



Brighton & Hove
City Council

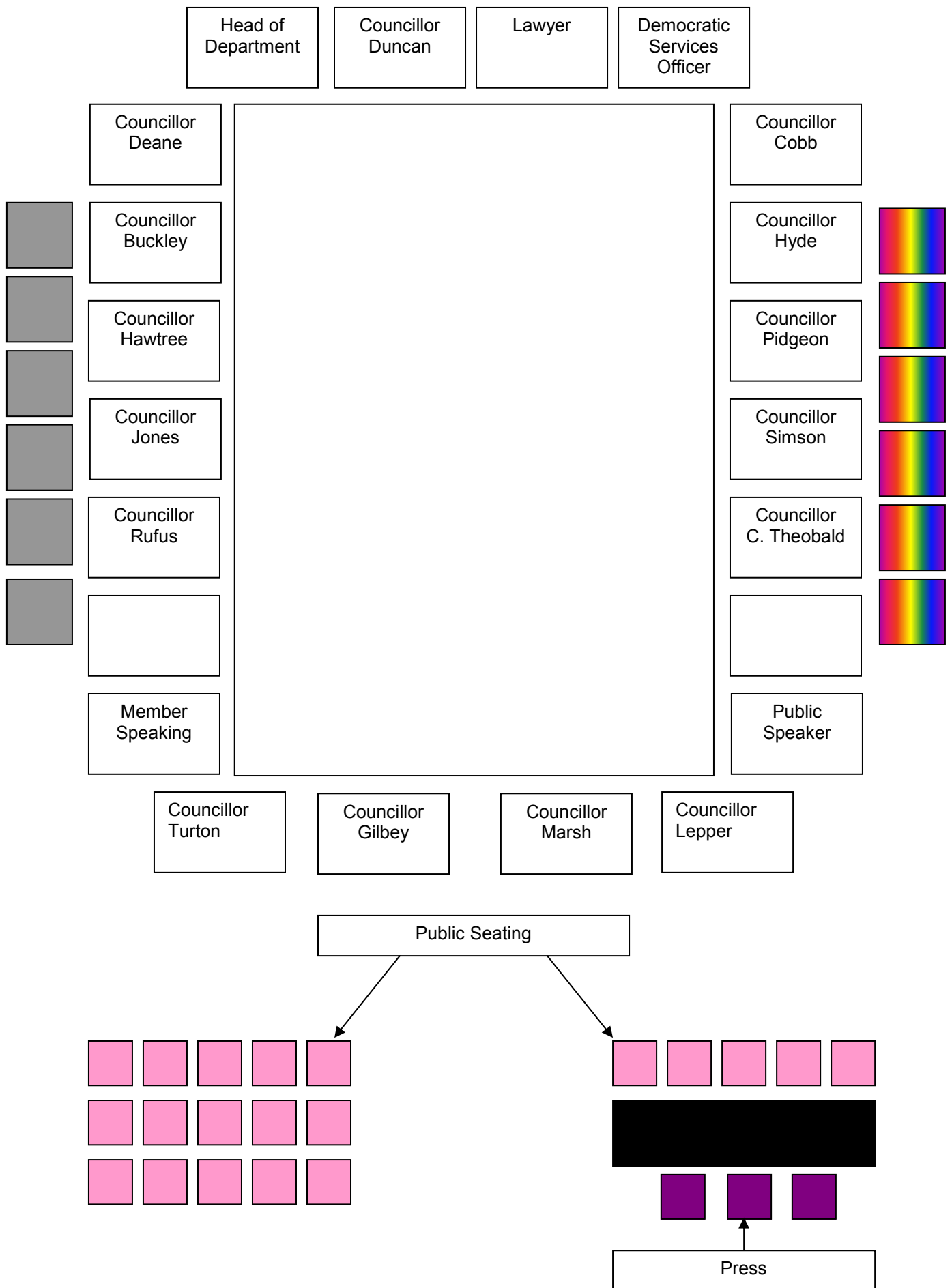
Licensing Committee

(Licensing Act 2003 Functions)

Title:	Licensing Committee (Licensing Act 2003 Functions)
Date:	28 June 2012
Time:	3.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Duncan (Chair), Deane (Deputy Chair), Buckley, Cobb (Opposition Spokesperson), Gilbey, Hawtree, Hyde, Jones, Lepper, Marsh, Pidgeon, Rufus, Simson, C Theobald and Turton
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

Part One

Page

1. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.

