by the British Board of Film Classification (or in exceptional circumstances this Licensing Authority).
- 12.2** This Licensing Authority agrees with the recommendation of the Secretary of State that Licensing Authorities should not duplicate the role of the British Board of Film Classification by choosing to classify films themselves. The classifications recommended by the British Board of Film Classification for any film will be applied by this Licensing Authority unless there are exceptional reasons for this Licensing Authority to adopt the role of film classifier and classify or re-classify any particular film. The decision as to whether to classify or re-classify any particular film will be at the absolute discretion of this Licensing Authority.
- 12.3** If the Licensing Authority is concerned about the classification given by the British Board of Film Classification to a particular film, it may give notice to the holders of premises licences that the film may not be exhibited until it has been viewed and classified by the Licensing Authority. In such circumstances the Licensing Authority will view and classify the film as a matter of urgency.
- 12.4** Licence conditions may specify that immediately before each exhibition at the premises of a film (other than a current newsreel) passed by the British Board of Film Classification, there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons

in the auditorium a reproduction of a certificate of the Board, or, as regards a trailer advertising a film, of the statement approved by the Board indicating the category of the film. Conditions may also require notices to be displayed both inside and outside the premises so that persons entering can readily read them and be aware of a category attached to any film or trailer.

- 12.5** Where any video works are shown on premises with a licence (e.g. in pubs) they should be suitable for the age group of the children present, having regard to the official age classification of the work given by the British Board of Film Classification.

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Section 13: Summary of Hours of Licensed Activities

This section sets out how applicants are advised to apply for the hours which they will use and how they must have consideration to the impact they may have on the Licensing Objectives. Where appropriate following representation, the Licensing Authority may curtail the hours applied for.

13 HOURS OF LICENSED ACTIVITIES

- 13.1** Applicants are advised, prior to making an application, to carefully consider the licensed hours that they require and the impact these hours may have on any of the licensing objectives. They should include details in the application form of the steps that they propose to take to ensure the proposed licensed hours do not cause problems in relation to the licensing objectives.
- 13.2** In making decisions that relate to the hours for which a premises is licensed or any conditions as to delivery times, the Licensing authority will give consideration to how the applicant will achieve the Licensing Objectives and the representations made against such hours.
- 13.3** Each case will be decided on its own merits based on whether the licensing objectives can be met. Stricter conditions, including limiting licensed hours, are likely to apply to premises when the applicant is unable to demonstrate that the hours required would not be detrimental to the licensing objectives.
- 13.4** Limitations on operating hours may be imposed as appropriate upon consideration of representations for example, in the case of premises known to be a focus of disorder, nuisance, disturbance or people engaging in anti-social behaviour.
- 13.5** In relation to shops and other retail outlets supplying alcohol for consumption off the premises, whilst the general policy will be to allow sales of alcohol at all times that the premises is open for business, this

Licensing Authority recognises that any particular application may have to be refused or hours may have to be restricted in order for the licensing objectives to be achieved.

- 13.6** Each case will be decided on its own merits based on whether the licensing objectives can be met. Stricter conditions including limiting licensed hours are likely to apply where the premises are situated in mainly residential areas to minimise disturbance to local residents.

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Section 14: Summary of Opening Hours

This section deals with the hours licensed applicants are advised to apply for and consideration to the impact these may have on the Licensing Objectives. The Licensing Authority may curtail the hours applied for.

14 OPENING HOURS

- 14.1** It is a requirement that applicants put down on their application form for new premises licences/Club Premise certificates the times that the premises are to be open on any day. Subject to there being no representations, the opening times requested will be placed on the Licence/Certificate.
- 14.2** It is possible for applicants to apply for longer opening times than those required for the licensable activities (e.g. supply of alcohol).
- 14.3** In the event of relevant representations, the Licensing Authority may consider taking steps in restricting the opening times, such as:
- Reducing the opening times (and especially the closing times) to the same times as the licensable activities, or
 - Reducing the closing time to a shorter period after the finishing times of the licensable activities (e.g. reduce the closing time to 30 minutes after the time that the supply of alcohol has to stop).
- 14.4** Such measures may be considered appropriate, for example to prevent persons stacking up bottles, cans etc for drinking on the premises during the remainder of the premise's opening times and creating crime and disorder or public nuisance issues.

Section 15: Summary of Personal Licences

This section deals with the application process in respect of personal licences and states that, other than in exceptional circumstances, the Licensing Authority will uphold any representation made by the police.

15 PERSONAL LICENCES

- 15.1** Personal licences allow a person to sell alcohol and authorise another person to sell alcohol on their behalf. The place where the sale takes place must have a premises licence and a Designated Premises Supervisor.
- 15.2** The Licensing Authority has to automatically grant a personal licence whenever the application meets the statutory requirements. The only exemption is when an applicant has an unspent relevant conviction for any relevant offence, or foreign offence as defined in Schedule 4 the Act.
- 15.3** In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence or foreign offence, applicants will be required to produce a current Disclosure and Barring Service Check (DBS). A declaration is also required stating that an applicant has no relevant convictions for any relevant offences stipulated in schedule 4 of the Act.
- 15.4** The Licensing Authority will liaise closely with the Police when an applicant is found to have an unspent conviction for a relevant offence as defined in the Act. Where an applicant for a personal licence has an unspent criminal conviction for a relevant offence, the police may object to the grant of the licence.
- 15.5** If an objection to an application is made by the Police, the matter will be referred to the Licensing Committee for a decision. The refusal of the application will be the normal course of action, unless there are, in the opinion of the Licensing Authority, exceptional and compelling circumstances that justify granting the application.

Section 16: Summary of Temporary Events Notices

This section deals with Temporary Event Notices and their application process.

16 TEMPORARY EVENT NOTICES

16.1 A Temporary Event Notice (TEN) must be submitted to the Licensing Authority when a person wishes to provide licensable activities at an event and;

- the premises does not have the benefit of a Premises Licence or Club Premises Certificate, or
- the premises does not have an appropriate Premises Licence or Club Premises Certificate for the event, or
- they do not wish to use any existing Premises Licence or Club Premises Certificate for the event

16.2 There are limitations and strict procedures for TENs. There are 2 types of TEN's, a 'standard TEN' and a 'late TEN'. Both the police and Environmental Health can now object to a TEN under any of the four licensing objectives.

A 'Standard TEN' is one which is given at least 10 working days before the event.

A 'Late TEN' is one which is given between 9 and 5 working days before the event.

16.3 The following is applicable to all TENS.

- a. The period for service of the notice excludes the working day on which the notice is received by the Licensing Authority and Police and the day of the event. Applicants should note that it is unlawful for the Licensing Authority to accept a Temporary Event Notice outside of this time.
- b. The number of people attending the event cannot exceed 499 at any one time.
- c. The duration of the event must not exceed 168 hours.

- d. The same premises can only be used for up to 12 occasions per calendar year and the aggregate number of days must not exceed 21.
- e. A Personal Licence holder may only submit a maximum of 50 Temporary Event Notices per year.
- f. A person who does not hold a Personal Licence is limited to 5 Temporary Event Notices per year.
- g. A personal licence holder can only apply for 10 'Late TENS' per year and 5 for non-personal licence holders.

16.4 Where a 'Standard TEN' is applied for and the premises is covered by a premises licence and when the police or the EHO have objected to the TEN, then in these circumstances they can request that the current conditions as shown on the licence be placed on the TEN.

16.5 Where there is no premises licence and the police or EHO object then the decision in respect of whether the event goes ahead will rest with the Licensing Committee as the TEN cannot be conditioned.

16.6 Where an objection notice is issued for a 'Late TEN' then the Licensing Authority must issue a counter notice which stops the TEN.

16.7 Where an objection is made, in relation to a 'standard TEN', the Licensing Committee will decide whether or not a Counter Notice should be issued to cancel the TEN after hearing the representations and evidence from either the Police or Environmental Health Officer and the giver of the TEN.

16.8 The police or Environmental Health Officer have a period of 3 working days to issue an objection notice if they consider the crime prevention objective will be undermined.

Section 17: Summary of Appeals

This section advises of the right to appeal decisions.

17 APPEALS

The Act sets out the rights of the different parties to an application to appeal to the Magistrates Court against certain decisions of the Licensing Authority. Such parties will be formally advised of their rights of appeal after the Licensing Authority reaches its decision.

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Section 18: Summary of Reviews and Complaints about Licensed Premises

This section explains who can call for a review of a premises licence and that The Licensing Authority will have expected the premises licence holder to have been consulted prior to the review being called. This section also deals with the action that the authority will take in respect of test purchases.

18 REVIEWS AND COMPLAINTS ABOUT LICENSED PREMISES.

- 18.1** Reviews represent a key protection for the community. Where the licensing authority considers action necessary under its statutory powers it will take appropriate steps to support the licensing objectives.
- 18.2** If a premises has an existing licence, a responsible authority or any other party may apply to the Licensing Authority for a review of a Premises Licence or Club Premises Certificate. Once a review application has been lodged with the licensing Authority, any other responsible authority or any other party may make representations (within the legal deadline) to the Licensing Authority in relation to the premises. The licence holder of the premises may make representations against the review application. Review applications and subsequent representations can only be made on the grounds of one or more of the licensing objectives.
- 18.3** Review applications will be heard by the Licensing Authority's Licensing Committee or Licensing Sub-Committee, who will determine the outcome of the Licence/Certificate after hearing and considering the application and the representations for and against it. Each case will be decided on its own merits, and the Licensing Authority may take several courses of action (e.g. take no action, revoke the licence, suspend the licence, reduce the licensed hours, remove the DPS, remove any of the licensable activities or amend the conditions attached to the licence) in accordance with the Act.

18.4 Failed Test Purchases

Where a premises fails a test purchase then, other than in exceptional circumstances, the premises licence will be reviewed. During the course of any review the Licensing Authority will look at the cause of the failure. Where during the first review it is found that the training of staff at the premises is inadequate, the Licensing Authority may look at placing a condition on the licence in respect of staff training and will consider suspending the licence to allow sufficient time to enable staff to be trained. When a further test purchase is failed the Licensing Authority will consider revoking the licence in order to promote the licensing objective of the 'protection of children from harm'.

18.5 Other than in exceptional circumstances, in partnership with the Police and Trading Standards, persons who sell to under-age persons will normally be dealt with by means of a Fixed Penalty Notice unless that person is the holder of a personal licence.

18.6 Where that person holds a personal licence the Licensing Authority will normally look towards prosecuting that person through the Court, in accordance with Local Authority's Prosecution Policy for the offence. The court will be asked to consider either the suspension or revocation of the personal licence.

18.7 Premises Persistently Selling

In line with the existing legislation, the Licensing Authority or the Police will look at prosecuting those premises which persistently sell to under age persons. Persistently selling is defined by the legislation as 2 sales within a 3 month period.

18.8 Crime and Disorder

In most cases reviews under the crime and disorder objective will be launched by the police. In such cases the Licensing Authority will expect the police to have engaged with the premises licence holder and/or DPS to try and resolve issues at the premises. Where all best efforts have

failed to address the issues then it is right and proper that the matter should be referred to the Licensing Authority to resolve. In most cases, but not exclusively, the Licensing Authority will look at attaching conditions in relation to the use of SIA door staff and/or restricting the hours of operation.

18.9 Reviews launched by members of the public

The Licensing Authority will expect members of the public to bring to the attention of the responsible authorities issues concerning licensed premises at an early stage, to afford those responsible authorities the opportunity to work in partnership with the premises, the person(s) raising the issue and themselves to address the problems at the premises prior to a review being launched.

18.10 Members of the public will be expected to produce some form of evidence supporting their reason for calling the review. This evidence should show the time and date of the incidents which occurred together with the outcome.

18.11 It must be stressed that the licensing authority may reject applications from members of the public for a review or representations, if the Licensing Authority considers them to be frivolous, vexatious or repetitious. In the case of being repetitious this means that, in the opinion of the Licensing Authority, a reasonable period of time has not lapsed since an earlier representation or review application.

18.12 Members of the public may also make a complaint against premises regardless of whether they have previously made representations or called for a review of an existing licence. The complaints may in the first instance be made to the Licensing Team who will forward it to the relevant responsible authority (e.g. In the case of crime the complaint will be forwarded to the police).

Section 19: Summary of Enforcement Policy

This section draws attention to the fact that an enforcement policy does exist as well as what it includes.

19 ENFORCEMENT POLICY

19.1 The council has an enforcement policy based around the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat and which also takes into account the Attorney-General's Guidelines to Crown Prosecutors for bringing prosecutions. A proportionate response will be made where offences against licensing legislation are found or where licence conditions have been contravened.

19.2 It is essential that licensed premises operate in accordance with the Act and especially within their licensed hours and licence conditions. Part of the council's role is to monitor premises and take appropriate action. This may be independently or alongside the police and/or other Responsible Authorities to ensure the licensing objectives are promoted. Protocols have been established with the police on enforcement issues to provide an efficient and effective deployment of local authority and police staff. Joint visits are commonly undertaken to enforce licensing law and to inspect licensed premises.

19.3 To protect young people, the council should routinely undertake test purchasing to ensure the law is being adhered to. It should be noted the Licensing Authority supports the use of the Challenge 25 Policy and recommends this should be included as part of an applicant's operating schedule in any Premises Licence or Club Premises Certificate application. Please contact Trading Standards for further details.

Section 20: Summary of Prevention of Crime and Disorder

This section seeks to address the issue of promoting the licensing objective of the prevention of crime and disorder. It advises that applicants should consider the advice given in these pages when making application and should also take it into account. Where appropriate, the applicant should make reference to these issues within their application. Where it is felt appropriate, the Licensing Authority may address some or all of these issues in the decision making process.

20 PREVENTION OF CRIME AND DISORDER

20.1 General

When applicants for premises licences or club premises certificates are preparing their application forms or when responsible authorities or any other party are considering such applications the following matters may be considered as control measures towards the promotion of the prevention of crime and disorder. The licensing authorities when considering applications following the receipt of any relevant representations may also take such matters into account in reaching its decision on the application.

20.2 Whether these options may be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

20.3 Appropriate conditions for the licence or certificate will also depend on local knowledge of the premises the following measures should not be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

20.4 Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the

law and a breach of such a condition could give rise to prosecution and/or a review of the licence.

20.5 Training

The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime.

20.6 The authority recommends that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs, violence in licensed premises and deals with conflict resolution.

20.7 Suitable training should be extended to all bar staff and door staff so that drug dealers and troublemakers will be deterred from using licensed premises.

20.8 Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection.

20.9 Designated premises supervisor (DPS)

It is expected that the Designated Premises Supervisor will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises.

20.10 Risk Assessment for the Police

The Police may, on the grounds of the prevention of crime and disorder, make representations against certain applications for the provision of music requesting that licence conditions be imposed requiring:

- the licence holder to complete and submit to the Police when appropriate a 'Event Risk Assessment Form' 14 days prior to the event. This form will allow the licence holders, the managers of premises, promoters of music events, event security and the Police to

work in partnership to identify and minimise any risk of serious violent crime happening at a proposed event, and

- for a debrief form to be submitted to them 3 days after the event has taken place.

20.11 This Licensing Authority will consider the recommendations of the Police and any representations from the applicant concerning the nature of the premises, the music entertainment and its clientele in deciding whether such conditions should be imposed.

20.12 Behaviour of Customers Outside Licensed Premises

One of the main sources of complaint regarding licensed premises relates to the activities and behaviour of customers outside the boundaries of licensed premises. Licensees must take reasonable steps to prevent such behaviour having a negative impact on the vicinity of the premises. In addition licensees should consider identifying and refusing to admit problem customers.

20.13 Particular regard should be given to premises where customers congregate outside to smoke or congregate in periods of fine weather. Regard should also be given where customers do not disperse quickly when leaving the premises, particularly late at night in residential areas.

20.14 Door Supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; maintaining orderly queuing outside of venues prone to such queuing,
- ensuring public safety

20.15 Conditions may also be needed to deal with the number of such supervisors, where and at what times they should be on duty on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches).

20.16 Any persons employed at licensed premises to carry out any security activity must (unless exempted by law) be licensed with the Security Industry Authority.

20.17 Incident Report Book

Where appropriate the Licensing Authority will require an incident report book to be kept at the premises. This should include any decision to refuse access, any attempt to make an underage purchase, any incident of crime and disorder in or about the premises, incidents of fire and fire alarm activations etc. This book shall be available for inspection by an authorised officer of the Council or a Police Officer.

20.18 Radios

Herefordshire is currently operating a radio communication system in parts of the County which allows easy and instant contact to be made between licensees and Herefordshire's Emergency Control Centre.

20.19 The Control Centre has a direct link with the West Mercia Police. This system will connect premises licence holders, designated premises supervisors, managers of premises and clubs to the local police and can provide for rapid response by the police or the Local Authority to situations of disorder which may be endangering the customers and staff on the premises.

20.20 Such communication systems provide two-way communication, enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or

individuals suspected of criminal behaviour that are about in a particular area. Radios can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

20.21 The Secretary of State recommends that radios should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate in other areas for the prevention of crime and disorder.

20.22 It is recommended that a condition requiring the communication links where available should include the following requirements: the radio equipment is kept in working order at all times;

- the radio link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- any police/local authority instructions/directions are complied with whenever given; and
- all instances of crime and disorder are reported via the communication link by the designated premises supervisor or a responsible member of staff to an agreed contact point.

For further information contact the Hereford City Partnership.

20.23 The use of glass in licensed premises

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.

20.24 It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption at particular premises should be expressed in clear terms and includes the following elements:

- no glass bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public

20.25 In appropriate circumstances, the condition could in exceptions be as follows:

- bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

20.26 Glasses containing drinks may be used as weapons during incidents of disorder and in non-toughened form can cause very serious injuries. Consideration could therefore be given to conditions, where appropriate, requiring either the use of polypropylene containers or toughened glass (meeting weights and measure legislation) which inflicts less severe injuries. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is appropriate. The use of such polypropylene containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be an appropriate condition.

20.27 It should be noted that the use of polypropylene or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

20.28 CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises.

20.29 Conditions should not just consider a requirement to have CCTV on the premises but also the precise location of each camera, the requirement to

maintain cameras in working order and to retain recordings for an appropriate period of time (recommended 1 month).

20.30 Applicants are recommended to seek the advice of the Police with regard to the installation of CCTV systems for crime prevention purposes.

20.31 The Licensing Authority and the Police have agreed that a CCTV must conform with the following:

- CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.
- Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale/ supply of alcohol occurs.
- A monitor showing live CCTV recordings shall be installed in the premises where it can be clearly seen by members of the public entering the premises
- Equipment must be maintained in good working order , be correctly time and date stamped, recordings must be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand.
- The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage on to a recordable/reviewable device, to the Police/Local Authority on demand.
- The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual.
- An operational daily log report must be maintained and endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded. In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS must report the failure to the Police on contact number 0300 333 3000 immediately .

20.32 Open containers not to be taken from the premises

A condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles) may be imposed on a particular premise. This condition may be necessary to prevent the potential for crime and disorder or for public nuisance.

20.33 Capacity limits

A condition may be imposed to set a maximum capacity limit on licensed premises or any parts thereof to ensure public safety and the prevention of crime and disorder. Where premises are particularly overcrowded this has been shown to increase the risk of conflict between customers.

20.34 Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

20.35 Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary for a of “proof of age” scheme to be in place at a premises. Please see the section ‘The prevention of harm to children’ concerning the ‘Challenge 25’ proof of age scheme.

20.36 Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. For example, in certain areas, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism.

20.37 Signage

It may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the

consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

20.38 It may also be necessary for a condition to be imposed stipulating notices to be displayed on the premises requesting patrons to leave the vicinity showing consideration to local residents.

