

# Licensing Committee (Licensing Act 2003 Functions)

Date: **25 June 2020**

Time: **3.00pm**

Venue **VIRTUAL MEETING via Skype \* Please Note:** In response to current Central Government guidance this meeting will be “virtual”, webcast live and accessible by skype. Public Speaking and engagement opportunities will be available.

Members: **Councillors:** O'Quinn (Chair), Atkinson (Deputy Chair), Deane (Opposition Spokesperson), Simson (Group Spokesperson), Appich, Bagaeen, Davis, Ebel, Fowler, Henry, Lewry, Osborne, Rainey, Wares and Williams

Contact: **Penny Jennings**  
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# AGENDA

## 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:**

- (a) Disclosable pecuniary interests
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

**(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 Two of the Agenda states in its heading 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 exempt categories is available for public inspection at Brighton and Hove Town Halls.*

## 2 MINUTES OF THE PREVIOUS MEETING

7 - 12

Minutes of the meeting held on 12 March 2020 (copy attached)

## 3 CHAIR'S COMMUNICATIONS

## 4 CALLOVER

Items (5 – 9) will be read out at the meeting and Members invited to reserve the items for consideration. Items not reserved will be

taken as having been received and the reports' recommendations agreed.

## 5 PUBLIC INVOLVEMENT

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

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on 18 June 2020;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on 18 June 2020.

## 6 MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the 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 referred from Council or submitted directly to the Committee.

## 7 REVIEW OF STATEMENT OF LICENSING POLICY 2021 - DRAFT POLICY REPORT PRE-CONSULTATION 13 - 110

Report of the Interim Executive Director, Housing, Neighbourhoods and Communities (copy attached)

**\*Please note:** That due to their size and the amount of colour diagrams included in the text the "Council's Public Health Intelligence Team Submission" (included at Appendix A) has been attached separately as Addenda.

Contact Officer: *Jim Whitelegg*  
Ward Affected: *All Wards*

Tel: 01273 292438

## 8 SCHEDULE OF APPEALS 111 - 112

Report of the Interim Executive Director, Housing, Neighbourhoods and Communities (copy attached)

## 9 SCHEDULE OF REVIEWS 113 - 114

Report of the Interim Executive Director, Housing, Neighbourhoods and Communities (copy attached)

## 10 ITEMS REFERRED FOR COUNCIL

To consider items to be submitted to Council for information.

*In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting*

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 fourth working day before the meeting.

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. Infra-red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.

### **FURTHER INFORMATION**

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

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- Do not re-enter the building until told that it is safe to do so.



**BRIGHTON & HOVE CITY COUNCIL**

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

**3.00PM 12 MARCH 2020**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors O'Quinn (Chair), Henry (Deputy Chair), Deane (Opposition Spokesperson), Simson (Group Spokesperson), Allcock, Appich, Bagaeen, Davis, Ebel, Fowler and Rainey

**Apologies:** Councillors Atkinson, Lewry, Osborne and Wares

**PART ONE**

**21 PROCEDURAL BUSINESS**

**21(a) Declarations of Substitutes**

21.1 Councillor Allcock was present in substitution for Councillor Hill. Apologies were given on behalf of Councillors, Hill, Lewry, Osborne and Wares.

**21(b) Declarations of Interest**

21.2 There were none.

**21(c) Exclusion of Press and Public**

21.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

21.4 **RESOLVED:** That the press and public not be excluded from the meeting during consideration of the items contained in part two of the agenda.

**22 MINUTES OF THE PREVIOUS MEETING**

- 22.1 **RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 28 November 2019 be agreed and signed as a correct record.

## 23 CHAIR'S COMMUNICATIONS

- 23.1 The Chair provided the following updates:

### Licensing Reviews

- 23.2 Whilst both Pride 2020 and the interim report on the review of the Statement of Licensing Policy would be discussed as part of the agenda, the Chair stated that she wanted to acknowledge the work done by both officers and members in dealing with a number of challenging licensing reviews over the last few weeks. This had culminated in an ongoing interim review of a licensed premises involved with serious disorder. The action taken by the licensing authority showed how seriously issues which undermined the licensing objectives were taken. The Chair referred to the fact that in response to a recent summary review application made by the Police under S53A of the Licensing Act 2003 that the exceptional decision had been taken to suspend the licence of a premises associated with serious disorder with immediate effect pending a full review.