2. MINUTES OF THE PREVIOUS MEETING

1 - 4

Minutes of meeting of 8 March 2012 (copy attached)

3. CHAIR'S COMMUNICATIONS

4. PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented by members of the public to Full Council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on [22 June 2012];
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on [22 June 2012]

5. ISSUES RAISED BY MEMBERS

To consider the following matters raised by Members:

- (a) **Petitions:** to receive any petitions submitted to Full Council or at the

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

meeting itself;

(b) **Written Questions:** to consider any written questions;

(c) **Letters:** to consider any letters;

(d) **Notices of Motion:** to consider any Notices of Motion

6. **STATEMENT OF LICENSING POLICY AMENDMENTS DUE TO REVISED LEGISLATION AND GUIDANCE** **5 - 10**

Report of Head of Law (copy attached)

Contact Officer: Rebecca Sidell *Tel:* 29-1511

Ward Affected: All Wards

7. **SCHEDULE OF APPEALS RECEIVED** **11 - 12**

Report of the Head of Law (copy attached)

Contact Officer: Rebecca Sidell *Tel:* 29-1511

Ward Affected: All Wards

8. **ITEMS TO GO FORWARD TO COUNCIL**

To consider items to be submitted to the 19 July Council meeting for information.

In accordance with Procedural Rule 24.3a the Committee may determine that any item is to be included in its report to Council. In addition each Minority Group may specify one further item to be included by notifying the Chief Executive by 10.00am on 6 July 2012.

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email penny.jennings@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Date of Publication - Wednesday, 20 June 2012

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)	Agenda Item 2 Brighton & Hove City Council
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BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.00PM 8 MARCH 2012

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Deane (Chair), Sykes (Deputy Chair), Cobb, Duncan, Gilbey, Hyde, A Kitcat, Lepper, Marsh, Pidgeon, Rufus, Simson, C Theobald and West

Apologies: Councillor Turton

PART ONE

20. PROCEDURAL BUSINESS

20a Declaration of Substitutes

20.1 There were none.

20b Declarations of Interest

20.2 There were none.

20c Exclusion of the Press and Public

20.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

20.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any item on the agenda.

21. MINUTES OF THE PREVIOUS MEETING

- 21.1 RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 17 November 2011 be agreed and signed by the Chair as a correct record.

22. CHAIR'S COMMUNICATIONS

- 22.1** The Chair reported that on Friday 17 February, Salvatore Capuano had appeared in court on two counts of exposing alcohol for unauthorised sale. He had pleaded guilty to the first count but not guilty to the second, claiming that there was a personal licence holder on site, he had however been found guilty on both counts. He had received a £300 fine for the first offence and £450 for the second, he had also been ordered to pay £650 costs and a £15 victim surcharge. In addition he had also forfeited his personal licence which would prevent him from being a designated premises supervisor (DPS) from now on.

- 22.2 RESOLVED** – That the position be noted.

23. PUBLIC QUESTIONS

- 23.1** There were none.

24. CONSULTATION RESPONSE ON LATE NIGHT LEVIES AND EARLY MORNING RESTRICTION ORDERS

- 24.1** The Committee considered a report of the Head of Planning and Public Protection reporting on the consultation response on proposed Late Night Levies (LNLs) and Early Morning Restriction Orders (EMROs).
- 24.2** The Head of Regulatory Services advised the Committee in respect of the relevant background information and Chronology of key events. Early Morning Restriction Orders could be applied by licensing authorities flexibly between midnight and 6am to restrict the sale of alcohol. Licensing authorities could apply these orders to areas where they considered that restricting the late night supply of alcohol was appropriate to promote the licensing objectives. Before such powers were commenced, regulations had to be made which would prescribe details of the process for making an EMRO and the kinds of premises that would be exempt from an EMRO.
- 24.3** The imposition of a Late Night Levy (LNL) would allow licensing authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy would apply to all premises (on and off-trade) throughout the licensing authority's area which were authorized to sell or supply alcohol in the time period set by the licensing authority (anytime between midnight and 6am). The levy would not apply to Temporary Event Notices (TEN's). Prior to making a decision to implement the levy discussions would have to take place with the Police and Crime Commissioner (yet to be appointed) and the local Police to decide whether it would be Appropriate to introduce the levy in its area.