20.39 High Volume Vertical Drinking

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

20.40 Where necessary and appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

20.41 Premises in the vicinity of Hereford United Football Club

It is recommended by the Police that applications for the supply of alcohol within a two kilometres radius of Hereford United Football Club or in any other area which Police intelligence shows that football supporters congregate should include in their application form that on match days the following will apply:-

For premises licensed for the supply of alcohol for consumption on the premises:

- Drinks shall only be supplied in polypropylene or toughened glass vessels and all bottled drinks shall be poured into such drinking vessels before being handed to the customer.

- Registered door staff shall be employed to control the entry and exits to the premises and to prevent the taking of alcohol off the premises (e.g. for consumption on the adjoining foot-way)
- If so instructed by a Police Inspector the premises shall be closed if it is considered that violence and/or disorder may take place.

For premises licensed for the supply of alcohol for consumption off the premises:

- Registered door staff shall be employed to control the entry and exits to the premises
- If so instructed by a Police Inspector the premises shall be closed if it is considered that violence and/or disorder may take place.

20.42 Failure to include the above matters in an application form may result in representations being made by the Police on the grounds of crime and disorder.

20.43 Adult Entertainment & Services

Where no indication is made within the application form that adult entertainment and/or services are to be provided, the licensing authority will add the following condition to the licence: -

- No adult entertainment or services or activities must take place at the premises (Adult Entertainment includes, but is not restricted to, such entertainment or services which would generally include topless bar staff, striptease, lap-table, or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language).

20.44 Where it is indicated within the application form that adult entertainment and/or services are to be provided it is essential that the applicant carry out a full risk assessment on the licensing objectives of crime and disorder and the protection of children from harm.

20.45 Herefordshire Council, as the Licensing Authority, has adopted Section 27 of the Policing and Crime Act 2009, which came into force in England on 6 April 2010, which has reclassified lap dancing, striptease and pole dancing

as 'Sexual Entertainment Venues' requiring a new licence for which a fee is payable.

20.46 However the Act does make certain exceptions (principally in relation to premises which do not host more than 11 such events).

20.47 Where adult entertainment and services are to be provided, it is essential that the applicant carries out a full risk assessment on the licensing objectives of crime and disorder and the protection of children from harm.

20.48 For premises providing adult entertainment the Licensing Authority will expect appropriate conditions, as shown within the 'model pool of conditions' to be offered to promote the licensing objectives.

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Section 21: Summary of Public Safety

This section seeks to address the issue of promoting the licensing objective of public safety. It advises that applicants should consider the advice given in these pages when making an application and should take it into account. Where appropriate the applicant should make reference to these issues within their application. Where it is felt appropriate the Licensing Authority may address some or all of these issues in the decision making process.

21 PUBLIC SAFETY

21.1 General

Risk assessments should be carried out on an individual basis and should show the measures the applicant considers appropriate to reduce the risk. The risk should be on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises, the anticipated clientele of the business involved and the competency of the management and staff at the premises.

21.2 The Licensing Authority will expect all relevant premises to produce a risk assessment and for outdoor events an Event Management Plan.

21.3 Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to review and or prosecution.

21.4 It should be noted that conditions relating to public safety should be those which are appropriate, in the particular circumstances of any individual premises or club premises, and should not duplicate other legal requirements. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation

including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

21.5 Where existing legislation and regulations do not (in the opinion of the Licensing Authority) adequately cover public safety issues the following matters should be taken into consideration.

21.6 Safer Clubbing: Guide

Club owners and promoters will be expected to have regard to “Safer Clubbing: guidance for licensing authorities, club managers and promoters”. The licensing authority will seek to ensure that licensed premises are designed and run in a way which maximises the safety of customers and staff.

21.7 In order to minimise disputes and the necessity for hearings, it would be sensible for applicants to consult with all responsible authorities when operating schedules are being prepared.

21.8 Conditions may be imposed in accordance with operating schedules to protect public safety including where justified:-

- (a) provision of closed-circuit television and panic buttons.
- (b) use of shatterproof glasses and/or toughened glass or plastic bottles
- (c) use of security personnel, such as door supervisors, licensed by the Security Industry Authority
- (d) requirement of a minimum of a licensed door supervisor for every 100 customers in nightclubs and large city centre pubs or as indicated by risk assessment.
- (e) occupancy capacity conditions will be applied where appropriate.
- (f) the provision of designated and suitably trained first aiders.

21.9 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

21.10 Safety Advisory Group

Where appropriate, licence holders or their authorised representatives will attend Safety Advisory Group and similar meetings prior to large events and shall be part of Event Liaison Teams during such events. Due regard shall be had to relevant guidance and publications including, for example: HSE publications “Event Safety Guide” and “Managing Crowds Safely”; LGA publication – “Managing Large Events”.

21.11 Escape routes

It may be necessary for public safety to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring gangways are kept unobstructed.

- all emergency exit doors can be easily opened without the use of a key, car, code or similar means;
- doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- where necessary the edges of the treads of steps and stairways are to be conspicuous from the rest of the stair treads.

21.12 Safety Checks

Consideration might also be given to conditions that ensure that:

- safety checks are carried out before the admission of the public; and

- details of such checks are kept in a Log-book.

21.13 Capacity limits

Consideration might also be given to conditions that ensure that:

- arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

21.14 Emergency action notices

Consideration might also be given to conditions that ensure that notices detailing the actions to be taken in the event of emergencies, including how the emergency services should be summoned, are prominently displayed and protected from damage and deterioration.

21.15 Access for emergency vehicles

Consideration might also be given to a condition that ensures that access for emergency vehicles is kept clear and free from obstruction.

21.16 First Aid

Consideration might also be given to conditions that ensure that:

- adequate and appropriate supply of first aid equipment and materials is available on the premises;
- A Suitable area is identified that can be used for treatment
- if necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.
- It should be noted that providers of medical cover at events should be registered and regulated by the Care Quality Commission (CQC) 03000 61617, enquiries@cqc.org.uk

21.17 Lighting

Consideration might also be given to conditions that ensure that:

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- emergency lighting is not altered;
- emergency lighting and signage are in working order before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

21.18 Temporary electrical installations

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- temporary electrical wiring and distribution systems are not provided without prior inspection by a suitable qualified electrician;
- temporary electrical wiring and distribution systems shall comply with the appropriate standards where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

21.19 Indoor sporting events

Subject to the type of sports provided and the appropriate risk assessments, consideration may be given to conditions to ensure that:

- an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo karate or other sports entertainment of a similar nature;

- where a ring is involved, it is constructed and signed off by a competent person and accepted as suitable by a competent authority and any material used to form the skirt around the ring is flame-retardant;
- at any wrestling or other entertainment's of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and
- at water sports entertainment's, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England).

21.20 Alterations to the premises

Premises should not be altered in such a way as to make it impossible to comply with any licensing condition. Licence holders wishing to carry out alterations to their premises should see the advice of the Licensing Team as to the correct licensing procedure. Alterations may mean that an application for a new licence or a variation to the existing licence is required.

21.21 Special effects

The use of special effects in venues of all kinds can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects which should be considered include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;

- lasers
- explosives and highly flammable substances
- foam or similar product.

On the first occasion of their use prior notification shall be given to the Licensing Authority and must meet with their approval.

21.22 Theatres, cinemas, concert halls and similar places

There are particular matters in the context of public safety which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points below are for consideration and do not represent a mandatory list.

- Attendants: must be sufficient in numbers taking into consideration the other safety measures, the design of the premises and the profile of the persons attending (e.g. performances attracting primarily children). Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- Standing and sitting in gangways etc: persons should not be allowed to:
 - sit in a gangway;
 - stand in a gangway, except for access to and from their seat.
 - stand or sit in front of any exit;
 - stand or sit on any staircase including any landings; or
 - stand to view the performance except in areas designated in the premises licence or club premises certificate
- Drinks: No drinks (alcohol or other drinks) shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.
- Flammable films; No flammable films should be allowed on the premises without the prior approval of the Fire Brigade.

Section 22: Summary of Public Nuisance

This section addresses the issue of promoting the licensing objective of the prevention of public nuisance. It advises that applicants should consider the advice given in these pages when making application and should take it into account. Where appropriate the applicant should make reference to these issues within their application. Where it is felt appropriate the Licensing Authority may address some or all of these issues in the decision making process.

22 PREVENTION OF PUBLIC NUISANCE

22.1 General

Public nuisance includes any noise generated as a result of the activities at the premises including the behaviour of customers whilst arriving, leaving or at the venue. This may include noise from customers' cars arriving, car stereo systems, car horns, vocal noise from customers, or those that transport customers to and from the venue, revving engines, litter and the obstruction of public highway. The area where such problems could occur may extend beyond the immediate vicinity of the premises.

22.2 When applicants for premises licences or club premises certificates are preparing their operating schedules, the matters dealt with in this annex should be carefully considered as a means to prevent public nuisance.

22.3 Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

22.4 Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

22.5 Planning

All applicants for Premises Licences, Club Premises Certificates and Provisional Statements are reminded that planning permission will normally be required for such uses. Such planning consents may carry conditions with which applicants are expected to comply otherwise action may be taken under the relevant planning legislation.

22.6 In general, planning consents authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover a number of activities that can have a wide range of different impacts in the locality.

22.7 Licensing applications must not be seen as a re-run of the planning application process and there is a clear separation of the planning and licensing regimes to avoid duplication and inefficiency.

22.8 In determining applications for new and varied licences, regard will be had to following factors: the location of premises, the type and construction of the building, the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (e.g. in order to smoke).

22.9 Applications for new licences or for the extension in size of licensed premises should not normally be granted if the premises will use amplified or live music and operate within or abutting premises containing residential accommodation except that occupied by staff of the licensed premises. A condition may be imposed on new licences that entertainment noise shall be inaudible in any residence.

22.10 Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.

22.11 Generally permitted temporary activities in the open air including tents and marquees should have a maximum closure hour of 11.00 pm. Earlier hours may be imposed in sensitive open spaces or near residential areas.

22.12 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

22.13 Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours in the city centre and on busy main roads. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood.

22.14 Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. The council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy.

22.15 Management and control of customers

Procedures should be put in place to manage the behaviour of customers in so far as it may contribute to public nuisance. These measures may include; management of people who arrive and leave the premises, the placing of signage reminding patrons to arrive and leave quietly, the consideration of arranging a dedicated taxi service, the quick dispersal of customers away from the premises when leaving, and when drinking outside is permitted, to take into consideration the potential of public nuisance.

22.16 Hours

The hours during which the licensable activities are permitted at premises by the conditions of a premises licence or a club premises certificate are

set for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which results from artificially fixed closing times. For example where the premises are in a predominately residential area the potential for public nuisance is greater.

22.17 Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. But also where an external area is permitted to have licensed activity, for example a beer garden, it may be appropriate to cease that activity earlier than the terminal hour of the rest of the premises.

22.18 Noise and vibration

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

22.19 Litter

Premises that provide food and /or drink for consumption off the premises could create public nuisance in the form of their patrons causing litter

(i.e. food wrappings/containers and drink containers) in the vicinity of the premises and the wider area. Applicants for licences allowing the provision of late night refreshment and the sale of alcohol for consumption off the premises are recommended to consider the problems that litter caused by their operation will cause and the steps that they will take to prevent such nuisance in the vicinity of their premises. The steps that they could take (and include in their application form) include:

1. the provision of waste receptacles outside the premises,
2. notices asking customers to dispose of their rubbish responsibly and not to create litter problems, and
3. the licence holder arranging for the picking up and disposal of litter from their premises or the vicinity of the premises or associated with them.

22.20 Noxious smells

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that noxious smells do not cause a nuisance to nearby properties and that premises are properly vented.

22.22 Light pollution

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that flashing lights or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties.

Section 23: Summary of the Protection of Children from Harm

This section seeks to address the issue of promoting the licensing objective of the protection of children from harm. It advises that applicants should consider the advice given in this Policy when making an application and where appropriate, the applicant should make reference to these principles within their application. Where it is felt appropriate the Licensing Authority may address some or all of these issues in the decision making process.

23 THE PROTECTION OF CHILDREN FROM HARM

23.1 General

The Licensing Authority will have specific regard to the licensing objective to protect children from harm. This objective includes the protection of children from moral, psychological and physical harm.

23.2 It is anticipated that Licences will be sought in respect of a wide variety of premises including theatres, cinemas, restaurants, concert halls, cafes, late night takeaways, pubs, bars and nightclubs. It is not possible within this licensing policy to anticipate every situation where children may be at risk. The Licensing Authority will not therefore impose general conditions that apply to all premises, but will expect applicants to offer their own measures within the operating schedule to meet all of the licensing objectives.

23.3 It is the committee's expectation that all staff responsible for the sale of intoxicating liquor receive information and advice on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take all reasonable steps to prevent under age sales.

23.4 To reduce alcohol-induced problematic behaviour by under 18 year olds, to prevent underage purchase and to assist in the protection of children from harm, the licensing authority supports the following measures:-

- (a) Police should exercise powers (Confiscation of Alcohol (Young Persons) Act 1997) to remove alcohol from young people on the street
- (b) Police and trading standards should implement test purchasing to reduce on and off licence sales to under 18 year olds and carry out age challenges to reduce underage drinking in pubs and licensed venues.
- (c) Further take-up of proof of age schemes will be promoted
- (d) In-house, mystery shopper type schemes operated by local businesses will be supported
- (e) Providers of events for unaccompanied children should consider whether staff at such events need to be CRB checked

23.5 The licensing authority will not seek to require that access to any premises is given to children at all times – under normal circumstances this will be left to the discretion of the licensee. The following areas give rise to concern in respect of children, who will normally be excluded from premises:-

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment or services of an adult or sexual nature are provided
- where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons

Options may include:-

- limitations on the hours when children may be present;
- age limitations
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

- 23.6** It is anticipated that the issue of access to children will be addressed in the Operating Schedule.
- 23.7** The Licensing Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises under the authorisation of a Premises Licence, Club Premises Certificate or where that activity is carried on under the authority of a Temporary Event Notice. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between the hours of midnight and 05.00 am at other premises supplying alcohol for consumption on the premises under the authority of any Premises Licence, Club Premises Certificate or Temporary Event Notice. Outside of these hours, the Act does not prevent the admission of unaccompanied children to a wide variety of premises where the consumption of alcohol is not the exclusive or primary activity at those venues.
- 23.8** Licensees will have effective steps to prevent children from viewing films or video works that are unsuitable due to the age classification of the film that has been imposed by the British Board of Film Classification or the Licensing Authority.
- 23.9** The Licensing Authority will expect that where a significant number of unaccompanied children will be present during a public entertainment event, the licensee will ensure that an adequate number of adult staff are present to control the access, egress and safety in and around the premises. The number of staff required should be assessed by the licensee, taking into account the number of children to be present, the type of entertainment, the characteristics of the premises and any other relevant factor.

- 23.10** Anyone intending to provide staff for the supervision of activities to under 18's will be required to carry out enhanced Disclosure and Barring Service (DBS) check on all persons involved in such activities.
- 23.11** These checks should be entered into a register which should be kept on the premises at all times and made available to the Police or authorised Council Officer on request. Staff shall only be appointed who have been subject to a check and are found to be suitable, if in doubt the applicant should liaise directly with the Police.
- 23.12** The Licensing Authority will specifically require the Operating Schedule to address issues relating to children. Applicants are advised to contact Children's Services directly to seek advice prior to submitting their application.
- 23.13** Where there are restrictions (whether imposed by statute or by the Licensing Authority) on the sale or supply of goods or the provision of services or the showing of films or other entertainment to children below a certain age then the licensee will be required to demonstrate that they have in place a system for verifying the age of the children intended to be supplied with such goods, services or entertainment. Training must be given to all persons who might be in a position to refuse such children. Such training must include
- recognition of age,
 - seeking proof of age,
 - verifying the authenticity of proof of age cards, and
 - handling refusals and the recording of such refusals.
- 23.14** Premises that sell alcohol should have due regard to proof of age schemes, and this Licensing Authority recommends that the Challenge 25 Policy be used (further details contact Trading Standards). See section 23.30 below for recommended conditions relating to 'Challenge 25'. It should also be noted that there are restrictions on Gambling Activities that children and vulnerable are allowed to access.

23.15 Adult Entertainment Services:

Applicants for licensees should take into account whether entertainment or services of an adult or sexual nature are to be provided at the premises. Whilst it is not possible to give an exhaustive list of such entertainment or services, it would include topless bar staff, striptease, lap/table/pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sex acts or fetishism, or entertainment involving strong and offensive language.

23.16 It may be necessary to prohibit or limit the access of children to premises where adult entertainment or services are to be provided.

23.17 Measures that can be contained in applicants operating schedules include:

- . Limitations on the hours when children may be present
- . The prohibition of children under certain ages from the premises when adult entertainment and services are being provided, or when any licensable activity is taking place.
- . Limitations on the parts of the premises to which children have access
- . Age limitations (below 18),
- . Requirements for accompanying adults (including for example a requirement that children under a particular age must be accompanied by an adult).
- . No display or advertising of the adult entertainment or services outside the premises or in the vicinity of the premises, and
- . That it will be impossible to see or hear the adult entertainments or services from outside of the premises, or from outside of the defined area within the premises where the activities are taking place. Whilst each particular application involving adult entertainment or services will be decided on its own particular merits, this Licensing Authority may (for the protection of children) take into account in its determination of the application the following factors:

- The proximity of the premises to any recognised schools, centres or establishments for the education, training or care of young persons,
- The proximity of the premises to leisure centres used for sporting and similar activities by young persons,
- The proximity of the premises to any youth club or similar establishment, and
- The proximity of the premises to recognised community, welfare, health and similar establishments used specifically or to a large extent by young persons,

Note: the proximity will be determined on each individual application at the informed discretion of the Licensing Officer.

23.18 Access for children to licensed premises – in general:

Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and any other person who have made representations but only where the licensing authority considers it necessary to protect children from harm. Applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits. However there are certain factors which would cause the Licensing Authority to consider conditioning the access of children to the premises. This is where there is

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or
- any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - explain their reasons; and

- ~ outline in detail the steps that they intend to take to protect children from harm on such premises.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00 pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - explain their reasons; and
 - outline in detail the steps that they intend to take to protect children from harm on such premises.
- In any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps necessary to be taken to promote the protection of children from harm while on the premises.

23.19 Access to live/recorded music events by children/young people

There is nothing preventing premises making application to the Licensing Authority in relation to holding events for children and young persons and each application will be dealt with on its own merits.

23.20 The Licensing Authority considers it right and proper to consider the previous history of the premises in arriving at any decision.

23.21 In respect of this type of event the Licensing Authority will require the applicant to demonstrate what processes they will put in place to prevent:

- the sale/supply of alcohol to person under the age of 18
- the supply and possession of drugs at the premises
- the protection of children in relation to paedophilia

23.22 To assist applicants the Licensing Authority has suggested conditions which may be suitable for this type of event within its model pool of conditions which can be found on our website at <http://www.herefordshire.gov.uk/docs/Conditions.doc>

23.23 Whilst the Live Music Act 2012 does create exemptions in relation to the requirement to licence events in certain circumstances the Licensing Authority recommend that operators of such events have systems in place to address the issues mentioned above.

23.24 Exhibition of Films

It is a mandatory condition on licences authorising the exhibition of films that no person under the age of 18 shall be allowed admission to the exhibition unless the film has been classified as being suitable for their age. The current film classifications are:

- | | |
|--------------------------|--|
| - U - Universal. | Suitable for audiences aged four years and over. |
| - PG- Parental Guidance. | Some scenes may be unsuitable for young children. |
| - 12A- | Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult. |
| - 15 - | Passed only for viewing by persons aged 15 years and over. |
| - 18 - | Passed only for viewing by persons aged 18 years and over. |

23.25 Applicants for licences are expected to demonstrate in their application form the steps that they will take to ensure the age classifications are complied with and that no underage person is allowed to view a film contrary to its classification. Such steps should include an age identification scheme, whereby persons are required to prove their age.