### LGA Annual Licensing Conference

- 23.3 The Chair stated that she also wanted to mention that Councillor Lizzie Deane, Jim Whitelegg and herself had attended the LGA Licensing Conference in February. It had been an extremely useful and interesting day and had served to highlight the trail blazing policies and initiatives which were in place in the city, that were only just being adopted elsewhere in the country, such as mapping of crime statistics linked with alcohol in an area, hospital admissions etc., right down to the street an incident had occurred in, she wished to place on record her thanks to the team that provided that information. That said it had been useful to learn from similar health related licensing schemes and best practice initiatives. It had also been useful to see that some towns and cities were trying to encourage non-alcohol events, premises in their city centres.

### Members Training

- 23.4 Members Training had taken place in February and had included a session on the licensing application process, decision making, making representations and the hearing protocol, as well as looking at our special policy on cumulative impact. The training session had been well attended and lots of questions had been asked. Jim Whitelegg and Rebecca Sidell were thanked for organising the event and for their presentations on the day.
- 23.5 **RESOLVED** – That the content of the Chair's Communications be noted and received.

## 24 CALLOVER

- 24.1 All items on the agenda were called for discussion.

## 25 PUBLIC INVOLVEMENT



**25(a) Petitions**

25.1 There were none.

**25(b) Written Questions**

25.2 There were none.

**25(c) Deputations**

25.3 There were none.

**26 MEMBER INVOLVEMENT****26(a) Petitions**

26.1 There were none.

**26(b) Written Questions**

26.2 There were none.

**26(c) Letters**

26.3 There were none.

**26(d) Notices of Motion**

26.4 There were none.

**27 PRESENTATION: PRIDE VILLAGE PARTY**

27. The Operations Manager for Pride, Jayne Babb gave a presentation outlining the arrangements which were being put into place for the 2020 Pride Festival which included the Pride Village Party in

**27.2 RESOLVED** – That the contents of the presentation be received and noted.

**28 REVIEW OF STATEMENT OF LICENSING POLICY 2021 - INTERIM REPORT**

28.1 The Committee considered an interim report of the Executive Director, Housing, Neighbourhoods and Communities providing a Review of the Statement of Licensing Policy recommending that a further report be provided to the next scheduled meeting of the Committee in June 2020 with an updated SoLP for approval for statutory and public consultation.

28.2 It was explained that the Council as Licensing Authority had a statutory duty to review its SoLP every five years. The current policy had been adopted by Full Council in March

2016 and revised in March 2019 and it was a requirement that the policy should be kept under review and that the Council as a licensing authority must carry out a consultation exercise prior to any review of its Licensing Policy.

- 28.3 The cumulative impact policy zone (CIZ) and special stress area (SSA) had been introduced in 2008 and expanded in 2011 with the SSA being extended into central Hove in 2019. A review looking at extending up London Road and Lewes Road had taken place in 2014 but had found no evidence to justify such an expansion.
- 28.4 The Chair, Councillor O'Quinn welcomed the report stating that it was timely that a review to be undertaken, considering that it would be appropriate to consider whether the Marina area should be included. The Deputy Chair, Councillor Henry agreed stating that since the SoLP had been first drawn up the population density of some parts of the city had changed dramatically for instance the potential impact caused by housing developments associated with the Preston Barracks site in Brighton and the Sackville Road site in Hove needed to be factored in when considering whether/what changes might be needed going forward.
- 28.4 Councillor Wares was in agreement that it would be appropriate to carry out a review and that the perspective and observations of the Police should also be factored in, it was important to make an informed decision when deciding whether or not to amend the existing arrangements.
- 28.5 Councillor Bagaeeen considered that it was important to provide a context to the maps included with the report. Councillor Deane considered that it would be helpful to provide greater clarification of the any areas where there appeared to be anomalies or blips and background to that data.
- 28.6 Councillor Simson stated that in the past the SoLP had differentiated between premises located in local shopping parades and elsewhere. That differentiation had been removed by a subsequent review but she considered that it might be appropriate for that to be revisited and to consider whether it should be re-included.
- 28.7 **RESOLVED** – (1) Officers to continue to carry out work to review the Statement of Licensing Policy (SoLP); and
- (2) Officers to report back to the June 2020 Committee with an updated draft SoLP for statutory and public consultation document.

