

# **Licensing Act 2014 (2015 – 2020)**

## **Comments received from:**

### **Hereford HAND (Herefordshire Against Night-time Disorder), Three Licensees & Herefordshire CCTV**

#### **1. Comment received**

Forward by Cllr. Alan Seldon

It would be nice to recognise the work of HAND.

#### **Current Wording**

*Under Forward by Cllr Alan Seldon*

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.*

#### **Officer Comment & Recommendation**

That the paragraph be amended to read:

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, the Licensing Authority and Licensees who through partnership working, particularly with HAND, have achieved the right balance between allowing business to develop and promoting the licensing objectives.*

#### **2. Comment received**

Page 2

*Licensees believed that Herefordshire Council would not introduce the Late Night Levy's and/or Early Morning Restriction orders.*

### **Current Wording**

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

### **Officer Comment & Recommendation**

The comment is taken out of context. This paragraph is providing a list of options which 'may be used'. There is no intention to introduce any of these at this time. The paragraph should remain unchanged.

### **3. Comment received**

Page 6 - Section 3

*What is the likely start date of the new policy?*

*Would a university being launched in Hereford be considered necessary for a review of the licensing policy considering the change in demographic of customers in the NTE?*

### **Current Wording**

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

#### **Officer Comment & Recommendation**

The recommended start date for the policy should be 1<sup>st</sup> March 2015. Therefore it is recommended the policy should be changed to 'Licensing Policy 2015 – 2020'.

The legislation states 'a licensing authority must keep its policy under review and make such revisions to it, at such times, as it considers appropriate'. Therefore should a university come to Hereford the policy could be amended if required.

#### **4. Comment received**

Page 7 – para 7.4

*The Journal has now ceased trading; may we suggest the Ad Mag as a suitable replacement?*

#### **Current Wording**

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**.

#### **Officer Comment & Recommendation**

That the paragraph be amended as shown below:

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 Admag.

#### **5. Comment received**

Page 18 – Para 7.16

*Applications: Can you please clarify what will be published here? Will this be ALL Licence applications inc TENS for the whole of Herefordshire? Or is there less information available than that?*

#### **Current Wording**

7.16 The Licensing Authority will make copies of applications available for inspection by the public by publishing them on the website.

#### **Officer Comment & Recommendation**

That the paragraph remains unchanged.

Copies of application for new and variations to premises licences are published in full as they are subject to public representations. TENS are not published in full only in summary as the public cannot make representation.

#### **6. Comment received**

Page 33 – Para 15.3

*Can you please clarify who will require a DBS check in a pub/club. Is it just the DPS or the Licence Holder or both or staff?*

*Also – Is this for NEW licences, or are existing licensees exempt from this?*

#### **Current Wording**

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.

#### **Officer Comment & Recommendation**

This remark is taken completely out of context. The section which this paragraph refers to deals with 'Personal Licences'.

The legislation requires DBS checks to be produced during application for a personal licence.

#### **7. Comment received**

Page 37 – 18.2

*I thought that 'Any other party' meant a party who lives in the vicinity of the premises or is directly affected by the premises?*

#### **Current Wording**

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.

"Any other party" who does this apply to? Does any other party outside a responsible authority have to live or be in the vicinity of the premises or be directly affected by the premises?

#### **Officers Comment & Recommendation**

The Licensing Act was amended to read 'any other party' who lives in the county of the licence.

This paragraph is correct and should remain unchanged.

#### **8. Comment received**

Page 38: para 18.4

*Can you please clarify or give an example of what are exceptional circumstance may be?*

#### **Current Wording**

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'.

#### **Officer Comment & Recommendation**

'Exceptional Circumstances' may be where the premises licence holder surrendered the premises licence.

#### **9. Comment received**

Page 40 – para 19.3

*Will grandfather rights be considered for those places that are currently Ch. 21 or will venues that are currently Ch 21 become Ch 25*

#### **Current Wording**

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.

#### **Officer Comment & Recommendation**

There is no intention to give grandfather right.

Challenge 21 was considered best practice a few years ago but now Challenge 25 is. It is recommended the policy stays as worded.

#### **10. Comment received**

Page 41 – 20.3

*Who's local knowledge and what considerations would be made with this local knowledge?*

#### **Current Wording**

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.

#### **Officer Comment & Recommendation**

Local knowledge will come from those engaged locally with the Licensing process. This may be responsible authorities or licensees. In effect what it is saying is that conditions need to fit local circumstances.