23.26 Additional steps should include the steps that:

- before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising film, of the statement approved by the Board indicating the classification of the film;
- The age classification of the film shall be displayed both inside and outside the premises, and
- a condition that when a licensing authority has made a recommendation of the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer.

23.27 Theatres

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays will normally be imposed.

23.28 However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition

restricting the admission of children in such circumstances may be necessary.

23.29 Performances especially for children

Entertainment may also be presented at cinemas and theatres specifically for children, and Licensing authorities are expected to consider whether a licence condition should be imposed that requires the presence of a sufficient number of adult staff on the premises to ensure the well-being of children present on the premises during any emergency .

23.30 Where performances are presented especially for unaccompanied children in theatres and cinemas conditions will require:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

23.31 Licensing authorities are expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

23.32 Children in performances

They are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 (as amended) sets out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions in addition to these requirements, then the licensing authority may consider the matters outlined below.

- Venue – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- Fire safety – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- Special effects - it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- Care of children – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

23.33 'Challenge 25'

It is unlawful to sell or supply alcohol to persons under the age of 18. Following test purchases operations within the county, it has been established that Challenge 21 has little effect. The Authority therefore requires premises within the county to operate a 'Challenge 25' policy, other than in exceptional circumstances.

23.34 Licensees should note the concern of the authority that drink related disorder will often involve under 18's. Appropriate forms of identification are currently considered to be those recommended by police, trading standards officers and their partners in the Joint Tasking Group (passport or photo driving licence or an ID Card containing a PASS Hologram).

23.35 The recommended conditions are:

1. The Licensee to adopt a “Challenge 25” policy where all customers who appear to be under the age of 25 and attempt to purchase alcohol or other age-restricted products are asked for proof of their age.

The Licensee to prominently display notices advising customers of the “Challenge 25” policy.

The following proofs of age are the only ones to be accepted:

- . UK Photo Driving licence
- . Passport
- . PASS Hologram

2. Staff Competence and Training:

The Licensee to keep a written record of all staff authorised to sell alcohol, the record to contain the full name, home address, date of birth and national insurance number of each person so authorised. The staff record to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.

The Licensee to ensure that each member of staff authorised to sell alcohol has received adequate training on the law with regard to age restricted products and that this has been properly documented and training records kept. The training record to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.

The Licensee to ensure that each member of staff authorised to sell alcohol is fully aware of his/her responsibilities in relation to verifying a customer’s age and is able to effectively question purchasers and check evidence of proof of age.

The Licensee to ensure that each member of staff authorised to sell alcohol is sufficiently capable and confident to confront and challenge under – 18s attempting to purchase alcohol.

3. Refusals Book:

The licensee to keep a register of refused sales of all age- restricted products (Refusals Book).

The refusals book to contain details of time and date, description of the attempting purchaser, description of the age restricted products they attempted to purchase, reason why the sale was refused and the name/signature of the sales person refusing the sale.

The Refusals book to be examined on a regular basis by the Licensee and date and time of each examination to be endorsed in the book.

The Refusals Book to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.

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Section 24: Summary of Information Sharing

Information will be shared between partners and other government agencies. Members of the public, who make a justifiable request for information, will be provided with such information, except personal details or those of a commercially sensitive nature..

24. INFORMATION SHARING

24.1 Licensing Act 2003

In accordance with Section 185 of the Licensing Act 2003 the licensing authority and the responsible authorities will share information with each other for the purposes of facilitating the exercise of the authority's functions under this Act.

24.2 Data Protection Act

Information provided on application forms which was required to process applications and/or to administer the service. It may have contained personal data about the applicant or other person. As the data controller of that information, Herefordshire Council will process that personal data in accordance with the provisions of the Data Protection Act 1998.

24.3 Where necessary we may share this personal data with partner organisations for the protection of public funds administered which may include the prevention or detection of fraud and auditing purposes.

24.4 Requests for Information

The Licensing Authority will provide information contained within Part A of the Premises Licence, whenever reasonably requested to do so. However it is under no duty to reveal any such details as would be excluded in a response to a request made under the Freedom of Information Act.

Section 25: Summary of Other References & Guidance

This section provides details of where further information can be found.

25 OTHER REFERENCES & GUIDANCE

Applicants are recommended prior to making an application to have regard and to take into consideration in their application the following documents (as appropriate to their premises and the activities that will be provided):-

- The Guidance and information on licensing provided on the website of the Home Office <https://www.gov.uk/alcohol-licensing>
- Technical Standards for Places of Entertainment <http://www.technical-standards-for-places-of-entertainment.co.uk/>
- Home Office: Safer Clubbing Guide http://www.csdp.org/research/safer_clubbing_txt.pdf
- Metropolitan Police: Safe and Sound ('helping you to manage the threat posed by drugs, weapons and other crime'), <http://www.partyviberadio.com/forums/life/law/36504-safe-sound.html>
- LACORS/TSI Code of Practice on Test Purchasing <http://www.lacors.gov.uk/lacors/upload/23992.pdf>
- Guidance issued by the Security Industry Authority in connection with door supervisors etc. http://www.sia.homeoffice.gov.uk/Documents/licensing/sia_get_licensed.pdf
- The Event Safety Guide: A Guide to Health, Safety and Welfare at Music and Similar Events' - HSG195 <http://www.hse.gov.uk/pubns/books/hsg195.htm>
- Managing Crowds Safely HSE 2000 ISBN 07176-1834-X http://books.google.co.uk/books?id=OGa7glloqk0C&pg=PA857&lpg=PA857&dq=Managing+Crowds+Safely+HSE+2000ISBN+07176-1834-X&source=bl&ots=JArd2NjMC3&sig=sWfM499_5p3Y62bksofVNm0GNlg&hl=en&sa=X&ei=wziqUrHZM6O00wWyx0CQBw&ved=0CEIQ6AEwAg

- '5 Steps to Risk Assessment: Case Studies' HSE 1998 ISBN 0-7176-15804
<http://www.abebooks.co.uk/servlet/BookDetailsPL?bi=5739409640&searchurl=isbn%3DISBN0717615804%26amp%3Bx%3D54%26amp%3By%3D8>
- 'The Guide to Safety at Sports Grounds' The Station Office 1997 ("The Green Guide")
<http://www.safetyatsportsgrounds.org.uk/sites/default/files/publications/green-guide.pdf>
- 'Safety Guidance for Street Arts, Carnivals, Processions and Large-Scale Outdoor Performances' Independent Street Arts Network (ISAN) available from:
<http://www.streetartsnetwork.org.uk/pages/publications.htm>
- The Guidance issued by the Department of Communities and Local Government under the Regulatory Reform (Fire Safety) Order 2005.
Web site: www.communities.gov.uk

Section 26: Summary of Other Policies and Objectives

This section details other policies which may be associated with licensing of premises.

26 OTHER POLICIES AND OBJECTIVES

26.1 Other statutory obligations which fall outside the requirements of the Licensing Act 2003 may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder. For example if the activity involves the preparation and/or sale of food then it is the responsibility of the applicant to ensure that all appropriate Food Safety legal requirements are met, or if alcohol is sold the full weights and measures requirements are met. It would be expected that a licensee would have registered the premises as a food business with Herefordshire Council. Such registration is not a Licensing requirement however businesses are expected to comply with all relevant legislation.

26.2 Many of the specific licensing requirements relate to matters potentially affecting public safety. In addition to these licensing requirements there are wider duties on all business (whatever their legal status and regardless of whether a licence is needed) to protect the health and safety of employees (and the self-employed) as well as the public. Some of these duties are deliberately wide, generalised and all-encompassing e.g. main duties under Section 2, 3, & 4 of the Health & Safety at Work etc. Act 1974, others are very specific e.g. requirements under the Control of Substances Hazardous to Health Regulations 2002, and do not apply in all circumstances. Some of these duties are absolute under law and have to be complied with, without exception e.g. hoists and lifting equipment must be examined by a competent person at prescribed intervals. These Health & Safety duties tend to include all specific safety requirements under licensing requirements for the public on the premises and extend them to cover the safety of others e.g. staff,

contractors, passers-by etc. Thus there is considerable overlap between the licensing regime and the wider health & safety regimes.

26.3 The Licensing Authority will seek to achieve integration with relevant strategies and their aims in determining applications and will do so through relevant consultation of this policy and individual applications. Planning may make representations in connection with a licensing application if an application has an adverse impact on any the four objectives.

26.4 The Human Rights Act 1988

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way that is incompatible with a Convention Right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of their possessions, including for example the possession of a licence.
- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 that everyone has the right to respect for their home and private life; and

26.5 The Disability Discrimination Act 1995

The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. For service providers, such as licensees this means;

- It has been unlawful to treat disabled people less favourably than other people for a reason related to their disability;

- Reasonable adjustments should be made for disabled people, such as providing extra help or making changes to the way they provide their services; and
- Reasonable adjustments should be made to the physical features of premises which are open to the public.
- Due regard should be had to these principles

26.6 Herefordshire's Race Equality Strategy

Herefordshire has published its Race Equality Strategy in which Herefordshire sets out how it aims to address race equality issues in the County. The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups. Local Authorities are also required under the Race Relations Act 1976 as amended, to produce a race equality scheme, by assessing and consulting on the likely impact of proposed policies on race equality, by monitoring policies for any adverse impact on the promotion of race equality, and by publishing the results of such consultations, assessments and monitoring. Due regard should be had to these principles.

26.7 Government Drinking Strategy

The Government has published an Alcohol Harm Reduction Strategy for England, in this it outlines how the Licensing Act can be used to address some of the Social Health and Crime & Disorder issues raised by the misuse of alcohol, when the Licensing Authority is considering applications for any relevant licence made under the act. This strategy will be taken into account specifically with regard to the sale of alcohol to under 18's and the impact of lack of effective steps to tackle anti-social behaviour.

26.8 Herefordshire's Community Safety Strategy

Herefordshire's Community Safety Strategy will play a part in achieving some if not all of the objectives in reducing crime and disorder. In addition to this Anti-Social Behaviour Strategy will focus on the first stage of the challenge, which is to make sure that the Council's efforts and relevant resources are working together effectively to reduce anti-social behaviour across the County. As such, these developments will form the Council's position and contribution to the wider multi-agency strategy that will be produced under the Herefordshire Community Safety Partnership. The drive to deal with underage drinking and the impact that it has on anti-social behaviour will be managed through as part of this strategy.

26.9 Government & Police Guidance for Clubs and other licensed premises

For premises which may have problems with drugs, crime and disorder and/or are open late the Council will refer to the guidance given and will expect applicants in their operating schedules to use the strategies outlined in the Home Office Drug Strategy booklet – Safer Clubbing (ISBN Number: 1840827807). Copies of this booklet can be obtained from the Drug Prevention Advisory Service at www.drugs.gov.uk. The Metropolitan Police have also compiled a booklet entitled Safe and Sound which is available from Metropolitan Police, Clubs and Vice, Charing Cross Police Station, London WC2N 4JP Tele: 020 7321 7759

26.10 Fire Protocol

Hereford & Worcester Fire and Rescue Service have extensive experience when dealing with Licensing application, particularly in respect of outside events and are happy to offer guidance where necessary.

26.11 Planning Permissions

All applicants for Premises Licences, Club Premises Certificates and Provisional Statements are reminded that planning permission will

normally be required for such uses. Such planning consents may carry conditions with which applicants are expected to comply otherwise action may be taken under the relevant planning legislation. In general, planning consents authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover a number of activities that can have a wide range of different impacts in the locality.

- 26.12** Licensing applications must not be seen as a re-run of the planning application process and there is a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. The Licensing Committee will ensure that the Planning Committee is advised of the situation regarding licensed premises in the Herefordshire including the general impact of alcohol related crime and disorder and any proposals to introduce a saturation policy to assist them in its decision making process. The purpose of a cumulative impact policy is to minimise the cumulative impact of licensed premises where it can be shown that the density of licensed premises is such that it is resulting in anti-social behaviour, noise, or crime and disorder. This conflict may be the result of the late night demand on local resources, for example the queuing for fast food outlets, public transport, etc.
- 26.13** The Licensing Authority however will not take demand into account when considering an application as this is a commercial decision and a matter for planning control and the market.
- 26.14** The potential impact of hot food takeaways, restaurants, pubs and clubs on the local environment and the amenity of the surrounding areas, particularly if proposed on a site that is adjacent to residential properties has to be carefully considered. Consideration also has to be given to the important role that leisure and entertainment uses can play in the regeneration of the economy for Herefordshire.

ANNEX 1

SPECIAL CUMULATIVE IMPACT POLICY

- A1** The Council recognises that the cumulative effect of licensed premises may result in adverse effects on the licensing objectives and amenity and this in turn may have a number of undesirable consequences, for example:
- An increase in crime against both property and persons;
 - An increase in noise and disturbance to residents;
 - Traffic congestion and/or parking difficulties;
 - Littering and fouling.
- A2** The licensing policy is not the only means of addressing such problems. Other controls include:
- planning controls
 - CCTV
 - provision of transport facilities including Taxi Ranks
 - Late Night Levy
 - Early Morning Restriction Orders (EMRO's)
 - Designated Public Places Orders
 - police powers
 - closure powers
 - positive measures to create safer, cleaner and greener spaces
- A3** Where the Council recognise there is such a cumulative effect it will consider adopting a specific Cumulative Impact Policy for an area if this proves necessary.
- A4** The Guidance to the Act states that the cumulative impact of licensed premises on the promotion of their licensing objectives is a proper matter

for a licensing authority to consider in developing its Statement of Licensing Policy.

A5 In accordance with the Guidance the Council consulted on the proposal for Cumulative Impact Zones in the area identified as part of the wider consultation on the council's revision of its Statement of Licensing Policy during 2010. Consultation was therefore specifically undertaken with:

- The Responsible Authorities
- Licensees and those representing licensees
- Local Residents and Businesses
- Those representing local residents and businesses.

A6 In considering whether to adopt such a Policy for the areas, the council took the following steps as recommended by the Guidance:

- Gather crime and disorder statistics, ambulance service statistics, data from A & E and such other statistics that may be appropriate
- Identify serious and chronic concern from a responsible authority or from residents or local businesses (or their representatives) concerning nuisance and/or disorder;
- Identify the area in which problems are arising and the boundaries of that area

A7 As a result the Council has designated the following areas within Herefordshire as being subject to a special Cumulative Impact Policy:

- Commercial Road full length (both sides) from its junction with Aylestone Hill to its junction with Blueschool Street and Bath Street – a point known as Commercial Square.
- Commercial Square, all sides and in all directions.
- Bath Street (both sides) east 50m from its junction with Commercial Square.
- Union Street (both sides) full length, both to South to St Peter's Square.
- Gaol Street (both sides) from its junction with Union Street East to a point East and starting at the private car park of Hereford Police Station.
- St Peter's Square East into St Owen Street (both sides) for a distance of 150m (opposite Hereford Town Hall).
- St Peter's Square to St Peter's Street – both sides of the streets.

- St Peter's Street to High Town pedestrian precinct – all sides and in all directions.
- High Town pedestrian precinct from its junction with High Street towards Widemarsh Street – all sides of all streets
- Widemarsh Street (both sides) north to its junction with Newmarket Street and Blueschool Street – commonly known as 'Wellington Corner'. Both sides of the streets and in all directions.
- Blueschool Street (both sides) from its junction with Newmarket Street and Widemarsh Street at a point commonly known as 'Wellington Corner' to its junction with Commercial Square
- All streets and locations enclosed within this defined area (as indicated in the shaded area of map Appendix A)

A8 A summary of the evidence of the problems being experienced is attached to the bottom of this policy. The Licensing Authority are of the opinion based on the evidence that the number of licensed premises in the above areas adversely affect the promotion of the licensing objectives of:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

A9 Whilst the summary of the evidence was mainly based on crime and disorder, this Council is of the opinion that such crime and disorder also materially and severely affects the promotion of the other licensing objectives in the above areas.

A10 The effect of the Cumulative Impact Policy is that it creates a rebuttable presumption that application within the cumulative impact area will normally be refused: -

1. Where relevant representations are received against any:
New applications for Premises Licences, Club Premises Certificates or Provisional Statement, or Variation applications for an existing Premises Licences or Club Premises Certificates
2. Where the police have issued an objection notice in respect of a Temporary Event Notice

A11 However, this Policy will not prevent applications in the above areas. Each case will be decided on its own merits, but applicants will have to comprehensively demonstrate in their application that it will not add to existing problems in the area.

A12 The special policy will apply to all the licensable activities of:

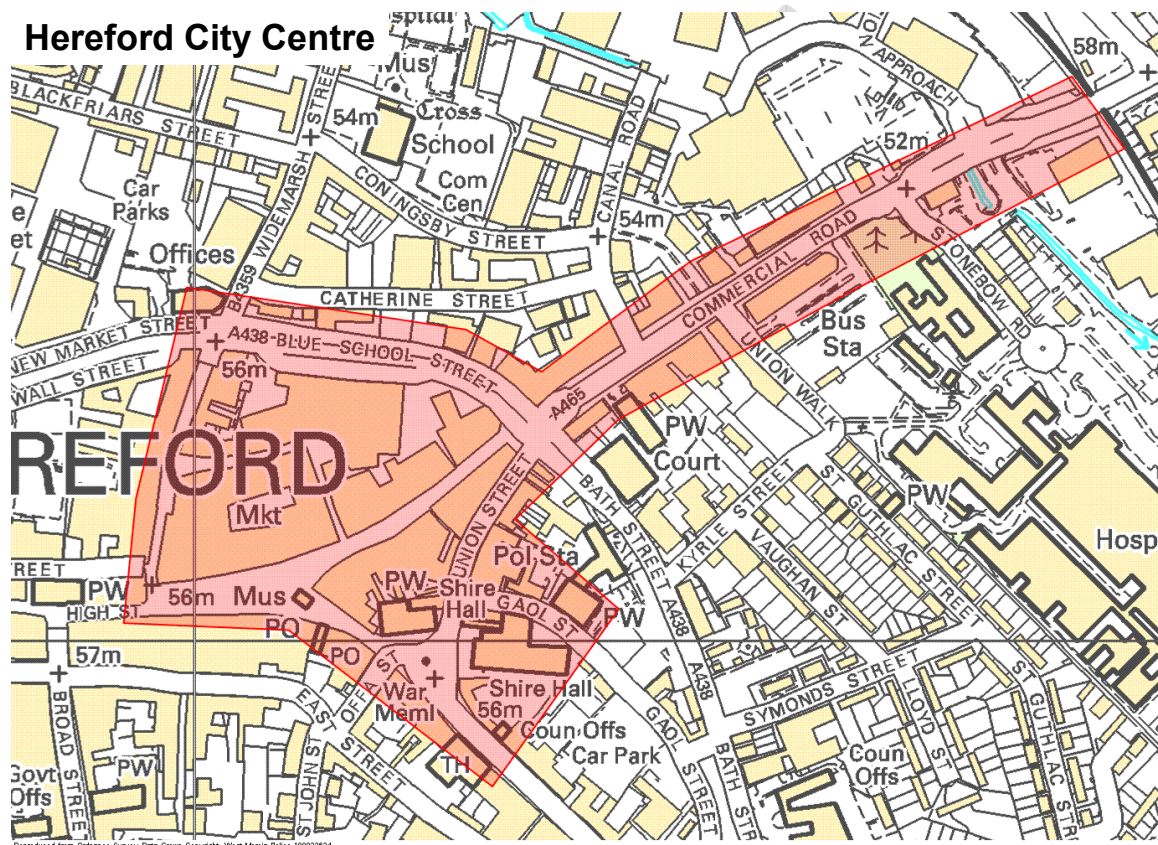
- The sale by retail of alcohol,
- The supply of alcohol by or on behalf of a club to, or to the order of a member of the club,
- Regulated entertainment, and
- The provision of late night refreshment

DRAFT

Summary of Crime and Disorder in Hereford - extended Cumulative Impact Zone 2013. Version 2 (March 2013)

1.0 Overview

This document is an assessment of crime and disorder within the area outlined in red on the map below. The streets within the area are either within the existing Hereford Cumulative Impact Zone (CIZ) or within the proposed extension to that zone.