- 24.4 There would be a fee payable by premises within the LNL area, based around the rateable value of the premises. Fees would be collected by the licensing authority, and money raised from the levy, minus administration costs would be shared with a minimum of 70% going to the Police and a maximum of 30% going to the licensing authority.
- 24.5 In answer to it was explained that questions by Councilor Lepper that exemptions/discounts could apply in some cases, the fee payable was based on the rateable value of a premises but the formula for making these calculations was complex and would create a large amount of additional work to be carried out, possibly requiring more staff. Any errors could result in additional budgetary pressures. Officers were also concerned about the number of free Minor Variation applications which would need to be dealt with. The levy would not apply to Temporary Event Notices and officers were concerned that these would be used as a loop hole in order to hold (possibly many) late night events and to circumvent payment of the levy. There would be differentiation between for example a local convenience store and a city centre night club in that they would have a different floor area and rateable value
- 24.6 Councilor Mrs Theobald sought confirmation, that the monies payable to the Police via any levy could be ring fenced. The Head of Regulatory Services stated that whilst there was an expectation that the Police might use their 70% for high profile policing initiatives to tackle violent or disorderly behaviour, multi-agency education and information programmes, they could not be compelled to do so.
- 24.7 In response to questions by Councillors Rufus and Sykes it was explained that the 30% which could be top-sliced by the local authority could be used to fund late night services such as late night street wardens, late night taxi marshalls and late night street cleaning. Licence holders wishing to avoid the effects of an EMRO or LNL would be able to make a minor variation to bring back their hours. Whilst this would normally cost £89 under this new legislation it would be free of charge to them whilst potentially involving the licensing authority in a great deal of work. Councillor Rufus expressed the opinion that the issues in relation to different types of venue and premises in the city centre and those on the outskirts could be very different.
- 24.8 Councillor Hyde sought clarification regarding what could constitute a “minor” variation and Councillor Cobb enquired whether premises licences could be transferred over using “Grandfather Rights” as had occurred with the inception of the 2003 Licensing legislation.
- 24.9 Councillor Simson stated that whilst it appeared that imposition of a levy could be useful in certain circumstances it was important to know the number of premises which could potentially be affected and the impact arising there from.
- 24.10 Councillor Duncan stated that in the absence of an appointed Police and Crime Commissioner it was difficult to ascertain what their approach and that of the Police would be. At present there remained a number of unanswered questions in that respect. Councillor Marsh concurred in that view.
- 24.11 In answer to questions of Councillor Gilbey, the Head of Regulatory Services explained that if implemented EMRO’s or a LNL could be amended or dispensed with

after a specified period of operation, however the whole process would need to be fully re-advertised. The timetable to be used was set out in the Act and there was no flexibility in respect of that. Members also agreed that Officers should seek endorsement for the consultation response from the three local MPs and pursue the points raised with Ministers in the resolution on LNL.

24.12 **RESOLVED** – (1) That the contents of the report be noted;

(2) That the consultation response be agreed; and

(3) That Officers seek endorsement for the consultation response from the three local MPs and pursue with Ministers in the resolution of the LNL.

25. SCHEDULE OF REVIEWS

25.1 Councillor Simson was pleased to note that the Panel's decision to revoke the licence of "Allsorts" Newsagents had been upheld, the licensing objectives had been compromised on a number of occasions and revocation had therefore been entirely appropriate.

25.2 **RESOLVED** - That the contents of the report be noted.

26. SCHEDULE OF LICENSING APPEALS RECEIVED

26.1 An updated schedule was circulated which included additional information which had been received following circulation of the agenda papers.

26.2 **RESOLVED:-** That the contents of the report be noted.

27. ITEMS TO GO FORWARD TO COUNCIL

27.1 There were none.

The meeting concluded at 4.10pm

Signed

Chairman

Dated this

day of

LICENSING COMMITTEE (LICENSING ACT 2003) FUNCTIONS)

Agenda Item 6

Brighton & Hove City Council

Subject:	Statement of Licensing Policy amendments due to revised legislation and guidance		
Date of Meeting:	Licensing Committee (Licensing Act 2003 functions) 28/06/2012 Full Council		
Report of:	Head of Law		
Contact Officer:	Name:	Rebecca Sidell	Tel: 29-1511
	Email:		
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Council, as Licensing Authority, has a statutory duty to review its Statement of Licensing Policy (SoLP) every five years and during this period to keep its policy under review.
- 1.2 The changes to the Licensing Act 2003 made by the Police Reform and Social Responsibility Act 2011 came into force on the 25th April 2012. The Home Office issued revised Statutory Guidance to the Act on the 25th April to reflect these changes.

2. RECOMMENDATIONS:

- 2.1 That the committee notes the proposed amendments to the Statement of Licensing Policy as summarised at Appendix A.
- 2.2 That the committee authorises the Head of Regulatory Services to carry out a minimal consultation with statutory consultees and report back to full Council without the need for this committee to receive a further report unless significant responses following consultation are received and further substantial amendments to the policy are proposed.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2003 Act. During the five year period, the policy must be kept under review and the licensing authority may make any

revisions to it as it considers appropriate.

3.2 The changes to the Licensing Act 2003 made by the Police Reform and Social Responsibility Act 2011 came into force on the 25th April 2012. The Home Office issued revised the Statutory Guidance to the Act on the 25th April to reflect these changes.

The headline changes to the Licensing Act are as follows:

- Licensing authorities as responsible authorities
- Primary Care Trusts as responsible authorities
- Abolition of interested parties
- Appropriate replaces necessary
- Temporary event notices
- Suspension of licences for non-payment of fees

3.3 In light of these changes and the revised statutory guidance it is felt appropriate to amend and update the SoLP so that it is consistent with the changes now in force. The changes proposed are minor in nature and are flagged up at Appendix A.