It is recommended that this paragraph remains unchanged.

#### **11. Comment received**

Page 42 – para 20.8

*Can you please tell me what is currently available here? OR what is being planned to become available to Licencees?*

### **Current Wording**

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

### **Officer Comment & Recommendation**

There are a number of training courses which are available on line which deal with Basic Child Protection Training. It would be wrong for the authority to recognise one particular provider.

It is recommended this paragraph remains unchanged as this promotes the licensing objective of the Protection of Children from Harm.

## **12. Comment received**

Page 44 – Para 20-18 to 20.22

*The paragraphs are out of date and need updating.*

### **Current Wording**

- 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.

### **Officers Comment and Recommendation**

The paragraphs should be amended as shown below.

#### 20.18 Radios

Herefordshire is currently operating a radio communication system in parts of the County which allows easy contact to be made between licensees and Herefordshire CCTV Control Room.

20.19 The Control Room 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 or the Local Authority to provide an appropriate response 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 CCTV Control Room who will report the incident to the police for an appropriate response. 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.

### **13. Comment received**

Page 44 - 20.19

*Does this mean that CCTV is secure for the next five years?*

#### **Current Wording**

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.

**Officer Comment & Recommendation**

There is no reference in relation to the long term future of the County's CCTV.

**14. Comment received**

Page 47 - 20.31

*Can this condition not be amended to read 'Whilst open'*

**Current Wording**

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 .

**Officer Comment & Recommendation**

There clearly is a misunderstanding in relation to conditions attached to premises licences.

Conditions only have effect during the period that the premises are open. During the time that the premises are not providing licensable activities there is no requirement to comply with any condition attached to the licence.

**15. Comment received**

Page 49 – Para 20.39 & 20.40

*The concern here – could be – that a nightclub who's primary focus is music and dancing could have to have the business model changed due having to provide tables and chairs.to this line.*



### **Current Wording**

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.

### **Officer Comment & Recommendation**

This paragraph is taken out of context. As can be seen by the ‘current wording’ the paragraph refers to ‘High Volume Vertical Drinking’.

The recommendation is that the conditions remain unchanged.

## **16. Comment received**

Page 49 – para 20.41 & 20.42

*Concerns in relation to the terms and wording of the paragraph in relation to football.*

### **Officer Comment & Recommendation**

It is recommended that the paragraph 20.41 & 20.42 be removed as Hereford Football Club has ceased to exist.

## **17. Comment received**

Page 67 – para 23.10

*A DBS check is £45 per employee. The condition currently implies ALL staff would need to be DBS checked.*

### **Current Wording**

23.6 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.

### **Officer Comment & Recommendation**

It is recommended that the paragraph be amended to read:

23.6 Where events take place targeted at an audience who is under 18, the Licensing Authority expect there to be present at each and every event and for the full duration of the event and present within the entertainment area, a person who has received training as approved by Herefordshire Council in respect of the Safeguarding of Children to a minimum of Level 2 and to be in possession of a current enhanced Disclosure and Barring Service (DBS) check.

## **18. Comment received**

Page 67 - 23.14

*Will premises with Challenge 21 be given will “grandfather rights”.*

**Current Wording**

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.

**Officer Comment & Recommendation**

Already dealt with at item 8 above.

**19. Comment received**

Page 70 - 23.20

*Can we ask that this is reconsidered or re worded as premises change over time.*

**Current Wording**

I am unable to find this paragraph on the page or paragraph shown or within the Policy document.

**Officer Comment & Recommendation**

This comment should be disregarded.

**20. Comment received**

Page 74 - 23.35

Will there be grandfather rights for challenge 21.

“New home office guidance has recommended that ARMY ID also be used as a proof of age”

**Current Wording**

23.30 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

**Officer Comment & Recommendation**

Besides being promoted as best practice across the country this is a scheme promoted by the Wine and Spirit Trade Association.

Whilst the Home Office recommendation is that Army ID should be accepted the Licensing Authority and some of the licensees are unhappy about this as an Army ID can be given to a person aged 16 or above.

It is recommended that the paragraph should remain unchanged.

**21. Comment received**

Page 78: Home Office: Safer Clubbing Guide

*This document is now outdated have been written in 2001/2002. Is there anything more current?*

**Officer Comment & Recommendation**

It is agreed that this document is now out of date. There appears to have been nothing produced to replace it.

It is recommended that this paragraph be removed.