2.0 Incidents

In the 12 months between 1 January and 31 December 2010 there were a total of 1003 incidents of relevant crime or disorder¹ reported in the area outlined above, of these, 229 incidents went on to be crimed (23%). Of the 1003 incidents 636 (63%) occurred between the hours of 18:00hrs and 04:00hrs, 157 of these went on to be crimed (25%).

In 2011 there were a total of 942 incidents, 201 went on to be crimed (21%). 611 (65%) occurred between 18:00hrs and 04:00hrs, 147 of these went on to be crimed (24%).

¹ Incident types included are; Anti-social Behaviour, assaults, criminal damage, drug offences, sexual offences, public order offences, collapse/illness/injury, concern for safety, licensing, suspicious circumstances.

This shows that, over both years, incidents occurring overnight are slightly more likely to be crimed and thus could be deemed to be more harmful.

In 2012 there were a total of 1014 relevant incidents, 222 of which have been crimed (22%). There have been 666 overnight incidents (66%), of which 147 have been crimed (22%).

The annual totals for last year show that two thirds of incidents in this area occur between 18:00hrs and 04:00hrs but in 2012 those incidents occurring in that time bracket are as likely not *more* likely to be crimed (as in previous years).

In January 2013 there were 64 incidents, 10 of which have been crimed (16%). 41 incidents occurred overnight, 6 of which were crimed (15%).

The incident types and their relative proportions are shown in the two tables below. The first shows incidents occurring throughout the day, the second shows only those occurring between 18:00hrs and 04:00hrs.

Table of all call types throughout the day (all relevant incidents of crime and disorder 2010- January 2013)

Primary Result Description	Number of Incidents 2010	Number of Incidents 2011	Number of Incidents 2012	Number of Incidents Jan 2013	% of total incidents 2010	% of total incidents 2011	% of total incidents 2012	% of total incidents 2013
ASB	475	416	448	27	47.36%	44.16%	44.18%	42.19%
Suspicious Circumstances	187	216	258	17	18.64%	22.93%	25.44%	26.56%
Assaults	87	72	94	7	8.67%	7.64%	9.27%	10.94%
Concern for Safety	73	127	129	9	7.28%	13.48%	12.72%	14.06%
Collapse/Illness/Injury	67	14	0	0	6.68%	1.49%	0.00%	0.00%
Criminal Damage	61	47	37	2	6.08%	4.99%	3.65%	3.13%
Public Order Offence	32	31	22	1	3.19%	3.29%	2.17%	1.56%
Drug Offences	13	16	21	0	1.30%	1.70%	2.07%	0.00%
Sexual Offence	7	2	5	1	0.70%	0.21%	0.49%	1.56%
Licensing	1	1	0	0	0.10%	0.11%	0.00%	0.00%
Total	1003	942	1014	64	100.00%	100.00%	100.00%	100.00%

Table of overnight relevant call types (18:00hrs to 04:00 hrs) 2010- January 2013

Primary Result Description	Number of Incidents 2010	Number of Incidents 2011	Number of Incidents 2012	Number of Incidents Jan 2013	% of total incidents 2010	% of total incidents 2011	% of total incidents 2012	% of total incidents 2013
ASB	328	293	328	19	51.57%	47.95%	49.25%	46.34%
Suspicious Circumstances	92	114	138	11	14.47%	18.66%	20.72%	26.83%
Assaults	65	54	62	4	10.22%	8.84%	9.31%	9.76%
Concern for Safety	30	73	77	5	4.72%	11.95%	11.56%	12.20%
Collapse/Illness/Injury	45	8	0	0	7.08%	1.31%	0.00%	0.00%
Criminal Damage	31	29	21	1	4.87%	4.75%	3.15%	2.44%
Public Order Offence	26	26	17	1	4.09%	4.26%	2.55%	2.44%
Drug Offences	13	12	21	0	2.04%	1.96%	3.15%	0.00%
Sexual Offence	5	1	2	0	0.79%	0.16%	0.30%	0.00%
Licensing	1	1	0	0	0.16%	0.16%	0.00%	0.00%
Total	636	611	666	41	100.00%	100.00%	100.00%	100.00%

Within the CIZ ASB and drug offences are more likely to occur between the hours of 18:00hrs and 04:00hrs. Assaults and criminal damage are as likely to occur as during the day.

This table shows how the 1954 overnight relevant incidents within the period 1 January 2010 to 31 January 2013 are distributed over the week and throughout the night; as expected the peak times for calls are weekends 23:00hrs to 02:00hrs:

Hour	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
1800	15	8	16	8	17	14	11	89
1900	15	21	14	19	14	27	12	122
2000	14	12	16	19	15	19	22	117
2100	16	22	18	11	35	33	28	163
2200	20	19	24	17	26	35	27	168
2300	23	20	23	41	73	63	29	272
0000	37	19	15	32	31	85	89	308
0100	18	18	24	24	38	77	98	297
0200	15	9	12	13	14	89	84	236
0300	5	4		4	20	75	74	182
Grand Total	178	152	162	188	283	517	474	1954

Of the 1954 incidents over the period, 909 have been given the “alcohol involved” incident marker (47%).

3.0 Crime

Over the period 1st January 2010 to 31st January 2013 there were 452 incidents (18:00hrs to 04:00hrs) within the area under review that went on to receive an external crime number. Of these 35 were no crimed.

The table below shows the most common offence types (of which there have been four or more offences within the period). The offences in the table account for 79% to 87% of the crime committed in the area within the period and whilst the relative proportions remain largely similar there have been small increases in assault (ABH), criminal damage (to building – not dwelling), common assault, GBH (without intent), criminal damage (vehicle), possession of cannabis and cocaine and assault police officer.

The totals and percentages for January 2013 are shown for completeness.

Short Offence Title	2010	2011	2012	2013	% of offences 2010	% of offences 2011	% of offences 2012	% of offences 2013
Assault (ABH)	37	29	35	0	25%	22%	30%	0%
Using disorderly Behaviour	26	14	5	0	18%	11%	4%	0%
Criminal damage (not dwelling)	18	15	13	1	12%	12%	11%	14%
Common assault	7	12	12	1	5%	9%	10%	14%
Criminal damage (other property)	7	8	3	0	5%	6%	3%	0%
Fear/provocation of violence (s4)	7	7	2	0	5%	5%	2%	0%
GBH (without intent)	5	4	7	1	3%	3%	6%	14%
Malicious wounding	4	8	4	1	3%	6%	3%	14%
Criminal damage (vehicle)	2	6	4	0	1%	5%	3%	0%
Possess class B - Cannabis	3	3	6	1	2%	2%	5%	14%
Possess class A - Cocaine	2	0	8	0	1%	0%	7%	0%
Affray	4	2	3	1	3%	2%	3%	14%
Attempt GBH	2	3	1	0	1%	2%	1%	0%
Assault police officer	0	2	3	0	0%	2%	3%	0%
Total	124	113	106	6	85%	87%	91%	86%
Others	22	17	11	1	15%	13%	9%	14%
Grand Total	146	130	117	7	100%	100%	100%	100%

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MEETING:	Regulatory Committee
MEETING DATE:	12 September 2014
TITLE OF REPORT:	A revised 'statement of principles' (policy) under the Gambling Act 2005.
PORTFOLIO AREA:	Economy, Communities and Corporate Directorate
REPORT BY	Head of Trading Standards and Licensing

CLASSIFICATION: Open

Key Decision

This is a key decision because it is likely to be significant in terms of its effect on living or working in an area comprising of one or more wards in the county.

Wards Affected

Countywide

Purpose

To agree the draft statement of principles Gambling Act Policy for recommendation to Council.

Recommendation(s)

1. That the draft Gambling Act Policy Statement of Principles be approved for recommendation to Council.

Reasons for Recommendations

2. The revised policy statement 2014-2017 retains the vast majority of the current policy, but has been updated to reflect practical changes that have arisen since its publication, namely the definition of "premises" in the guidance and the machine entitlements for bingo premises and adult gaming centres.

Options

3. a) To reject the proposed amendments however, this would in effect mean that the policy was not in line with current legislative requirements.

Key Considerations

4. To approve the amended Policy and Consultation programme. This policy has had only very minor changes made to reflect legislative updates. This included the definition of "premises" in the guidance and the machine entitlements for bingo premises and adult gaming centres.

Further information on the subject of this report is available from
Claire Corfield – Licensing Manager 01432 383324

Introduction and Background

5. Section 349 of the Act requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Gambling Act during the three-year period to which the policy applies.
6. The statement of principles will last a maximum of three years but can be reviewed and revised by the authority at any time.
7. This is the third Statement of Principles under the Gambling Act 2005, the first being approved in November 2006.
8. The Licensing Objectives under the Gambling Act 2005 are:
 - Preventing gambling being a source of crime or disorder
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and the vulnerable from being harmed or exploited by gambling

Community Impact

9. By exercising the functions correctly in respect of the Gambling Act, an appropriate balance can be struck between the requirement to protect children & the vulnerable from being harmed and exploited, whilst supporting the needs of legitimate business and the local economy.

Equality and Human Rights

10. There are no equality or human rights issues in relation to the content of this report.

Legal Implications

11. The Gambling policy has been drafted to reflect current legislative requirements. All applications for licences and permits under the Gambling Act 2005 have to be made and determined in accordance with the legislation. However where discretion is allowed then the authority must consider the guidance issued to Licensing Authorities and their Statement of Principles in reaching their decision. Under the relevant legislation, the authority must have in place a relevant policy. Failure to do so would leave the authority in breach and open to challenge.

Risk Management

12. Failure to reach a decision could result in an application for Judicial Review being made.

Financial implications

13. The licensing section is required to operate the function on a full cost recovery basis. The fees for Gambling Act applications have not altered. A robust policy which is fit for purpose is essential if full cost recovery is to be maintained.

Consultation.

14. Consultation Strategy

The Gambling Act received royal assent in April 2005 and consolidates regulation of casinos, bingo, gaming machines, lotteries, betting and remote gambling into one Act.

The Gambling Act 2005 requires us to consult with various groups before we determine our policy, these include:-

- The Chief Officer of Police for West Mercia
- One or more persons who represent the interests of gambling businesses in Herefordshire
- One or more persons who appear to represent the interest of persons who are likely to be affected by the implementation of the Gambling Act in Herefordshire.

Above and beyond this, we intend to give the broadest range of people the opportunity to give us their views. We will therefore also include:

- The Responsible Authorities who are consulted on Gambling applications in Herefordshire (Planning, Environmental Health, Child Safeguarding Board, Fire and Rescue Service, HM Revenue and Customs, Gambling Commission)
- All ward Councillors of Herefordshire Council and all Local MPs

The consultation document will be published on the council website.

Consultation will also take place by:-

- Publishing Notices in the local press.
- Writing to all premises licensed under the Gambling Act 2005
- Local or National organisations identified as having an interest in gambling.
- Notifying Local members.
- Writing to local organisations acting on behalf of young people and children.

The responses will be collated and presented to council following the consultation process. If no responses are received members can agree the policy be implemented.

Summary of main changes in Policy

- 14 This policy has had only very minor changes made to reflect legislative updates. This includes the definition of “premises” in the guidance and the machine entitlements for bingo premises and adult gaming centres. The fees remain the same.

Appendices

Draft statement of principles

Background Papers

None.

**HEREFORDSHIRE
COUNCIL**

GAMBLING ACT 2005

**STATEMENT OF
GAMBLING LICENSING
POLICY**

2014 – 2017

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FOREWORD

The Gambling Act 2005 (hereafter referred to as “the Act”) requires licensing authorities to publish a Statement of Principles which they propose to apply when exercising their functions under the Act. The Statement of Principles must be published at least every three years and should be reviewed from “time to time” and any amended parts should be the subject of re-consultation. This is the third Statement of Principles to be published.

This Statement of Principles has been prepared as required by Section 349 of the Act and has had regard to the guidance issued to licensing authorities by the Gambling Commission under Section 25 of the Act, the licensing objectives and the views of those consulted. We have consulted widely upon this statement before finalising and publishing. A list of those consulted can be found at the rear. A full list of comments can be obtained by writing to the Licensing Section. The policy was approved at a meeting of the Full Council on xxxxxxxxxxxx.

Its purpose is to set out the principles that the licensing authority proposes to apply in exercising its functions under the Act. Herefordshire Council as the licensing authority must carry out its functions with a view to promoting the gambling objectives and as such, these objectives provide a framework for the Statement of Principles. The licensing objectives are:

- 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;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

These objectives are supplemented by the core principle of ‘social responsibility’ that will be given effect through the licensing and regulatory decision-making of the Gambling Commission and licensing authorities, and by the publication of codes of practice and guidance by the Gambling Commission and, in the case of licensing authorities, by the preparation of a statement of Gambling Licensing Policy.

GENERAL

1.0 Introduction

- 1.1 The Licensing Authority recognises that the licensed entertainment business sector in Herefordshire contributes to the local economy and social infrastructure, but that this has to be balanced with the impact of such activities on the licensing objectives. The Licensing Authority wishes to encourage responsible run premises to provide a wide range of entertainment activities throughout their opening hours and to promote gambling in accordance with the licensing objectives. They are a factor in maintaining a thriving and sustainable community, which is one of the Council's aims.
- 1.2 Herefordshire is a mixed commercial and residential area, with many areas lying in tranquil rural surroundings, whose amenity the Council has a duty to protect, and one of the Council's aims is to promote safer and stronger communities. These factors may be taken into account in relation to applications that may have a material impact on a vicinity.
- 1.3 This policy will set out the general approach that the Licensing Authority will take when it considers applications. It will not undermine the right of any individual to apply for a variety of permissions nor undermine the right to have any such application considered on its individual merits. Nor will it override the right of any 'responsible authority' or 'interested party' to make relevant representations on an application or seek a review of a licence where provision has been made for them to do so in the Act.
- 1.4 The Licensing Authority is required to publish a Gambling Licensing Policy that will be used when exercising its licensing functions. This Policy has been prepared to assist the Licensing Authority in reaching a decision on applications, setting out those matters that will normally be taken into account. It also seeks to provide information

for applicants, residents, businesses in the County and the responsible authorities on the Licensing Authorities expectations.

- 1.5 This Policy will be published at least every three years. The Policy may also be reviewed from time to time. Any proposed amended or revised Gambling Licensing Policy will be consulted upon and re-published.
- 1.6 The Gambling Act requires that the following parties are consulted:
 - a) The Chief Officer of Police
 - b) One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
 - c) One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
- 1.7 The Licensing Authority will consult widely (but within reasonable limits) upon any Policy Statement review before finalising and publishing it.
- 1.8 A list of comments made and the consideration given by the Council of those comments will be available (subject to the Data Protection Act 1988) on request by contacting the Licensing Section.
- 1.9 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so.
- 1.10 In producing a Gambling Licensing Policy, the Licensing Authority will have regard to In accordance with:
 - the licensing objectives of the Gambling Act 2005

- any relevant current Code of Practice issued by the relevant Government Department,
- the current guidance issued by the Gambling Commission;
- any relevant current statutory regulations,
- and any responses from those consulted on the Policy statement.

Note: The Gambling Commission Guidance to Licensing Authorities, together with other guidance and information is available on the Gambling Commission website:

www.gamblingcommission.gov.uk/Client/index.asp.

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2.0 The Licensing Objectives

- 2.1 In exercising most of the functions under the Gambling Act 2005 (the Act), Herefordshire Council (the Council) as the Licensing Authority must have regard to the licensing objectives as set out in section 1 of the Act.
- 2.2 The licensing objectives are:
- (a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - (b) Ensuring that gambling is conducted in a fair and open way
 - (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling (It should be noted that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.)
- 2.3 With regard to the crime and disorder objective, this Licensing Authority notes that there is no definition of the term 'disorder' in the Act, that there is no indication of the meaning of 'disorder' in the Explanatory Notes to the Act and that the Gambling Commission's current Guidance to Licensing Authority's states that "disorder is intended to mean activity that is more serious and disruptive than mere nuisance" and that the word 'intended' is used without any form of qualification by the Gambling Commission. The Licensing Authority will expect applicants for premises licences to assess the impact of their premises on the locality in relation to crime and disorder, and will give consideration to the measures offered by applicants in relation to this licensing objective and their assessment. The Licensing Authority considers that serious nuisance and anti-social behaviour can sometimes amount to disorder. They will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see or hear it, in determining whether the line has been crossed.
- 2.4 For premises licences the Licensing Authority will not generally be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed

via operating and personal licences that are issued and regulated by the Gambling Commission.

2.5 With regard to the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling:

- (a) Children: This objective is concerned with preventing them from taking part in gambling, consideration will be given as to whether specific measures are required at particular premises. Such measures may include supervision of entrances / machines, segregation of areas, age verification schemes (i.e. 'Challenge 25') etc.
- (b) Vulnerable persons: It is noted that there is no definition or interpretation of the term "vulnerable persons" in the Act. In addition 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 gamble 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." In the view of such lack of statutory interpretation or definition, or definitive guidance from the Gambling Commission, this Licensing Authority shall endeavour to consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this Policy statement will (by way of a revision) be updated with it.

2.6 The Licensing Authority is legally obliged under provisions of the Act when making decisions about premises licences and temporary use notices to aim to permit the use of premises for gambling in so far as the Licensing Authority thinks it:

- (a) complies with any relevant code of practice issued by the Gambling Commission
- (b) in accordance with any relevant guidance issued by the Gambling Commission

- (c) reasonably consistent with the licensing objectives (subject to (a) and (b) above), and
- (d) in accordance with Herefordshire Council's Gambling Licensing Policy (subject to (a) to (c) above)

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3.0 Responsible Authorities

3.1 The Act sets out the responsible authorities that can make representations about premises licence applications, or who can apply for a review of an existing licence. In Herefordshire these are:

- The Council as the Licensing Authority
- The Gambling Commission
- West Mercia Police
- Hereford and Worcester Fire and Rescue Authority
- The Councils Planning Department
- The Council's Environmental Health & Trading Standards
- HM Revenue and Customs
- For vessels, the Environment Agency, British Waterways Board, Secretary of State.
- Any other bodies identified in Regulation by the Secretary of State,

A current list of responsible authorities and their addresses can be obtained from the Councils Licensing Team.

4.0 Interested parties

4.1 Interested parties can make representations about applications for new premises licences applications and variations of an existing premises licence, or apply for a review of an existing licence.

4.2 Interested 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 Council 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) above.”

4.3 In determining whether a person is an interested party, the Licensing Authority shall take into account the following principles:

- Each case will be decided upon its merits, subject to the licensing objectives and to any requirements imposed by the Gambling Act, 2005.
- This authority will not apply a rigid rule to its decision making,
- This authority will give the widest possible interpretation to the term ‘business interest’ in accordance with the Gambling Commissions current Guidance to Licensing Authorities’.
- It will take into account any guidance provided by the Gambling Commission’s current Guidance to Licensing Authorities and other current relevant guidance provided by the Gambling Commission to Licensing Authorities.

4.4 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 or MP represents the ward likely to be affected. Other than these however, the Licensing Authority will require written evidence that

a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

- 4.5 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 or Sub-Committee dealing with the licence application. If there are any doubts then please contact the Council's Members Support.

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5.0 Representations

5.1 Representations for or against premises licence applications and premises licence variation applications must be made in writing, include the name and address of the person making the representation and must contain details of the effect of the application based on one or more of the following: -

- 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
- Protecting children and other vulnerable persons from being harmed or exploited by gambling (It should be noted that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.)
- The Council's Gambling Licensing Policy
- Any relevant current guidance issued by the Gambling Commission,
- Any relevant current code of practice issued by the Gambling Commission,
- The Gambling Act 2005 and any relevant Regulations made there under.