3.4 Because the proposed amendments are consequential upon the amended legislation and guidance, it is not deemed necessary to carry out a wide consultation but rather a simple exercise in line with the minimum statutory requirements.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 Before determining or revising its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Licensing Act. These are:

- the chief officer of police for the area;
- the fire and rescue authority for the area;
- The Primary Care Trust;
- persons/bodies representative of local holders of premises licences;
- persons/bodies representative of local holders of club premises certificates;
- persons/bodies representative of local holders of personal licences; and
- persons/bodies representative of businesses and residents in its area.

The views of all these persons/bodies listed should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies that represent all parts of industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to do so.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 Any costs associated with the recommendations in this report are being met out of existing licensing revenue budgets. There are no other direct financial implications.

Finance Officer Consulted: Name Karen Brookshaw Date: 15/06/12

Legal Implications:

- 5.2 These are set out in the report. The SoLP should follow the fundamental principles set out in the Licensing Act 2003 and the Statutory Guidance.

Lawyer Consulted: Name Rebecca Sidell Date: 11/06/12

Equalities Implications:

- 5.3 There are none arising from this report.

Sustainability Implications:

- 5.4 There are none arising from this report

Crime & Disorder Implications:

- 5.5 There are none arising from this report.

Risk and Opportunity Management Implications:

- 5.6 None identified

Public Health Implications:

- 5.7 The PCT is now a responsible authority under the Licensing Act 2003.

Corporate / Citywide Implications:

- 5.8 None identified

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 To delay amendments to policy. It was felt appropriate to make the minor changes consequential upon the legislative changes at this stage.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 The Licensing Act 2003 states that the Statement of Licensing policy must be determined by Full Council.

SUPPORTING DOCUMENTATION

Appendices:

1. A. Summary of amendments to the Statement of Licensing Policy

Documents in Members' Rooms

None

Background Documents

None

APPENDIX A

SUMMARY OF PROPOSED AMENDMENTS TO STATEMENT OF LICENSING
POLICY

Introduction page 5. 1.1 refers to DCMS change to Home Office. Also interested parties changed to "other persons".

1.4 Consultation re licensing policy – changed from 3 to 5 years.

1.4.1. Add the Primary Care Trust as a statutory consultee.

Planning context 1.10.4 – see amended 182 guidance 9.41, 13.57 and 13.58 change to " The licensing authority's preferred position is to ensure planning permission is in place before an application for a licence is made. Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers will consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs".

1.12.2 – added health bodies from S182 guidance (9.20) changed to: "The PCT is now a responsible authority under the Licensing Act and may hold information which will assist the licensing authority in the exercise of its functions. Although public health stands outside the licensing regime such information e.g. about alcohol related hospital admissions are a concern for the city's public services and are relevant to the public safety objective and that of the prevention of crime and disorder".

1.14 Delegations – see S182 guidance P113 need to add 2 further rows dealing with minor variations namely:

- (i) Decision whether to consult other responsible authorities on minor variation application – delegated to officers in all cases and
- (ii) Determination of minor variation application – delegated to officers in all cases.

2.3 May rather than will.

2.6 delete 'interested party' and replace with 'other person'

2.6.8 Delete 'interested party' and replace with 'other person'

2.8 Alcohol Disorder Zones deleted as these have been repealed.

4.6 – deleted. This duplicates first part of 3.4
7.2 delete references to necessary and replace with appropriate
Page 27 – add details for Public Health as responsible authorities and
EH as responsible authority.

**LICENSING COMMITTEE
(LICENSING ACT 2003
FUNCTIONS)**

Agenda Item 7

Brighton & Hove City Council

**Schedule of Licensing Appeals: Date of Meeting: 28th June
2012**

Premises	Appellant	PTR	Hearing	Outcome
Allsorts Newsagents 159 North Street, Brighton	Licence holder Mr Abadi	10.10.11	22 nd and 23 rd February 2012	Licensing panel decision to revoke upheld; Appeal dismissed with costs to the Council.
Dharni Stores/Food and Beverage 4U, 165 Hangleton Way Hove	Licence Holder Antonello Cavallaro/Food and Beverage 4U Ltd	10.10.11	19 th January 2012	Appeal was remitted back for re-hearing by licensing panel. Panel issued 'yellow card'.
Sweets n Things 100B Western Road Brighton	Licence Holder	13 th February 2012	1 st May 2012	Decision to revoke the licence upheld. Appeal dismissed with costs to the Council.
Tipple, 52 Queens Road, Brighton	Licence Holder	13 th February 2012	4 th May 2012	Consent Order replaced revocation with 3 month suspension.