## 29 SCHEDULE OF APPEALS

- 29.1 The Committee considered a schedule prepared on behalf of the Executive Lead of Strategy, Governance and Law covering the period since the last meeting of the Committee.
- 29.2 **RESOLVED** – That the contents of the report be noted.

## 30 SCHEDULE OF REVIEWS

30.1 The Committee considered a schedule prepared on behalf of the Executive Director, Housing Neighbourhoods and Communities covering the period since the last meeting of the Committee.

30.2 **RESOLVED** – That the contents of the report be noted.

**31 ITEMS REFERRED FOR COUNCIL**

31.1 There were none.

The meeting concluded at 5.55pm

Signed

Chairman

Dated this

day of



# LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

**Agenda Item 7**  
Brighton & Hove City Council

<b>Subject:</b>	<b>Review of Statement of Licensing Policy 2021 – pre-consultation of revised policy</b>		
<b>Date of Meeting:</b>	<b>25 June 2020</b>		
<b>Report of:</b>	<b>Executive Director of Housing, Neighbourhoods &amp; Communities</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jim Whitelegg</b>	<b>Tel: 01273 292438</b>
	<b>E-mail:</b>	<a href="mailto:Jim.whitelegg@brighton-hove.gov.uk">Jim.whitelegg@brighton-hove.gov.uk</a>	
<b>Wards Affected:</b>	All		

## FOR GENERAL RELEASE

### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Council, as Licensing Authority, has a statutory duty to review and publish its Statement of Licensing Policy (SoLP) every five years. The current policy was adopted on 24 March 2016 by Full Council and revised in March 2019. The policy should be kept under review.
- 1.2 The cumulative impact policy, zone (CIZ) and special stress area (SSA) were introduced in 2008 and expanded in 2011. The SSA was further expanded into central Hove in 2019. A review looking at expanding the CIZ up London Road and Lewes Road was carried out in 2014 but found no evidence to justify the expansion so the special policy retained as existing.
- 1.3 S141 of the Policing and Criminal Act 2017 came into force on 6 April 2018 and gave cumulative impact assessments (CIAs) a statutory basis in the Licensing Act 2003. A policy must take into account any CIAs that an authority has published under 5A of the Act.
- 1.4 The Council, as a licensing authority must carry out a consultation exercise prior to any review of its Licensing Policy (Section 5(3) of the 2003 Act).
- 1.5 On 12 March 2020 the Licensing Committee considered an interim report looking at areas to consider in review the SoLP. This was followed by a Members workshop, via skype, on the 15<sup>th</sup> April 2020 with officers to further explore the themes and areas for consideration.
- 1.6 Members asked officers to submit a report to the following committee in June on reviewing the Council's Statement of Licensing Policy looking at a number of areas details in section 3.

## 2. RECOMMENDATIONS:

To authorise officers to initiate consultation regarding a review of the Statement of Licensing Policy, including the following proposals to consult on (please note, more detail and background on these proposals is contained in section 3 of this report):