Please note: -

- a) that this Licensing Authority considers 'disorder' to include anti-social behaviour (see number 2.3 above), and
- b) that the Licensing Authority is unable to accept representations made purely on moral grounds or planning grounds or which fall outside of its statutory remit as Licensing Authority .

5.2 All representations must be received by the Licensing Authority within the statutory deadlines set out in either the Act or the Regulations made under the Act. The Licensing Authority cannot legally accept any late representations. Applications will be advertised by a notice places at the premises (in a position where it can be seen and read by passers-by) and by a notice in a local newspaper.

- 5.3 Copies of all valid representations (including names and address) will be sent to the applicant in accordance with the provisions of the statutory regulations made under the act.
- 5.4 Persons making representations should be prepared to attend a Licensing Committee or Sub-Committee hearing to verbally inform the Committee of the grounds for their representation.
- 5.5 The Licensing Authority may determine an application for a premises licence without a hearing if it thinks that the representations: -
- are vexatious,
 - are frivolous, or
 - will certainly not influence it's determination of the application.
- 5.6 When an application has not attracted relevant representations, the Licensing Authority is compelled under the provisions of the Act to automatically grant the application (with or without licence conditions).

6.0 **Exchange of Information**

- 6.1 The Council will exchange information with the Gambling Commission, and the other persons listed in Schedule 6 to the Act, when appropriate and necessary. We will also have regard to any current Guidance issued by the Gambling Commission to Licensing Authorities, as well as any relevant current regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.2 Where any formal protocols are established as regards information exchange with other bodies then they will be made available by the Licensing Team upon request.

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7.0 Enforcement

7.1 When making decisions regarding enforcement or inspection regimes the Council will take into account the Gambling Commission's current Guidance and will endeavour to be:

- (a) Proportionate: regulators should only intervene when necessary, and remedies should be appropriate to the risk posed, and costs identified and minimised;
- (b) Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- (c) Consistent: rules and standards must be administered, enforced and implemented fairly;
- (d) Transparent: regulators should be open, and keep regulations simple and user friendly; and
- (e) Targeted: regulation should be focused on the problem, and minimise side effects, and
- (f) Within the principles of the Regulators Compliance Code issued by the Department for Business, Enterprise and Regulatory Reform.

7.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

7.3 The Licensing Authority may also adopt a risk-based inspection programme that will be based on the Licensing objectives.

7.4 The Licensing Authority shall whenever appropriate ensure that enforcement is within the principles of the Regulators Compliance Code issued by the Department for Business, Enterprise and Regulatory Reform.

7.5 The Licensing Authority will also keep itself informed of developments as regards any work of the Better Regulation Executive relating to the Licensing Authority's regulatory functions under the Gambling Act 2005.

- 7.6 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions that it gives. (e.g. compliance with licence conditions). The Gambling Commission is the enforcement body for the Operating and Personal Licences, Club Gaming Permits, Club Machine Permits and Lotteries. West Mercia Police also has a wide range of enforcement powers available to it under the provisions of the Act. When the Licensing Authority receive complaints about matters falling outside of its remit, such complaints will be referred to the Gambling Commission and/or West Mercia Police and/or such other body as may be appropriate.
- 7.7 Subject to the above principles relating to enforcement, this Licensing Authority may institute criminal proceedings in respect of an offence under any of the following provisions of the Gambling Act 2005: -
- (a) section 37,
 - (b) section 185,
 - (c) section 186,
 - (d) section 229,
 - (e) section 242,
 - (f) section 258,
 - (g) section 259,
 - (h) section 260,
 - (i) section 261,
 - (j) section 262,
 - (k) section 326,
 - (l) section 342,
 - (m) paragraph 20 of Schedule 10,
 - (n) paragraph 10 of Schedule 13, and
 - (o) paragraph 20 of Schedule 14.

8.0 Licensing Authority functions

8.1 The main functions and responsibilities of the Licensing Authority under the Act are the:

- (a) Licensing of certain premises where gambling activities are to take place and/or gaming machines are provided, by issuing Premises Licences. The types of premises licences being Bingo, Adult Gaming Centre, Family Entertainment Centre, Betting (Track), and Betting (Other).
- (b) Issue Provisional Statements for premises being or expected to built or altered, or that a person expects to acquire.
- (c) Issue either Club Gaming Permits or Club Machine Permits to members' clubs and miners' welfare institutes.
- (d) Issue Club Machine Permits to Commercial Clubs
- (e) Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- (f) Receive notifications for certain premises licensed for the sale by retail of alcohol for consumption on the premises under the Licensing Act 2003 for the use of two or fewer gaming machines.
- (g) Issue Licensed Premises Gaming Machine Permits for certain premises licensed for the sale by retail of alcohol for consumption on the premises under the Licensing Act 2003 for the use of more than two gaming machines.
- (h) Register small society lotteries below prescribed thresholds.
- (i) Issue Prize Gaming Permits.
- (j) Receive and endorse Temporary Use Notices.
- (k) Receive Occasional Use Notices.
- (l) Provide information to the Gambling Commission regarding details of licences issued (see section 6 above on 'information exchange').
- (m) Maintain registers of the permits and licences that are issued under these functions.
- (n) Issue notices and other documentation required under the Act and the Regulations made there under.

9.0 **Duplication with other regulatory regimes**

9.1 The Licensing Authority will seek to avoid any duplication with other statutory and regulatory systems where possible, unless it believes such duplication is necessary for the promotion of and compliance with the licensing objectives. When considering an application for a premises licence the council will not (under the provisions of the Act) be able to consider matters such as:

- Whether the premises is likely to be awarded planning or building consent, or
- whether the premises is safe for its use (e.g. structurally, means of escape, fire precautions etc.), or
- whether the use of the premises under the licence may cause any public nuisance (e.g. to residents in the vicinity),

9.2 The Licensing Authority will listen to, and consider carefully, any concerns that an applicant will not be able to meet any proposed licensing condition due to planning restrictions.

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PREMISES LICENCES - Matters not covered above

10.0 General Principles

10.1 Premises licences may be obtained for the following categories of gambling premises: -

- Betting (other than a Track)
- Betting (Track)
- Bingo
- Adult Gaming Centre
- Family Entertainment Centre

10.2 Premises Licences are subject to the requirements set-out in the Gambling Act 2005 (the 'Act') and Regulations, as well as specific mandatory and default conditions detailed in Regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions (upon application) and also when appropriate to attach additional conditions. The holders of premises licences may apply for the variation of their licences. Premises licences may also be transferred to another party.

10.3 In exercising its functions as the licensing authority this Licensing Authority will, in accordance with section 153(1) of the Act, aim to permit the use of premises for gambling in so far as it considers it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission
- (b) in accordance with any relevant guidance issued by the Gambling Commission
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with this Gambling Licensing Policy (subject to (a) – (c)).

- 10.4 The grant of premises licences must be reasonably consistent with the licensing objectives, and in this respect this Licensing Authority has considered the Gambling Commission's current Guidance to Licensing Authorities.
- 10.5 The Licensing Authority will take particular care in considering applications for multiple licences for what may be considered a single premises.
- 10.6 In the Act "premises" is defined as "any place", and no premises except for a 'track' may have more than one premises licence. However, it is possible for a single place such as a building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts can be reasonably regarded as being different premises. Whether different parts of a place/building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Licensing Authority does not consider those parts of a place/building that: -
- Has a different postal addresses?
 - Has a separate registration for business rates?
 - Has a neighbouring premises owned by the same person or someone else?
 - Can be accessed from the street or a public passageway?
 - Can only be accessed from any other gambling premises?
 - Would the ordinary person on the street consider that they were one premise or two?
- 10.7 The Licensing Authority will also take particular care in considering applications:
- for a part of a building, when another part of the building is not licensed and is used for non-gambling purposes. In these circumstances the entrances and exits from the licensed premises will have to be separate, identifiable and conspicuously distinct from the unlicensed areas. Persons using the unlicensed areas of the building must not be able to unknowingly 'drift' into the licensed area; and/or

- involving access to the licensed premises through other premises (which themselves may be licensed or unlicensed). The Licensing Authority will consider issues such as whether children can gain access; the nature and compatibility of the two establishments; and the ability of the proposed licensed premises to comply with the requirements of the Act and the regulations.

10.8 When an application is made for a premises licence for a premises that is in the course of construction or alteration, or are still to be constructed or altered, the Licensing Authority will take into account the current Guidance issued by the Gambling Commission. The Licensing Authority will also consider:

- whether the premises ought to be permitted to be used for gambling,
- 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, and
- when the premises intends to start operating under the licence (in order to ascertain whether the application is being made for 'speculative' purposes).

10.9 In considering licensing applications, the Licensing Authority will particularly take into account the following:

- The design and layout of the premises;
- The training given to staff in crime prevention measures appropriate to those premises;
- Physical security features installed in the premises. This may include matters such as the positioning of cash registers and the standard of any CCTV system.
- Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
- The likelihood of any crime, public order and anti-social behaviour issues if the licence is granted.

- The steps proposed by an applicant with regard to the licensing objectives and any licence conditions proposed by the applicant

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11.0 Location

11.1 When considering the location of a premises the Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, and any issues of crime and disorder.

11.2 This Licensing Authority will take into account, for the protection of children and vulnerable persons, the following when determining whether a premises location is suitable for a grant of a licence:

- The proximity of the premises to any recognised schools, centres or establishments for the education, training or care of young persons and/or vulnerable persons.
- The proximity of the premises to leisure centres used for sporting and similar activities by young persons and/or vulnerable persons,
- The proximity of the premises to any youth club or similar establishment, and
- The proximity of the premises to recognised community, welfare, health and similar establishments used specifically or to a large extent by young persons and/or vulnerable persons.

11.3 Where an area has, or is perceived to have, unacceptable levels of crime and/or, disorder, this Licensing Authority will consider carefully whether such an area is suitable for gambling premises and whether licence conditions may be appropriate or successful.

12.0 Licence Conditions

12.1 Any conditions attached by the Licensing Authority to any particular licence will be proportionate and will be:

- (a) relevant to the need to make the proposed building suitable as a gambling facility
- (b) directly related to the premises and the type of licence applied for;
- (c) Fair and reasonable in relation to the scale and the type of premises, and
- (d) in the Licensing Authority's consideration be reasonable in all other respects.

12.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this Policy for each of the different licence types.

12.3 The Licensing Authority will also consider specific measures that may be required for buildings that are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's current Guidance.

12.4 The Licensing Authority will also ensure that where category A to C gaming machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and at the entrance to and inside

any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

- 12.5 The above considerations will apply to premises including buildings where multiple premises licences are applicable.
- 12.6 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, with each licence relating to a specified area of the track. The Licensing Authority will consider the impact upon the licensing objective that refers to the protection of children. It will require that the entrances to each part of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter. The Licensing Authority will take into consideration any guidance issued by the Gambling Commission in this respect.
- 12.7 It is noted that there are conditions that the Licensing Authority cannot attach to premises licences, and these are stipulated in the Act or its statutory regulations.
- 12.8 Applicants may offer licence conditions to the Licensing authority as a part of their application. Examples of such conditions are: -
1. The premises shall be fitted out and operational within 6 months of the issue of the licence.
 2. The Licensee shall notify the Licensing Authority when the premises have been fitted out and are ready for operation, so that the Licensing Authority can inspect the premises. Such notification to the Licensing Authority shall be given no less than 10 days prior to the premises opening under the licence.
 3. There shall be a minimum of 2 staff (excluding back room staff) on duty at the premises at all times that it is open, whose duties are to include the age verification of persons entering the premises who appear to be under the age of 25 years.
 4. "Challenge 25":

- A. The Licensee shall have a "Challenge 25" policy whereby all customers who appear to be under the age of 25 are asked for proof of their age.
 - B. The Licensee shall prominently display notices advising customers of the "Challenge 25" policy.
 - C. The following proofs of age are the only ones to be accepted:
 - Proof of age cards bearing the "Pass" hologram symbol
 - UK Photo Driving licence
 - Passport
5. Staff Competence and Training:
- A. The Licensee shall keep a written record of all staff authorised to verify the age of customers, the record to contain the full name, home address, date of birth and national insurance number of each person so authorised. The staff record to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.
 - B. The Licensee shall ensure that each member of staff authorised to verify the age of customers has received training on the law with regard to under age gambling and the procedure if an underage person enters the premises, within one month of the date that this condition appears on this licence. (Where there are existing staff this training shall be completed within 3 months of the date that this condition first appears on the licence). Such training shall be agreed with Herefordshire Council Trading Standards Training and records shall be kept on the premises which shall be made available for inspection by the Licensing Officer, Trading Standards or the Police on demand
 - C. The Licensee shall ensure that each member of staff authorised to verify the age of customers is fully aware of his /her responsibilities in relation to verifying a customer's age and is able to effectively question customers and check evidence of proof of age.

6. Refusals Book:
 - A. The licensee to keep a register (Refusals Book) to contain details of time and date, description of underage persons entering the premises, and the name/signature of the sales person who verified that the person was under age.
 - B. The Refusals book to be examined on a regular basis by the Licensee and date and time of each examination to be endorsed in the book.
 - C. The Refusals Book to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.

7. CCTV:

CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.

Cameras shall encompass all ingress and egress to the premises, fire exits and outside areas.

A monitor shall be mounted on the wall at the premises where it is clearly visible to all members of the public. The monitor shall show the live CCTV footage being recorded.

Equipment **MUST** be maintained in good working order , be correctly time and date stamped , recordings **MUST** be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand.

The Licence Holder must ensure at all times an appointed member of staff is capable and competent at downloading CCTV footage in a recordable format on to any suitable media, to the Police/Local Authority on demand.

The Recording equipment and recording media shall be kept in a secure environment under the control of the Manager or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Police must be informed on contact number **0300 333 3000** immediately.

13.0. Numbers of Staff and Door Supervisors

13.1 The Licensing Authority will consider on a case by case basis whether the numbers of staff proposed to be on duty at a premises at any one time are adequate in relation to the control of the premises and especially with regard to the monitoring of persons using the premises, age verification, the ejection of or refusal to serve persons, and the maintenance of good order on the premises.

13.2 When making an application for a licence, applicants are recommended to inform the Licensing Authority of the numbers of staff that will be on duty at the premises at any one time and the times that such numbers will be on duty.

13.3 The Licensing Authority will consider on a case by case basis whether there is a need for door supervisors to meet the licensing objectives of the protection of children and vulnerable persons from being harmed or exploited by gambling, and preventing the premises becoming a source of crime.

13.4 It is noted that door supervisors at bingo premises, who are directly employed by the casino or bingo premises operator, are not required to be licensed by the Security Industry Authority. The Licensing Authority's policy expectations for such door supervisors working at bingo premises are that the Licensing Authority will expect the door supervisors to have:

- a competency qualification of Level 2 for Door Supervision in the National Qualification Framework (NQF), or
- an equivalent qualification or training which would meet the criteria of the Security Industry Authority for the licensing of that person as a Door Supervisor by that Authority.

The above expectations are in recognition of the nature of the door supervisors' work in terms of searching individuals, dealing with potentially aggressive persons, young and vulnerable persons etc.

A book shall be kept at the premises, which is maintained with the following records:

- the identity (including their full name and address) of the door supervisor deployed;
- the time they commenced and finished duty; and
- all incidents that the door supervisors dealt with.

If there are any future changes in the licensing or approval/registration regime administered by the Security Industry Authority that affect door supervisors these will be taken into account by the Licensing Authority.

13.5 The term 'door supervisor' means any person:

- (a) guarding premises against unauthorised access or occupation, against outbreaks of disorder or against damage; or
- (b) guarding one or more individuals against assault or against injuries that might be suffered in consequence of the unlawful conduct of others.

13.6 For premises other than bingo premises, the Licensing Authority may decide that supervision of entrances/exits/machines is appropriate for particular cases.

14.0 Protection of children and vulnerable persons –specific requirements for premises other than Betting Premises

14.1 Adult Gaming Centres: -

The Licensing Authority will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate measures/licence conditions may cover issues such as:

- (a) Proof of age schemes
- (b) CCTV
- (c) The numbers of staff on duty at any one time.
- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of the types of issues that measures/conditions should cover.

14.2. (Licensed) Family Entertainment Centres

The Licensing Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate measures/ licence conditions may cover issues such as:

- a) Proof of age schemes
- b) CCTV
- (c) The numbers of staff on duty at any one time.

- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) 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. This Licensing Authority will refer to any Operating Licence conditions, current Guidance or Codes of Practice by the Gambling Commission as to the way in the area's containing category C or higher machines should be delineated and/or separated.

14.3. Bingo Premises

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Licensing Authority will require that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

Appropriate measures/licence conditions may cover issues such as:

- (a) Proof of age schemes
- (b) CCTV
- (c) The numbers of staff on duty at any one time.
- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of the types of issues that measures/conditions should cover. This Licensing Authority will take account of any current guidance from the Gambling Commission as to the suitability and layout of bingo premises.

15.0 Betting Premises

15.1 There are two different types of premises that require a betting licence. The licences for these premises are named as “Betting Premises Licence (In Respect Of Premises Other Than A Track)’ and ‘Betting Premises Licence (In Respect Of a Track)’.

15.2 Betting Premises Licence (In Respect Of Premises Other Than A Track)

This type of licence allows premises (i.e. betting offices) to provide ‘off course’ betting i.e. betting that takes place other than at a track. There are also betting offices at tracks that have a separate premises licence from the track licence. Tracks and betting offices at tracks are discussed in the following section.

15.3 This Licensing Authority may, when appropriate, use its powers under Section 181 of the Act to restrict the number of betting machines (also known as bet receipt terminals), their nature and the circumstances in which they are made available at betting premises by imposing a licence condition. When considering whether such a condition should be imposed, the Licensing Authority will take into account:

- the size of the premises,
- the number and location of the machines
- the number of counter positions available for person-to-person transactions, and
- the numbers of, and ability of staff to monitor the licensed premises and prevent persons under the age of 18 from entering the premises.

15.4 The Licensing Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. However appropriate measures / licence conditions may cover issues such as:

- a) Proof of age schemes
- b) CCTV
- (c) The numbers of staff on duty at any one time.
- (d) Door supervisors

- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) 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.'

15.5 Betting Premises Licence (In Respect Of a Track)

General

Tracks are sites (including football stadium, horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the "totalisator" or "tote"), and also general betting, often known as "fixed-odds" betting.

The holders of a track premises licence do not need to have an operating licence issued by the Gambling Commission unless they themselves wish to offer betting facilities at the track. Under the legislation the licence allows anyone with an operating licence to offer 'on course' betting facilities at a licensed track.

Tracks are the only class of premises that may be subject to more than one premises licence, provided that each licence relates to a specified area of the track. There can be a 'main' premises licence and, in addition, 'subsidiary' premises licences for the parts of the track not covered by the main licence.

15.6 Children and Young Persons

Children and young persons are allowed to be present on a track licensed premises whilst betting is taking place, although they not allowed to enter areas of the track where gaming machines (other than category D machines) are provided. Therefore the Licensing Authority will carefully consider the impact of the licensing objective of

the protection of children and vulnerable persons in relation to each application for premises licences at a track.

We will expect applicants to demonstrate suitable measures to ensure that children do not have access to adult only gambling/gaming facilities.

Appropriate measures/ licence conditions may cover issues such as:

- (a) Proof of age schemes
- (b) CCTV
- (c) The numbers of staff on duty
- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) The physical separation of, and clear distinction of areas
- (g) Location of entry
- (h) Notices/signage

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

15.7 Betting machines (also known as Bet Receipt Terminals) at tracks

The potential space for betting machines at a track may be considerable, bringing with it significant problems in relation to:

- the proliferation of such machines,
- the ability of track staff to supervise the machines if they are scattered around the track, and
- preventing persons under the age of 18 from being able to use the machines.

This Licensing Authority will, when appropriate, use its powers under Section 181 of the Act to restrict the number of betting machines (also known as bet receipt terminals), their nature and the circumstances in which they are made available at a betting premises by attaching a licence condition to a betting premises licence.

When considering whether such a condition should be imposed, the Licensing Authority will take into account:

- the size of the premises,
- the number and location of the machines

- the number of counter positions available for person-to-person transactions, and
- the ability of staff to monitor the licensed premises and prevent persons under the age of 18 from using the machines.

15.8 Condition on rules being displayed at tracks

The Licensing Authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

15.9 Applications and plans for tracks

Applicants must comply with any relevant regulations or guidance issued by the Gambling Commission in relation to applications for tracks. Applicants must ensure that the Licensing Authority is made completely aware of what it is being asked to licence.

The information submitted with the application must include detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”). In the case of:

- dog tracks and horse racecourses,
- fixed and mobile pool betting facilities operated by the Tote or track operator, and
- other proposed gambling facilities,

the plans should make clear what is being sought for authorisation under the track betting premises licence. It must also be made clear what, if any, other areas are to be subject to a separate application for a different type of premises licence.

Unless there is a compelling reason to not do so, the Licensing Authority will require all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This will ensure that there is clarity

between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

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16.0 Travelling Fairs

Travelling fairs (as defined in the Act) may provide an unlimited number of Category D gaming machines and equal chance prize gaming without the need for any authorisation from the Licensing Authority, provided that such facilities amount to no more than an ancillary amusement at the fair.

There is a 27-day per calendar year statutory limit for a piece of land being used as a fair, and this regardless of whether it is the same or different travelling fairs using the land. The Licensing Authority will work with its neighbouring authorities to ensure that land that crosses our boundaries are monitored so that the statutory limits are not exceeded.

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17.0 Provisional Statements

Application for a provisional statement can be made for premises that an applicant expects to be constructed or to be altered, or expects to acquire the right to occupy. Representations can be made against an application for a provisional statement in the same manner as for a premises licence. The process for considering an application for a provisional statement is the same as that for premises licences (with the exceptions that an applicant need not have the right to occupy the premises and need not have an operating licence).

Once the premises have been constructed, altered or acquired by the holder of a provisional statement, they can put in an application for the necessary premises licence.

If a provisional statement has been granted, the Licensing Authority is constrained in the matters it can consider when an application for a premises licence is subsequently made in relation to the same premises.

No further representations from relevant authorities or interested parties can be taken into account in relation to the premises licence application 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 Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- a) which could not have been raised by way of representations at the provisional licence stage, or
- b) which, in the authority's opinion, reflect a change in the operator's circumstances, or
- c) where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application.

Note: This must be a substantial change to the plan and the Licensing Authority will discuss any concerns they have with the applicant before making a decision.

Section 210 of the Act (which applies to premises licences and provisional statements) makes it clear that a licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

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18.0 Reviews

A premises licence may be reviewed by the licensing authority of its own volition or following the receipt of an application for a review from interested party or responsible authority. A formal review of a premises licence may result in the Licensing Authority imposing additional conditions or revoking the licence.

18.1 Initiation of review by Licensing Authority

The Licensing Authority may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Whilst officers may be involved in the initial investigations of complaints leading to a review, or may (at their discretion) try informal mediation or dispute resolution techniques prior to a review being initiated, the review itself must be heard and determined by Licensing Committee or one of its Sub-Committees.

In relation to a class of premises, the Licensing Authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions. In relation to these general reviews, the Licensing Authority will most likely be acting as a result of specific concerns or complaints about particular types of premises, which would cause them to want, for example, to look at the default conditions that apply to that category of licence.

In relation to particular premises, the Licensing Authority may review any matter connected with the use made of the premises if it has reason to suspect that premises licence conditions are not being observed, or for any other reason (such as a complaint from a third party) which gives them cause to believe that a review may be appropriate.

18.2 Application for review by responsible authorities and interested parties

Whilst, requests for a review of a premises licence can be made by interested parties or responsible authorities, it is for the Licensing Authority to decide whether the review is to be carried-out. However the Licensing Authority recognises that its decision to carry out a review must not amount to pre-judging the outcome of the review.

An application for a review may be (but need not be) rejected if the Licensing Authority thinks that the grounds on which the review is sought:

- are not relevant to the principles that must be applied by the Licensing Authority in accordance with section 153 of the Act.

Note: If the application raises issues that are not relevant to the current Gambling Commission guidance, current codes of practice, this Policy statement, or the licensing objectives, then we may reject it. In addition, if the application raises general objections to gambling as an activity, that is likely to be irrelevant to the principles in section 153, given that we are required to permit the use of premises for gambling in so far we think that permission is in accordance with the matters set out in that section.

Examples that are likely to be irrelevant include demand for gambling premises, issues relating to planning, public safety, and traffic congestion;

- that the grounds are frivolous;
- that the grounds are vexatious;
- that the grounds “will certainly not” cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- are substantially the same as the grounds cited in a previous application for review relating to the same premises. In these circumstances we will take into account how much time has passed since the earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence; or
- are substantially the same as representations made at the time the application for a premises licence was considered. In these circumstances the Licensing Authority will take into account the period of time that has passed since the representations were made, but the underlying requirement is that the Licensing Authority should not review the licence on the basis of the same arguments considered on the grant of the premises licence.

The matters which will generally be considered relevant for any review are:

- (a) any relevant current code of practice issued by the Gambling Commission;
- (b) any relevant current guidance issued by the Gambling Commission;
- (c) the licensing objectives;
- (d) the Council's Statement of Gambling Licensing Policy, and
- (e) The Gambling Act 2005 and the Regulations made thereunder

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PERMITS/TEMPORARY & OCCASIONAL USE NOTICES

19.0 Unlicensed Family Entertainment Centre (FEC) Gaming Machine Permits (Statement of Principles on Permits)

- 19.1 Unlicensed Family Entertainment Centres (FECs) normally cater for families, including unaccompanied children and young persons.
- 19.2 Unlicensed FECs can only provide category D machines under a gaming machine permit, and an unlimited number of such machines can be made available. Permits cannot be issued to vessels or vehicles.
- 19.3 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 of the Gambling Act).
- 19.4 An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if West Mercia Police have been consulted on the application. The Licensing Authority will require applicants to demonstrate:
- a) a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - b) that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act;) and
 - c) that staff are trained to have a full understanding of the maximum stakes and prizes.
- 19.5 Whilst the Licensing Authority can grant or refuse an application, it cannot attach conditions to this type of permit.
- 19.6 The Licensing Authority will expect the applicant to show that they have 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:

- a) criminal record checks for staff,
- b) appropriate measures / training for staff as regards suspected truant school children on the premises,
- c) appropriate measures/ training for staff as regards unsupervised very young children being on the premises and children causing perceived problems on or around the premises.

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20.0 (Alcohol) Licensed Premises Gaming Machine permits/automatic entitlement

20.1 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. However the Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- (a) provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- (b) 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 current code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- (c) the premises are mainly used for gaming; or
- (d) an offence under the Gambling Act has been committed on the premises

20.2 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 current guidance issued by the Gambling Commission and such matters as it thinks relevant. This Council 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 harm or being exploited by gambling. The applicant will be expected 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 this applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

- 20.3 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 to the permit.
- 20.4 The holder of a permit must comply with any current Code of Practice issued by the Gambling Commission about the location and operation of the machine.
- 20.5 It is possible that some alcohol licensed premises may wish to for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as a Family Entertainment Centre or Adult Gaming Centre premises licence.
- 20.6 Any application for a permit (to allow more than 2 machines) cannot be dealt with under devolved powers and will be required to go before the council's Regulatory Sub-Committee for determination.

21.0 Prize Gaming Permits

21.1 The Licensing Authority requires that an applicant sets out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- (a) that they understand the limits to stakes and prizes that are set out in Regulations; and
- (b) that the gaming offered is within the law.

21.2 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any current Gambling Commission guidance.

21.3 There are statutory and mandatory conditions in the Gambling Act 2005 that the permit holder must comply with and the Licensing Authority cannot impose any additional conditions. The conditions in the Act are:

- (a) the limits on participation fees, as set out in regulations, must be complied with;
- (b) all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- (c) the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if nonmonetary prize); and
- (d) participation in the gaming must not entitle the player to take part in any other gambling.

22.0 Club Gaming Permits and Club Machines Permits

22.1 Members Clubs and Miners' Welfare Institutes may apply for a Club Gaming Permit or a Club Machines Permit. Commercial Clubs may apply for a club Machines Permit. The Club Gaming Permit will enable the premises to provide the number of categories B, C or D gaming machines set out in regulations, equal chance gaming and games of chance. A Club Gaming Machines Permit will enable the premises to provide the number of categories B, C or D gaming machines set out in regulations.

22.2 The criteria for qualification as a Members Club, Miners' Welfare Institute or Commercial Club are set out in sections 266 to 268 of the Gambling Act 2005.

22.3 The Licensing Authority may only refuse an application on the grounds that:

- (a) the applicant does not fulfil, as appropriate, the requirements for a members club or a miners' welfare institute or a commercial club 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 Gambling Commission or the Police.

22.4 It should be noted that there is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police. The grounds on which the Licensing Authority may refuse an application under the process are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12 of the Act:

- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

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23.0 Temporary Use Notices

- 23.1 The procedures for temporary use notices are stipulated in the Act and the Regulations made thereunder. There are a number of statutory limits as regards temporary use notices. The limits are set out in the Act as:
- (a) A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months, and
 - (b) A set of premises may be the subject of more than one temporary use notice in a period of 12 months (provided that the aggregate of the periods for which the notices have effect does not exceed 21 days).
- 23.2 The purposes for which a temporary use notice may be used are restricted to providing facilities for equal chance gaming (other than machine gaming) where those participating in the gaming are taking part in a competition which is intended to produce a single overall winner. An example of this could be a poker competition. As with "premises" (see Part B, Premises Licences, Definition of "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", this Licensing Authority will look at, amongst other things, the ownership/occupation and control of the premises. This Licensing Authority will 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.
- The Licensing Authority will also have regard to the licensing objectives and will object to notices if considers that the gambling should not take place, or only take place with modifications.
- The principles that the Licensing Authority will apply in considering whether or not to issue a counter notice in relation to a temporary use notice are the same as those it will use in determining premises licence applications.

24.0 Occasional Use Notices

- 24.1** 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. Although this Licensing Authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

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25.0 Small Society Lotteries

25.1 The Licensing Authority will register and administer smaller non-commercial lotteries and applicants for lottery licences must apply to the Licensing Authority in the area where their principal office is located.

25.2 For new applications, the licensing authority shall require the promoter of the lottery to produce a 'basic' Disclosure Barring Service Certificate (DBS) disclosure dated no earlier than one calendar month on the day the application is received by the Licensing Authority.

25.3 The Licensing Authority may refuse an application for registration if in their opinion:

- The applicant is not a non-commercial society;
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
- Information provided in or with the application for registration is false or misleading.

25.4 The Licensing Authority will adopt a risk based approach towards enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries
- failure to submit a return

26.0 Casinos

26.1 On 27th July 2007 at a meeting of the Full Council a Resolution was past under Section 166 of the Gambling Act 2005 not to issue casino premises licences. Details of the Proposal and Minutes can be found at: -

<http://mgintranet/ieListDocuments.asp?Cid=291&Mid=2194&Ver=4>

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Adult Gaming Centres

Persons operating an adult gaming centre (AGC) must hold a gaming machines general operating licence from the Commission and have an AGC premises licence from the Licensing Authority. They will be able to make category B, C and D gaming machines available to their customers.

Alcohol licensed premises gaming machine permits

The Licensing Authority can issue such permits for any number of category C or D machines in licensed premises. There is an automatic entitlement for alcohol on-licence holders to make available 2 gaming machines of category C or D for use in alcohol licensed premises.

Applications

Applications for licences and permits.

Authorisations

This Policy relates to all authorisations, permits, licences etc, which the Licensing Authority is responsible for under the Gambling Act 2005.

Betting Machines

A machine designed or adapted for the use to bet on future real events (not Gaming Machine).

Bingo

A game of equal chance. Whilst there is no statutory definition of Bingo, generally there are two different types of bingo:

- cash bingo, where the stakes paid made up the cash prizes that were won; or
- prize bingo, where various forms of prizes were won, not directly related to the stakes paid.

Premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms. Adult gaming centres, both licensed and unlicensed family entertainment centres, travelling fairs, and any premises with a prize gaming permit, will be able to offer prize gaming, which includes prize bingo.

Casino

An arrangement whereby people are given an opportunity to participate in one or more casino games.

Children/Child

Individual who is less than 16 years old.

Club Gaming

Permit to enable commercial and non-commercial clubs. Machine Permit to provide at their premises the number of gaming machines (Category B, C or D) as set out in the regulations.

Club Gaming Permit

Permits to enable members' clubs and miners' welfare institutes (but not a commercial club) to provide at their premises the number of gaming machines (Category B, C or D), equal chance gaming and games of chance as set out in the regulations.

Code of Practice

Means any relevant current code of practice under section 24 of the Gambling Act 2005.

Default Conditions

Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.

Disorder

Disorder includes anti-social behaviour (see number A2.3 of the Policy).

Equal Chance Gaming

Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.

FECs

Family entertainment centres.

Occasional use notices

Where there is betting on a track on up to eight days in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence. A track includes a horse race course, dock track and temporary tracks for races or sporting events.

Operating licence

Authorised individuals or companies to provide facilities for certain types of remote or non-remote gambling. These licences are issued by the Gambling Commission and generally cover the principal commercial forms of gambling operating. A single licence cannot authorise both remote and non remote activities; separate operating licences are needed for this. Conditions may be attached.

Personal licence

Except for small scale operations, for each operating licence, at least one person who holds a specified management office must hold a personal licence. These licences are issued by the Gambling Commission with the aim of ensuring that individuals who control facilities for gambling or are able to influence the outcome of gambling are suitable to carry out those functions. These licences are not transferable and cannot be held by companies but companies are likely to want their key staff to hold a personal licence.

Premises

Premises is defined in the Act as “any place”. A single premises (with the exception of a “track”) may not have more than one premises licence at any time.

Premises Licence

Authorises the provision of facilities for gambling on premises for bingo, betting including tracks, adult gaming centres and family entertainment centres. These licences will be valid for the life of the premises, subject to any review. The licence will lapse if the annual fee is not paid. These licences are transferable to someone else holding a valid operating licence.

Prize gaming permits

This permit allows the provision of facilities for gaming and prizes on specified premises. “Prize gaming” refers to gaming where 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.

Temporary use notices

These licences authorise the person or company holding a relevant operating licence to use the premises temporarily for providing facilities for gambling where there is no premises licence. Such premises may include hotels, conference centres and sporting venues.

Unlicensed family entertainment centre gaming machine permits

These allow the use of category D gaming machines in these premises to a person who occupies or plans to occupy the premises to be used as an unlicensed family entertainment centre. An application for this permit cannot be made where a premises licence is in effect on the same premises.

Vulnerable persons

See section A2.5(b) of this Policy concerning the ‘definition’ of vulnerable persons

Young person

Persons who are 16 to 18 years old.

Contact Details

Telephone:- 01432 261761

e-mail:- Licensing@herefordshire.gov.uk

Address:- Blueschool House, Blueschool Street, Hereford HR1 2ZB

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MEETING:	Regulatory committee
MEETING DATE:	12 SEPTEMBER 2014
TITLE OF REPORT:	To consider adoption of schedule 3 of the Local Government (miscellaneous provisions) act 1982 as amended by section 27 of the Policing and Crime Act 2009 – regulations affecting sex establishments and approve sex establishment policy
PORTFOLIO AREA:	Economy, Communities and Corporate Directorate
REPORT BY	Head of Trading Standards and Licensing

CLASSIFICATION: Open

Key Decision

This is a Key Decision because it is likely to be significant in terms of its effect on living or working in an area comprising of one or more wards in the county.

Wards Affected

Countywide

Purpose

To agree a draft sex establishment licensing policy for recommendation to Council.

Recommendation(s)

That the following be recommended to Council;

- a. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 be adopted; and
- b. the draft sex establishment licensing policy be approved.

Reasons for Recommendations

1. By adopting the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act and a policy on sex establishment licensing, the local authority can provide clear guidance through policy to operators of such premises on how applications for sex establishment licences will be assessed and granted. Communities can be protected from an oversupply of such establishments.

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

Options

2. Decide not to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended

AND

Reject/decide not to adopt the Sex Establishment Licensing Policy which would mean that the local authority would be able unable to legitimately regulate the provision of such establishments within the county.

Key Considerations

3. Whether to approve the policy, amended legislation and consultation programme.

Introduction and Background

4. The Policing and Crime Act 2009 amended Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 to include sexual entertainment venues.

Unless schedule 3 is formally adopted Herefordshire Council has no power or means of controlling the operation of sex establishments. Adoption allows local authorities to control, by way of a licensing regime, the number, locality and operation of sex establishments in their area. Virtually all other local authorities across the country have carried out this adoption process.

For successful adoption, the local authority must pass a resolution under Section 2 of the Local Government (Miscellaneous Provisions) Act 1982 to adopt Schedule 3 and specify the day the provisions are to come into effect. This must be no earlier than 1 month after the date of the resolution.

The local authority must then publish a notice in a local newspaper in two consecutive weeks stating that they have passed such a resolution and its general effect. The first notice must appear no later than 28 days before the date the provisions are to come into force.

These provisions allow the local authority to refuse a licence because there is already an appropriate number of sex establishments in an area and/or that a sex establishment would 'conflict' with the character of the area or other premises nearby e.g. schools, places of worship etc.

To control the impact of a sex establishment in an area, Schedule 3 of the Act allows a District Council to impose conditions on such things as:

- hours of opening and closing,
- the nature of displays or advertisements on or in such establishments and
- the visibility of the interior of such establishments to passers-by.

These controls are designed to protect children. The policy on sex establishments will detail what kind of conditions may be appropriate in particular circumstances.

In Summary schedule 3 to the 1982 Act will, in particular:

- Allow local authorities to adopt the legislation.
- Allow local people to oppose an application for a sex establishment licence if they have

legitimate concerns that a lap dancing club would be inappropriate, given the character of the area, for example if the area was primarily residential or next to a school etc.

- Require licences to be renewed at least yearly, at which point local people will have the opportunity to raise objections with the local authority.
- Allow a Local authority to reject a licence application if they believe that to grant a licence for a lap dancing club would be inappropriate given the character of a particular area.
- Allow a local authority to set a limit on the number of sex encounter venues that they think appropriate for a particular area.
- Allow a local authority to impose a wider range of conditions on the licences of lap dancing clubs than they are currently able to under the 2003 Act.

Subject to agreement to adopt the relevant legislation, then a Policy in respect of the licensing of sexual entertainment venues can be adopted.

This policy will be subject to the consultation process prior to being brought back before Committee.

Should the Committee decide that the amended Schedule 3 of the 1982 Act should not be adopted, the current licensing regime under the 1982 Act will continue so that any premises that operate as a sex shop or sex cinema in Herefordshire will require a licence from the local authority. However any premises operating as a sexual entertainment venue offering relevant entertainment such as lap dancing or pole dancing, will not require a licence under the 1982 Act and may be able to operate unregulated by the local authority.

Under part (c) above, the local authority can refuse an application for a sex establishment licence if the number of sex establishments in the relevant locality at the time the application is made, is equal to or exceeds the number which the authority considers is appropriate for that locality. When determining the appropriate number of sex establishments in each relevant locality, the 1982 Act provides that the appropriate number may be nil.