- 2.1 Maintain the current cumulative impact policy and zone as explained in the draft CIA to follow.
- 2.2 Expand the Special Stress Area (SSA) to cover Preston Road and Beaconsfield Road (up to Stanford Avenue).
- 2.3 Consider including Marina into “Other areas” of the Matrix to reflect the increased number of residential properties.
- 2.4. To amend the “Café” category of the Matrix by reducing the terminal time for the sale of alcohol from midnight to 10pm within the SSA and “other areas”, in line with the cumulative impact zone.
- 2.5 Shopping parades - Amend note 8 of the Matrix to *“In an area where there are already several existing off-licences or where the premises is situated within a parade with another off licence and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds or restrictions placed on the terminal hour to reflect opening hours of other shops in the parade.”*
- 2.6 Alcohol in shared workspaces - Amend note 10 of the Matrix to clarify that *“non-alcohol led category does not include “alcohol in shared workplaces”. These type of premises are considered unique. It is recommended that sale of alcohol in shared workspaces should have a terminal hour of no later than 10pm. For further advice and guidance on “alcohol in shared workplaces” please see paragraphs 3.3.5-3.3.7 (see Appendix C).*
- 2.7 Shadow Licences – add a new section to revised policy with advice, guidance and possible conditions. Please see section 3.10 in Appendix C.
- 2.8 Alcohol Delivery – amend the Off Licence section 3.5.5-3.5.8 of the revised policy with suggested conditions in Appendix C.
- 2.9 Update out of date/irrelevant data, legislation and text, update night time economy safeguarding initiatives (see section 3.4 of the revised Statement of Licensing Policy contained in Appendix D).

## 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 With the introduction of Cumulative Impact Assessments the licensing authority must review the existing special policy and Cumulative Impact Zone and publish a cumulative impact assessment (CIA) along with the evidence underpinning it for consultation. A copy of the draft CIA is contained in **Appendix A**.

3.2 The Police and the Council's Public Health Intelligence Analyst have provided extensive evidence of alcohol related crime and health data relating to the special policy areas and citywide. Both sets of evidence show clear city centre hot spots all sitting within the cumulative impact zone and supports maintaining these boundaries. The Police and Public Health Intelligence submission with maps and data analysis can be found in Appendix A.

3.3 Proposals for amendment and consultation are as follows:

- (i) Expanding the **Special Stress Area (SSA)** to cover Preston Road and Beaconsfield Road (up to Stanford Avenue) to reflect the number of licensed premises in Preston Road and Beaconsfield Road, north of Preston Circus and the evidence from Public Health framework document. The proposed extension includes commercial parades with residential above north of Preston Circus along these two arterial routes in and out of the city including a significant number of licenced premises. The SSA is defined as an area of concern to be monitored for levels of public nuisance and anti-social behaviour (ASB). Applications in the SSA are expected to have a robust operating schedule with appropriate conditions. Unlike the CIZ there is no presumption of refusal. A map and supporting evidence for the extension of the SSA can be found in **Appendix B**.

The key changes to the **matrix, paragraphs and suggested conditions** within the policy are summarised within **Appendix C** and a copy of the **full revised Policy** is contained **Appendix D**.

- (ii) Consider including **Marina** into "Other areas" of the Matrix to reflect the increased number of residential properties.
- (iii) **Shopping parades** (please see amended note 8 paragraph 3.3.2 in Appendix C) – to recognise the cumulative impact on the local area of more than one off licence in a parade of shops surrounded by residential accommodation it is proposed to strengthen the notes to the matrix. There is an obvious disconnect in where alcohol is sold for off consumption and any subsequent nuisance or crime and disorder. Causality of alcohol sale, consumption, nuisance and impact is difficult to link back to the place where alcohol is purchased and consumed.

The City experiences local problems and local trends such as pre & post-loading, binge drinking and street drinking created by cheap alcohol and fierce, localised price competition, particularly between off-licence stores and supermarkets.

- (iv) "**Alcohol in shared workplace**" - an informative report was considered before the licensing committee in March 2019. A shared workplace or shared workspace can be defined by being a building that has been converted into office space, which is operated overall by one company that rents workspace to many different entrepreneurs and small businesses. Its general offering is of hot-desk working, meeting spaces, single or team desk hire and/or private office space, etc., usually to freelance workers and/or small or medium

businesses who do not want to rent offices of their own. Customers who rent such office spaces are often termed ‘members’ of the applicant companies, however this term is not the same as members of clubs operating under a Club Premises Certificate.

It is recognised that there is a demand for flexible workspace across the UK, particularly in Brighton & Hove, where there is a high proportion of start-ups and one of the UK’s largest homeworker population. Where alcohol is supplied to “members” a premises licence is likely to be required. Whilst there is no evidence to suggest that Local Authorities have encountered issues with these licences, it’s important to acknowledge the potential negative impact alcohol can have on the workplace and to individuals. It will be important to restrict public access to such premises and to ensure that the licensed area on the premises is clearly defined in order to prevent consumption of alcohol throughout a large office premises.