This policy has been drafted on the assumption that the appropriate number will be nil but if the Committee considers that a different number is appropriate, modifications to the policy will need to be made.

Furthermore the proposed Sex Establishment Licensing Policy proposes that whilst all applications for sex establishment licences for premises in Herefordshire will be considered on their own merit, there will be a presumption of refusal of applications for such licences.

Community Impact

5. To protect children, the vulnerable of the community and to preserve the character of certain localities, it is essential that the current regime is properly regulated.. Not being able to licence such premises could have an adverse effect on the community especially those who may be at risk and or need of protecting.

Equality and Human Rights

6. There are no equality or human rights issues in relation to the content of this report

Legal Implications

7. The Sex Establishment policy has been drafted to reflect current legislative requirements. Failure to do so would leave the authority in breach and open to challenge.

Financial implications

8. The licensing section is required to operate the function on a full cost recovery basis. The fees for Gambling Act applications have not altered. A robust policy which is fit for purpose is essential if full cost recovery is to be maintained.

Risk Management

9. Failure to reach a decision could result in an application for Judicial Review being made.

Consultation.

10. The legislation requires us to consult with various groups before we determine our policy and adoption of the Regulations, these include:-

- The chief officer of police for West Mercia
- One or more persons who represent the interests of Licensed establishments in Herefordshire
- One or more persons who appear to represent the interest of persons who are likely to be affected by the implementation of the new regulations and policy in Herefordshire.

Above and beyond this, we intend to give the broadest range of people the opportunity to give us their views. We will therefore also include:

- The Responsible Authorities who are consulted on Licence applications in Herefordshire (Planning, Environmental Health, Child Safeguarding Board, Fire and Rescue Service, HM Revenue and Customs, Gambling Commission)
- All Ward Councillors of Herefordshire Council and all Local MPs

The consultation document will be published on the Council Website Council approval.

Consultation will also take place by:-

- Publishing Notices in the local press.
- Writing to all premises licensed under the Licensing Act 2003
- Local or National organisations identified as having an interest in Sex Establishments.
- Notifying Local members.
- Writing to local organisations acting on behalf of young people and children.

The responses will be collated and presented to Council following the consultation process. If no responses are received Members can agree the Policy and Legislation be implemented and state a date when the relevant parts of the Acts will be adopted.

Appendices

Draft sex establishment policy

Background Papers

None

HEREFORDSHIRE COUNCIL

Licensing of Sex Establishments:

Statement of Licensing Policy

Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009

Licensing of Sex Establishments - Statement of Licensing Policy

Further copies of this document can be obtained from:

Licensing Section,

Herefordshire Council,

Blueschool House,

PO Box 233,

Hereford

HR1 2ZB

Tel: 01432 261761

Email: licensing@herefordshire.gov.uk

Web: www.herefordshire.gov.uk

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Licensing of Sex Establishments - Statement of Licensing Policy

Executive Summary

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Licensing of Sex Establishments - Statement of Licensing Policy

Executive Summary

The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 section 2 and Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This includes lap dancing, pole dancing and other “relevant entertainment”.

The legislation provides for local authorities to adopt a policy and standard conditions relating to sexual entertainment venues, sex shops and sex cinemas.

On xxxx Herefordshire Council resolved to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009. This applies to whole of the area of the County of Herefordshire.

The Council is mindful of possible concerns of the local community and that there can be conflict between applicants and objectors. The Policy will guide the Council when considering applications for licences in balancing the conflicting needs of commercial interests, patrons, employees, residents and communities.

The Council has previously considered the character of the County and it has been decided that the appropriate number of sex establishments shall be nil. This nil policy does not preclude an application being made, and each application received will be considered on their individual merits.

Herefordshire Council has adopted this document as the policy and standard conditions to be applied when determining sex establishment licences within the County of Herefordshire.

This policy will:

- Set out the council’s approach for the benefit of operators
- Guide and reassure the public and other public authorities
- Ensure transparency
- Ensure consistency

Licensing of Sex Establishments - Statement of Licensing Policy

- Guide and focus the Licensing Committee when making determinations under this legislation.

The policy will deal with:

- The mandatory and discretionary grounds for refusal
- Standard conditions
- The application process
- Waiver

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Licensing of Sex Establishments - Statement of Licensing Policy

1.0 **INTERPRETATION**

1.1 **The Act**

This refers to Schedule 3 of the Local Government Miscellaneous Provisions Act 1982 (as amended by the Policing and Crime Act 2009).

1.2 **Advertisement**

Any word, letter, image, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purposes of, advertisement or announcement.

1.3 **Authorised officer**

An officer employed by Herefordshire Council and authorised by the council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act 1982.

1.4 **The Council**

Herefordshire Council.

1.5 **Character of the relevant locality**

The character or characteristics of the locality where the premises are situated will be instrumental in determining whether or not the grant of a licence will be appropriate. This is a proper matter for the Council to consider based on local knowledge, factors and circumstances.

1.6 **Display of nudity**

(a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
(b) in the case of a man, exposure of his pubic area, genitals or anus.

1.7 **Entertainer**

Dancer, performer or other such person employed, or otherwise, to provide relevant entertainment.

1.8 **Licence**

Any sex establishment licence that the council can grant under this Act. This includes any associated consent of permission.

1.9 **Licensee**

The holder of a sex establishment licence.

1.10 **Licensed area**

The part of the premises marked on the plan where licensable activities are to take place.

1.11 **The Organiser**

This is any person who is responsible for the organisation or management of the relevant entertainment or the premises.

Licensing of Sex Establishments - Statement of Licensing Policy

1.12 Permitted hours

These are the hours of activity and operation that have been authorised under a sex establishment licence.

1.13 The Policy

This refers to the sex establishment licensing policy.

1.14 Premises

Includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted.

1.15 Relevant entertainment

Any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

1.16 Relevant locality

This is the locality where premises are situated or where the vehicle, vessel or stall is going to be used. The locality and the area that this covers is a matter for the local authority to decide. This Council has determined that each ward within the county represents a relevant locality for the purposes of decision making. The Council may have regard to the area of more than one locality/ward.

1.17 Responsible person

The person nominated by the licensee who has personal responsibility for and be present on the premises whilst the premises is open to the public. This may be the manager or the relief manager.

1.18 Sex Articles

A sex article is anything for use in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.

1.19 Sex Cinema

A sex cinema is any premises, vessel, vehicle or stall used to a significant degree for the exhibition of moving pictures however produced, which are concerned primarily with the portrayal of, or primarily deal with or relate to or intending to stimulate or encourage sexual activity or genital organs or urinary excretory functions.

1.20 Sexual Entertainment Venue

A sexual entertainment venue is any premises where any live performance or any live display of nudity is of such a nature that, regardless of financial gain, it must reasonably be assumed to have been provided solely or mainly for the purpose of sexually stimulating any member of the audience.

Licensing of Sex Establishments - Statement of Licensing Policy

1.21 Sex shop

Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity.

1.22 Standard conditions

Any terms, conditions or restrictions contained or referred to in the schedule to a licence granted under Schedule 3, but does not include any private dwelling to which the public is not admitted.

1.23 Vehicle

A vehicle intended or adapted for use on roads.

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Licensing of Sex Establishments - Statement of Licensing Policy

2.0 THE PURPOSE OF THE POLICY

2.1 This policy is prepared under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009. It was approved by Herefordshire Council as the licensing authority for the County of Herefordshire on XXXXXXXX. It will be reviewed every 5 years.

2.2 This policy is concerned with the regulation of sex establishments, namely sexual entertainment venues, sex shop and sex cinemas.

2.3 The council's licensing regime aims to ensure that if sex establishments are granted in Herefordshire that they operate in a safe, fair and discreet manner and are sensitive to the local area in which they are situated. Specific attention has been taken to advertising, staff welfare, external appearance, locality and the number of licensed premises.

2.4 In preparing this policy the council has consulted with and considered the views of a wide range of people and organisations including:

- Representatives of local business
- Representatives of the licensing trade (alcohol & entertainment)
- Local residents and their representatives
- Parish and town councils
- Ward Members
- Representatives of existing licence holders
- West Mercia Police
- Herefordshire Council - Environmental Protection
- Herefordshire Council - Safeguarding and Vulnerable
- Herefordshire Council - Planning
- Herefordshire Public Health

This Policy also has regard to the guidance issued by the Home Office.

Licensing of Sex Establishments - Statement of Licensing Policy

2.5 The council adopts the overall approach of encouraging the responsible promotion of licensed activities. However, in the interests of all its residents, it will not tolerate irresponsible licensed activity. The council will impose conditions where necessary to promote responsibility and will use effective enforcement to address premises where there are problems, in partnership with key agencies such as:

- West Mercia Police,
- Hereford & Worcester Fire and Rescue Service,
- Health and Safety Executive,
- Health Trusts in the district,
- Herefordshire Council Responsible Authorities

2.6 The council will monitor the effectiveness of this policy by way of regular meetings with key agencies and by regular open dialogue with the trade.

Licensing of Sex Establishments - Statement of Licensing Policy

3.0 THE SCOPE OF THE POLICY

- 3.1** This policy covers licensable premises and activities as defined by the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 (the Act) within Herefordshire. Schedule 3 of the Act is concerned with the control of sex establishments. A sex establishment means a sexual entertainment venue, sex cinema or sex shop.
- 3.2** A sexual entertainment venue is a premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. Relevant entertainment means any live performance or any live display of nudity which is provided solely or principally for the purpose of sexually stimulating any member of the audience. The full legal definition of a sexual entertainment venue can be found at section 2 and 2A of the Act.
- 3.3** A sex cinema means a premises used to a significant degree for the exhibition of moving pictures which primarily portray sexual activity or acts of force or restraint which are associated with sexual activity. A full legal definition of a sex cinema can be found in section 3 of the Act.
- 3.4** A sex shop relates to a premises used to a significant degree for the selling, etc. of sex articles or other items intended for the use of stimulating sexual activity or acts of force or restraint. A full legal definition of a sex shop can be found in section 4 of the Act.
- 3.5** Advice on whether a licence is required can be obtained from the Licensing Section of Herefordshire Council. E-mail licensing@herefordshire.gov.uk, Telephone 01432 261761, Address Blueschool House, Blueschool Street, Hereford HR1 2ZB.
- 3.6** Throughout this policy the wording will refer to 'applicants' for licences. However it should be noted that the principles set out within this policy apply equally to new applications, renewals and transfers.

Licensing of Sex Establishments - Statement of Licensing Policy

- 3.7** This policy seeks to provide advice to applicants about the approach they should take in making applications and the view the council is likely to take on certain key issues.

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Licensing of Sex Establishments - Statement of Licensing Policy

4 Herefordshire Council

- 4.1** Herefordshire Council, along with its partners, has been working towards ensuring that Herefordshire has a great deal to offer those who live, work or visit here, including a rich heritage, a beautiful natural environment and a wide range of cultural and leisure opportunities. It is a safe place to live and work, with low levels of crime.
- 4.2** Herefordshire extends over 2180 square kilometres (842 square miles). In main, it is a sparsely populated county with a total population of 179,300. A predominate number of people live with the counties' city of Hereford. There are other areas where there is a population concentration and these are within the market towns of Bromyard, Ledbury, Leominster, Kington and Ross-on-Wye. The county comprises of numerous small villages and hamlets.
- 4.3** Herefordshire has an older age profile than both the West Midlands Region and England and Wales, with 22% of the county's population aged over 65, compared with 16% regionally and nationally. The already disproportionately high number of older people in the county is projected to continue to increase more rapidly than nationally.
- 4.4** Herefordshire has just over 900 premises licensed under the Licensing Act 2003. The main centre for entertainment is within the Commercial Road area of Hereford where there are a number of night clubs and large public house which operate until the early hours of the morning.

Licensing of Sex Establishments - Statement of Licensing Policy

5.0 INTEGRATING OTHER GUIDANCE, POLICIES, OBJECTIVES AND STRATEGIES

5.1 In preparing this licensing policy the council has had regard to other Herefordshire Council Policies and Government Guidance.

5.2 The council (through its Licensing Committee) may, from time to time receive reports on other policies, strategies and initiatives that may impact on licensing activity within the remit of the committee. Subject to the general principles set out in Section 6 it may have regard to them when making licensing decisions.

5.3 The Committee may, after receiving such reports, make recommendations to the council or other bodies about the impact of the licensing policy on such policies, strategies and initiatives. Equally the Committee may make recommendations relating to the impact of such policies, strategies and initiatives on the licensing policy. This may include recommendations to amend the licensing policy itself.

Licensing of Sex Establishments - Statement of Licensing Policy

6.0 **GENERAL PRINCIPLES**

- 6.1 In determining a licensing application the overriding principle will be that each application will be determined on its own merit, taking into account local knowledge, this licensing policy and the guidance issued by the Home Office. Where it is necessary to depart from the guidance or this Policy the council will give clear and cogent reasons for doing so.

Numbers of Sex Establishments

- 6.2 Herefordshire Council as the Licensing Authority has set a limit on the number of sex establishments which it considers appropriate. This has been set at nil.

Human Rights

- 6.3 The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention right. The council will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- **Article 6** that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- **Article 8** that everyone has the right to respect for his home and private life.
- **Article 10** that everyone has the right to freedom of expression.
- **Article 1 of the first protocol** that every person is entitled to the peaceful enjoyment of his or her possessions, including for example a licence.

The Provision of Services Regulations

- 6.4 The Provision of Services Regulations 2009 implements the European Services Directive. These regulations ensure that any refusal of a licence is:
- **non-discriminatory** in regard to nationality,
 - **necessary** for reasons of public policy, public security, public health or the protection of the environment and
 - **proportionate** with regard to the objective pursued by the legislation.

Licensing of Sex Establishments - Statement of Licensing Policy

6.5 The council will consider these three issues in relation to the refusal of licence applications.

Crime and Disorder Act 1998

6.6 The Crime and Disorder Act 1998 places a duty on the council to exercise its functions with due regard to:

- Crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment;
- The misuse of drugs, alcohol and other substances.
- Re-offending in its area.

6.7 The council will have particular regard to the likely effect of the determination of licence applications on these issues and the need to do all that it reasonable can to prevent them.

Equality Act 2010

6.8 The Equality Act 2010 places a duty on the council to exercise its functions with due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010;
- Advance equality or opportunity between persons who share relevant protected characteristic and person who do not share it;
- Foster good relation between persons who share a relevant protected characteristic and persons who do not share it.

6.9 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6.10 The council is aware that sex establishments tend to be predominantly marketed to men and that the licensing of these establishments must not encourage discrimination against women especially in regard to women who

Licensing of Sex Establishments - Statement of Licensing Policy

work at the premises, women who may wish to visit the premises or women who are using the area for other purposes but who may feel intimidated by the presence of such premises.

- 6.11** Accordingly, due regard has already been and will continue to be given during the review of this policy, to the determination of licences and the attaching of conditions.

Staff Training

- 6.12** The council recommends that all persons employed on licensed premises be encouraged to attend training programmes to raise awareness of their responsibilities and particularly of the offences contained within the Local Government (Miscellaneous Provisions) Act 1982. Where recognised training programmes are not available employers should ensure that their employees are advised of their responsibilities and the offences under the Act.
- 6.13** All persons employed on licensed premises should be provided with in-house training on basic public safety and the housekeeping arrangements relative to those premises. Depending on their job role, this may include training in first aid, age verification policies, basic health and safety, and so on.
- 6.14** Licensed premises will be required to record training undertaken by staff in their staff records. These records will be made available for inspection on request by an authorised officer or the police.

Advertising

- 6.15** As part of the standard conditions attached to licences there is a requirement that all advertising and the external appearance of the premises must be approved by council. This approval will be sought at the next available sub-committee hearing. Applicants will be entitled to attend the hearing.

Licensing of Sex Establishments - Statement of Licensing Policy

Exemptions

6.16 Under the Local Government (Miscellaneous Provisions) Act 1982 there is an exemption for sexual entertainment venues for premises which provide relevant entertainment on an infrequent basis. These are defined as premises where –

- no relevant entertainment has been provided on no more than 11 occasions within a 12 month period;
- no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
- no such occasion has lasted longer than 24 hours
- other premises or types of performances or displays exempted by an order of the Secretary of State.

6.17 This exemption does not apply to sex shops or sex cinemas.

7.0 THE APPLICATION PROCESS

7.1 Applications must be made to the council in the form prescribed in Annex 2. Guidance is available to applicants setting out the detail of the process.

7.2 An operator's suitability will be checked before a licence for a sex establishment is granted. Depending on the individual circumstances this may be achieved by the following means:

- Application form
- DBS check
- Personal interview either in person, at hearing, by phone or in writing
- Accreditation/Training/Experience.

7.3 In the first instance, the application will be sent to West Mercia Police who may conduct a check. The operator's suitability will be checked using the application form and the personal information forms. Applicants may be asked to provide an enhanced CRB checks, or attend an interview, to support their application.

7.4 The suitability of the applicant is important to ensure that the interests of the public are protected. The council will use the methods described above to ensure that the proposed operator:

- is honest
- has a clear understanding of the conditions that may be attached to the licence
- has a suitable business plan which will deliver compliance of the standard conditions.
- has no unspent conviction of a nature that deem him/her unsuitable.
- will not pose a risk to vulnerable adults

7.5 Applications for sexual entertainment venue sex establishment licence will also show they have:

Licensing of Sex Establishments - Statement of Licensing Policy

- a clear employees welfare policy
- a clear code of practice for employees
- a clear code of conduct for customers
- a clear policy on pricing, and
- protects the interests of his customers

7.6 The council will take all of these criteria into account when determining the licence. Non-compliance of one or more of the criteria will not necessarily exclude the operator from holding a sex establishment licence providing the applicant is able to prove to the council that the interest of the public is protected.

Third Party Beneficiaries

7.7 In order to protect the public interest it is important to establish the hierarchy of the operator's business. Information will be sought and enquiries made into the operator's company structure to ensure that the operator is not working on behalf of an individual or company that would not be granted a licence in their own right.

7.8 Enquiries may be made via the application form, checks with Companies House, West Mercia Police, personal interview or applicants may be asked to provide business records.

Fees

7.9 The council has set a reasonable fee. The fee is based on the recovery of costs incurred by the council in determining the application.

Notices

7.10 The applicant must advertise the application in three ways:

- Advertisement in a local newspaper within 7 days of the application
- Advertisement at the premises by way of a site notice for 21 consecutive days

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- Notice of the application to be sent to the Chief Officer of Police for West Mercia within 7 days of the application.

7.11 Proof that the applicant has advertised the application will be required.

Objections

7.12 Anyone can object to an application for a sex establishment. Objection should be received by the council no later than 28 days after the date of the application. These objections can be received from individuals or businesses and can be on any matter.

7.13 However the appropriate weight will be given to objections which relate to the purpose of the legislation which is the control of sex establishments.

7.14 Guidance on making an objection can be found on the council's website.

7.15 The council will notify the applicant in writing of the general terms of any objection it receives within 28 days of the application. However objectors will remain anonymous and efforts will be made to sanitise the contents of the objections so the objector's identity remains anonymous.

7.16 If objectors wish for their details to be released to the applicant they should make this clear in their objection.

Hearings

7.17 The council has appointed a licensing committee of 15 Councillors. Licensing functions will often be delegated to the licensing sub-committee (Regulatory Sub-Committee) of 3 councillors or, in appropriate cases to officers of the council.

7.18 All new applications and any contested renewals or transfers will be determined by a sub-committee of three members of the Licensing Committee.

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- 7.19** It is the council's practice to provide notice of the hearing to all interested parties (applicants and objectors) five days before the hearing as laid down in Local Government Act 1972.
- 7.20** This notice will provide the date of the hearing, the procedure for the hearing, state any points on which the council requires clarification at the hearing, and will require the addressee to confirm their attendance and the attendance of any witnesses they may wish to call.
- 7.21** The hearing will take place in public except where the public interest requires otherwise.
- 7.22** All parties will be given an equal amount of time to present their case.
- 7.23** Councillors will have regard to the Herefordshire Council Code of Conduct for Members and guidance issued by the Standards Board for England. Where a Councillor who is a member of the Licensing Committee or sub-committee has a prejudicial interest in the application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision making process in respect of that application. Where ever possible, members will not hear applications from within their own ward to avoid any appearance of bias.
- 7.24** A licensing sub-committee may refer an application to another sub-committee or to the Licensing Committee where it is unable to deal with the application because of the number of members unable to vote on the matter in question.
- 7.25** The Licensing Committee will refer an application to the council where it is unable to deal with the application because of the number of members unable to vote on the matter in question.

Reasons for decisions

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7.26 In determining licence applications under the Local Government (Miscellaneous Provisions) Act 1982 the council will take into consideration the application before it, any objections received as well as local knowledge including local issues and cultural sensitivities.

7.27 Every decision to refuse a licence made by the Licensing Committee, sub-committee or officers will be accompanied by clear reasons for the decision.

7.28 Every effort will be made to provide a decision verbally at the sub-committee hearing, with the written reasons to follow in due course. However in exceptional circumstances the sub-committee may defer the decision in order to allow mature consideration of the respective case and a time for the reasoned condition will be drawn up and all parties notified.

Conditions

7.29 The council will impose standard conditions on all licences. However if deemed necessary, the council may change, alter or replace the standard conditions with conditions that are relevant to the application. Please see appendix 1 for the standard conditions.

7.30 Any change to the standard conditions will be applied to licences at the time of renewal when all conditions are reviewed.

Refusal of applications

7.31 Applications for sex establishments can be refused on the following mandatory grounds:

- if the applicant is under 18,
- if the applicant has a disqualification following the revocation of their licence,
- if the applicant is non-resident in the UK,
- company not incorporated in the UK,
- or a previous refusal of the applicant at the same premises in the previous 12 months.

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7.32 There are also a number of discretionary grounds. These are:

- if the applicant is unsuitable,
- if the business would be managed by or for the benefit of a third party who would be refused licence in their own right,
- that the number of sex establishments in the locality or of sex establishments of a particular kind in the locality equals or exceeds the number considered appropriate,
- is inappropriate having regard to:
 - ~ Character of relevant locality
 - ~ Use of premises in vicinity
 - ~ Layout, character, condition or location of the premises.
 - ~

7.33 As stated at 6.1, the council will consider each application on its own merits, taking into account local knowledge, this policy and the guidance provided by the Home Office.

Right of Appeal

7.34 Only the applicant has the right to appeal the council's decision to the Magistrate's Court and only on limited grounds. There is no right of appeal for objectors or statutory authorities. Applicants and interested parties are referred to the Local Government (Miscellaneous Provisions) Act 1982, paragraph 27 for further details.

Period of licence

7.35 A sex establishment licence will remain in force for up to one year, or for a shorter period should the council think fit.

Grant, Renewals, Transfer

7.36 The process for applying for a renewal, transfer or variation of the licence is the same as when applying for a new licence. Guidance for applicants is available on the council's website.

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Variation

7.37 There are some matters required under the standard conditions for which the premises licence holder is required to notify the council. These matters include:

- Variation of standard conditions
- Variation of any of the terms of the licence
- Change in the external appearance of the premises
- Structural changes
- Change in personnel
- Use of a vehicle for advertising purposes
- Change of name of premises

7.38. Application to vary conditions of the licence must be advertised by the licensee in the same way as for the application for grant, renewal or transfer.

7.39 Other matters must be notified to the council in writing, enclosing the appropriate plans, or illustrations as may be required to evidence the application. Some matters may attract a fee. Further guidance is available on the council's website.

Revocation

7.40 Should information be received by the council that circumstances have changed in such a way that the applicant would be deemed unsuitable or that the manager or beneficiary would be unsuitable should they be applying for a new licence, the council may revoke the sex establishment licence.

7.41 Should the council consider revocation of the licence to be appropriate the licensee will be provided an opportunity to appear before the Licensing Committee and be heard by them.

7.42 The licensee will be given a statement in writing of the reasons for revocation within seven days of the requirement being made.

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7.43 The revocation will take effect once the appeal period has expired, or if an appeal is lodged after the determination or abandonment of the appeal.

Waiver

7.44 Should the council decide that a licence would be unreasonable or inappropriate, it may waive the need for a licence, for example in the case of a medical book shop, sex clinic, in borderline cases, to correct errors or for minor or temporary events.

7.45 The council would only waive the need for a licence where the activity is low risk and/or temporary. However a waiver will not be considered in cases where a licence is reasonable and appropriate or where there is public interest.

7.46 The application for a waiver uses the same form as an application for a new licence; however it should be accompanied by a letter which describes the circumstances under which the need for a licence should be waived. There will be no requirement to advertise the application. There is a fee. Further information can be found on the council's website, or by contacting Entertainment Licensing.

7.47 The decision to waive the need for a licence will be taken at the next available licensing sub-committee hearing and a Notice of Waiver will be issued in due course.

7.48 Unsuccessful applications for waivers will be notified accordingly and provision will be made for them to make a formal application for a sex establishment licence.

8.0 **ENFORCEMENT**

Enforcement principles

- 8.1** The council will work closely with partners in accordance with a locally established joint enforcement protocol and will aim to promote the licensing objectives by targeting known high risk premises following government guidance around better regulation.
- 8.2** In carrying out its enforcement duties with regards to the inspection of premises; and the powers to institute criminal proceedings in respect of certain offences under the Act the council 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.
- 8.3** The council will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 8.4** The council will also adopt a risk-based inspection programme in line with government recommendations around better regulation and the principles of the Hampton Review.
- 8.5** The main enforcement and compliance role for the council in terms of the Local Government (Miscellaneous Provisions) Act 1982 as amended will be to ensure compliance with the conditions placed upon the licence.

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- 8.6** The council will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 8.7** The council's enforcement/compliance protocols/written agreements will be available upon request.

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Appendix 1 - Standard Conditions

These conditions may be dispensed with, added to or modified by the council. Where, in these conditions, there is a reference to the consent of the council being required, the consent may include terms, conditions and restrictions as appropriate.

Sexual Entertainment Venues

General

1. Unless stated otherwise, the licence hereby granted will operate for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. The licensee will provide (subject to the satisfaction of both the police and the licensing authority), a code of practice for entertainers and code of conduct for customers, and these must be made available upon request to both the police and authorised officers.
4. All rules (code of practice for entertainers, code of conduct for customers, dispersal policies etc.) to be prominently displayed on the premises.
5. Price lists will be clearly displayed at each table and at each entrance to the premises.

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6. All rules and price lists as described in conditions 4 and 5 must be printed in a manner which is clear and easy to read during the normal operation of the premises.
7. Suitable and sufficient training is to be provided to all staff including the responsible person as described in condition 28. The training of all staff is to be recorded and the training record must be made available upon request to both the police and authorised officers.
8. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the council in writing.

Exhibition of the licence

9. The licence, or a clear copy, will be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the council. A copy of the conditions attached to the licence will be kept on the premises and be available for inspection by an authorised officer of the council, or the police or fire authority.

Hours of opening

10. The premises will only be open to the public during the following hours:

Monday	?
Tuesday	?
Wednesday	?
Thursday	?
Friday	?
Saturday	?
Sunday	?

Conduct on the premises

11. Entertainers will only perform on the stage area or in booths/areas for VIPs as identified on the plan attached to the licence.

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12. Relevant entertainment will only be performed by the entertainer. There must be no audience participation.
13. There must be no physical contact between entertainers.
14. Customers will not touch the breasts or genital area of entertainers.
15. Entertainers will not directly or indirectly touch the breasts or genital area of customers.
16. Any performance will be restricted to dancing and the removal of clothes.
17. There will not be any other form of sexual activity or stimulation which, for the avoidance of doubt, includes kissing.
18. Sex toys must not be used and penetration of the genital area by any means must not take place.
19. Customers will not be permitted to throw money at the entertainers.

External appearance

20. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following:

Strictly No Admittance to Persons Under 18 Years of Age
This premises operates a Challenge 25 policy.
Persons under the age of 25 will be required to show proof of age.
21. The external appearance of the premises must be approved by the council in writing.
22. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing

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and proposed street elevation. This must be approved by the council before work is undertaken.

23. Access to the licensed area of the premises should be through a lobby area which is constructed in such a way that the inside of the licensed premises where relevant entertainment takes place is not visible to passing members of the public when the doors of the premises are opened.
24. Signage will only be illuminated between 10pm and 2am, and movable signs placed outside the premises will be removed between 2am and 10pm or at the closing time of the premises, whichever is sooner.

Advertising

25. Any written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
26. Leafleting/distribution of flyers will only be permitted immediately outside the premises and in such a way where it does not cause public offence. The licensee will remove any leaflets from the Highways within a 100 metre radius of the premises by 2am or at the time the premises closes, whichever is sooner. The licensee will have a flyer distribution policy to be approved by the Council.

Layout of premises

27. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
28. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.

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Management of the premises

29. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue (“the manager”) will have personal responsibility for and be present on the premises whilst relevant entertainment is being performed. Any such nomination will be produced on demand to an authorised officer of the council or the police.
30. The licensee will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.
31. The name of the person responsible for the management of the premises, whether the licensee or manager, will be displayed in a conspicuous position within the premises throughout the period during which he/she is responsible for the conduct of the premises.
32. Where the licensee is a body corporate, or an incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such a change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.
33. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue (“the manager”), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.
34. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises is affected by the

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termination of a lease or other event affecting the licensee's control of the premises.

35. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
36. No persons under the age of 18 will be admitted to the premises.
37. The licensee will operate a Challenge 25 age verification policy. People under the age of 25 will be required to show proof of ID. A notice to this effect, in accordance with condition 18 will be displayed on the premises. Such policy shall be written down, kept at the premises and be made immediately available to an authorised officer of the council or the police.
38. The licence holder will not employ any person under the age of 18 in any capacity

Safety and security

39. A suitable CCTV system will be operational on the premises at all times when licensed activities are being carried out. The system will cover all public areas including booths and corridors but not including staff changing rooms or toilets. The system will conform to West Yorkshire Police guidelines (as attached to the licence) in respect of business related CCTV equipment. It will be adequately maintained and be capable of transporting recorded material onto removable media.
40. The siting of the CCTV system will be agreed with West Yorkshire Police prior to installation and will comply with that agreement at all times. Changes to the siting and standard of CCTV systems may only be made with the written consent of West Yorkshire Police.
41. CCTV security footage will be made secure and retained for a minimum period of 31 days' time to the satisfaction of West Yorkshire Police. CCTV footage will be supplied to the police and authorised officers of the Council on request.

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42. At all times that the premises are open to the public there will be a member of staff on duty who is conversant with operating the CCTV system and who is able to download immediately any footage requested by the police or an officer from the licensing authority or authorised agent.
43. Suitable numbers of Security Industry Authority registered door staff (numbers to be subject to police and licensing authority approval) will be present on the premises during the performance of relevant entertainment.

Staff welfare

44. Entertainers will be aged no less than 18 years.
45. All premises that provide relevant entertainment will be expected to provide new entertainers with a pack of information. This pack will include:
 - a. A copy of the Sex Establishment Licence, including the conditions applied by the Licensing Committee.
 - b. Details of any other conditions applied by management of the premises
 - c. Details of how to report crime to the relevant authority
 - d. Details of insurance (public liability/personal)
 - e. Details of unions, trade organisations or other bodies that represent the interests of dancers/entertainers
 - f. A copy of the code of practice for entertainers
 - g. A copy of the code of conduct for customers
 - h. Fining policy
 - i. Pricing policy
46. The information provided in the pack will be provided in the dressing rooms.
47. All booths/areas for VIPs used for private dances must be visible to supervision and must not have closing doors or curtains that prevent performances from being observed.
48. All booths/areas for VIPs used for private dances must be directly supervised by either a SIA registered door supervisor, or a member of staff who has direct

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contact with SIA registered door supervisors working on the premises at all times the booths/areas are in use. Direct supervision does not include remote supervision by CCTV.

49. Entertainers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.
50. Any person on the premises who can be observed from outside the premises will be properly and decently dressed.
51. The licensee will ensure entertainers have secure dressing rooms, facilities to secure valuables and proper sanitation facilities available to them.
52. The management will maintain a register which details any fines imposed on entertainers which will include the date, type of misdemeanour and amount fined.

Vessels, stalls and vehicles

53. Vehicles will not be used to obtain custom by means of personal solicitation or touting in such a way that causes concern or offence to the public or the licensing authority.
54. Any vehicle used to advertise the premises must comply with the advertising conditions.
55. All forms of advertising on vehicles must be approved by the council prior to use.
56. Vehicles used to transport customers to or from the premises may require a licence issued by Herefordshire Council Taxi and Private Hire Licensing or the Department for Transport. Details of any vehicles brought into service must be notified to the council in writing and details of any relevant licence issued by Herefordshire Council Taxi and Private Hire Licensing, or the Department for Transport must be produced in advance of the vehicle being used.

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Variation of conditions

57. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
58. The licensee may apply to the council to vary any of the terms of the licence.
59. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the issue, renewal or transfer of the licence.

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Sex Shops

General

1. Unless stated otherwise, the licence hereby granted will operate for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the council in writing.

Exhibition of licence

4. The licence, or a clear copy, will be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the council. A copy of the conditions attached to the licence will be kept on the premises and be available for inspection by an authorised officer of the council, or the police or fire authority.

Hours of opening

5. The premises will only be open to the public during the following hours:

Monday	?
Tuesday	?
Wednesday	?
Thursday	?
Friday	?
Saturday	?
Sunday	?

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Conduct on the premises

6. The licensee, or any other person concerned in the conduct or management of the premises, shall not in person, solicit or tout for the business from the premises. All literature used in connection with the business will not contain images or text of a sexually explicit, obscene or offensive nature.

External appearance

7. There will be a notice displayed on each entrance or doorway to the premises which states the following:

Strictly No Admittance to Persons Under 18 Years of Age

This premises operates a Challenge 25 policy.

Persons under the age of 25 will be required to show proof of age.

8. The external appearance of the premises must be approved by the council in writing.
9. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council before work is undertaken.
10. The frontage of the licensed premises will be of such a nature that the inside of the licensed premises are not visible and the contents of the licensed premises should not be visible when the doors of the licensed premises is open.
11. There will be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises.

Advertising

12. Any written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.

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13. Leafleting/distribution of flyers will only be permitted in such a way where it does not cause public offence. The licensee will remove any leaflets from the highways within a 100 metre radius of the premises. The licensee will have a flyer distribution policy to be approved by the council.

Layout of premises

14. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
15. No alterations (including temporary alterations) will be made to the structure and installations on the premises without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council

Management of the premises

16. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue (“the manager”), will have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination will be produced on demand to an authorised officer of the council or the police.
17. The licensee holder will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.
18. Where the licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such a change.

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Such details as the council may require in respect of the change in personnel will be furnished within 14 days of a request in writing from the council.

19. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.
20. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
21. The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).
22. An authorised and certified copy of the full personal record or a record of an individual will be produced on demand to an authorised officer of the council or the police.
23. No persons under the age of 18 will be admitted to the premises.
24. The licensee will operate a Challenge 25 age verification policy and people under the age of 25 will be required to show proof of ID. A notice to this effect in accordance with condition 8 will be displayed on the outside of the premises.
25. The licence holder will not employ any person under the age of 18 in any capacity.

Video recordings

26. No moving picture will be provided on display at the licensed premises unless it is that of advertising videos on a loop system or allowing a prospective purchaser a short preview of films upon request, being no longer than 3 minutes in length.

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27. Items sold, supplied for hire, exchange or used in any promotion/advertising must not contravene any current legislation i.e. Section 12 Video Recordings Act 1984, (as amended).

Vessels, stalls and vehicles

28. Vehicles will not be used to obtain custom by means of personal solicitation or touting.
29. Any vehicle used to advertise the premises must comply with the advertising conditions. All forms of advertising on vehicles must be approved by the council.
30. Vehicles used to transport customers to or from the premises may require a licence issued by Herefordshire Council Taxi and Private Hire Licensing or the Department for Transport. Details of any vehicles brought into service must be notified to the council in writing and details of any relevant licence issued by Herefordshire Council Taxi and Private Hire Licensing, or the Department for Transport must be produced in advance of the vehicle being used.

Variation of conditions

31. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
32. The licensee may apply to the council to vary any of the terms of the licence.
33. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the issue, renewal or transfer of the licence.

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Sex Cinemas

General

1. Unless stated otherwise, the licence hereby granted will operate for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the council in writing.

Exhibition of licence

4. The licence, or a clear copy, will be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the council. A copy of the conditions attached to the licence will be kept on the premises and be available for inspection by an authorised officer of the council, or the police or fire authority.

Hours of opening

5. The premises will only be open to the public during the following hours:

Monday	?
Tuesday	?
Wednesday	?
Thursday	?
Friday	?
Saturday	?
Sunday	?

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Conduct on the premises

6. The licensee, or any other person concerned in the conduct or management of the premises, will only obtain custom by means of personal solicitation or touting from the premises in such a way that it does not cause concern to the public or the licensing authority. All literature used will not contain images or text of a sexually explicit, obscene or offensive nature.

External appearance

7. There will be a notice displayed on each entrance or doorway to the premises which states the following:

Strictly No Admittance to Persons Under 18 Years of Age

This premises operates a Challenge 25 policy.

Persons under the age of 25 will be required to show proof of age.

8. The external appearance of the premises must be approved by the council in writing.
9. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council before work is undertaken.
10. The frontage of the licensed premises will be of such a nature that the inside of the licensed premises are not visible and the contents of the licensed premises should not be visible when the doors of the licensed premises is open.
11. There will be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises.

Advertising

12. Any written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not

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contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.

13. Leafleting/distribution of flyers will only be permitted in such a way where it does not cause public offence. This is regulated by the paid permit system authorising distribution of free printed material issued by Herefordshire Council. The licensee will remove any leaflets from the highways within a 100 metre radius of the premises. The licensee will have a flyer distribution policy to be approved by the council.

Layout of premises

14. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
15. No alterations (including temporary alterations) will be made to the structure and installations on the premises without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.

Management of the premises

16. The licensee, or a responsible person nominated by him/her for the purpose of managing the venue ("the manager"), will have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination will be produced on demand to an authorised officer of the council or the police.
17. The licensee holder will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.

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18. Where the licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such a change. Such details as the council may require in respect of the change in personnel will be furnished within 14 days of a request in writing from the council.
19. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.
20. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
21. The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).
22. An authorised and certified copy of the full personal record or a record of an individual will be produced on demand to an authorised officer of the council or the police.
23. No persons under the age of 18 will be admitted to the premises.
24. The licensee will operate a Challenge 25 age verification policy and people under the age of 25 will be required to show proof of ID. A notice to this effect in accordance with condition 8 will be displayed on the outside of the premises.
25. The licence holder will not employ any person under the age of 18 in any capacity.

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Vessels, stalls and vehicles

26. Vehicles will not be used to obtain custom by means of personal solicitation or touting in such a way that causes concern or offence to the public or the licensing authority.
27. Any vehicle used to advertise the premises must comply with the advertising conditions. All forms of advertising on vehicles must be approved by the council.
28. Vehicles used to transport customers to or from the premises may require a licence issued by Herefordshire Council Taxi and Private Hire Licensing or the Department for Transport. Details of any vehicles brought into service must be notified to the council in writing and details of any relevant licence issued by Herefordshire Council Taxi and Private Hire Licensing, or the Department for Transport must be produced in advance of the vehicle being used.

Variation of conditions

29. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
30. The licensee may apply to the council to vary any of the terms of the licence.
31. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the issue, renewal or transfer of the licence.