It is proposed to add clarity to the notes of the matrix (see amended note 10 para 3.3.2 in Appendix C) and guidance. And in order to promote the licensing objectives, the Licensing Authority or applicant may consider the following conditions for shared workspaces detailed in Annex A of Appendix C of this committee report.

- (v) **Off Licences** – as well as the existing advice given in paragraph 3.5 of the Policy, we are proposing to add additional paragraphs addressing the concerns around the delivery of alcohol off the premises as well as a number of conditions for the licensing authority to consider when addressing applications that include delivery. These can be found in the Off Licence section 3.5.5-3.5.8 of Appendix C with suggested conditions in Annex A.
  - (vi) **Shadow licences** – the licensing team are seeing more applications for shadow licences as landlords look to protect the premises licence where a tenant goes insolvent or surrenders the licence. As such we have included some clarity and guidance within the policy which can be seen in Appendix C, section 3.10.
  - (vii) **Substantial food** – we considered trying to provide further clarity to what constitutes substantial food but felt it was too difficult to define, and it would be better to have flexibility and deal with each case on its own merits. However, we have added the licensing authority shall judge each case on its own merits but as a general rule, a bowl of crisps, nuts, or olives does not constitute substantial food.
- 3.4 Any changes to policy should be evidenced based and for good reasons grounded in the licensing objectives. A revised copy of the Statement of Licensing Policy 2021 (SoLP) is contained in Appendix C.



3.5 **Consultation** - National Guidance states at 13.4 that before determining its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- The chief officer of police for the area
- The fire and rescue authority for the area
- The local authority's Director of Public Health in England
- Persons/bodies representative of local premises licence holders
- Persons/bodies representative of local club premises certificate holders
- Persons/bodies representative of local personal licence holders; and
- Persons/bodies representative of businesses and residents in its area.

Consultation will be undertaken with these statutory consultees and more generally via the council's on-line consultation portal, Licensing website, Licensing Strategy Group, the city LATs (Local Action Teams), residents associations and community associations, Business Improvement District (BID), Brighton & Hove Economic Partnership, Brilliant Brighton, other Council services including Tourism, Events Office, Seafront Office (including Seafront Trader Association), Trading Standards, Legal and Finance.

#### 4. **FINANCIAL & OTHER IMPLICATIONS:**

##### 4.1 Financial Implications:

There are no financial implications arising from the recommendations made in this report. The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally by government.

Finance Officer Consulted: Michael Bentley

Date: 20/05/20

##### 4.2 Legal Implications:

These are set out in the report. The SoLP should follow the fundamental principles set out in the Licensing Act 2003 and statutory guidance. Following the consultation exercise, the views of all those persons or bodies should be given appropriate weight when determining the policy. The new requirement to publish a Cumulative Impact Assessment and the evidence underpinning it is significant. Revisions made to the policy without evidential basis are likely to be vulnerable to challenge.

Lawyer Consulted: Rebecca Sidell

Date: 22/05/20

##### 4.3 Equalities Implications:

An Equality Impact Assessment will be completed as part of the policy review process to assess if there is any adverse impact on a particular group.

##### 4.4 Sustainability Implications:

Licensed premises throughout the city rely on local licensing policies in ensuring there is clear guidance on the continued operation of local businesses. Maintaining a regularly reviewed policy, which has undergone public consultation, will ensure a consistency of support to licensed premises, members of the public and other stakeholders affected by these activities.

#### 4.5 Crime & Disorder Implications:

CIA proposals are geographically based around evidence of crime and disorder, etc. and should assist in the council's overall aim in reducing current levels. The Special Policy promotes the four licensing objectives: public safety, the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

#### 4.6 Risk and Opportunity Management Implications:

Failure to meet this statutory duty would lead to uncertainties in decision making, loss of business continuity and an inability to meet customer care standards.

#### 4.7 Corporate / Citywide Implications:

The policy promotes the licensing objectives and sets out a general approach to making licensing decisions. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this Special Policy is framed around those objectives.

Proposals for new licensed premises, or for certain variations to existing ones, within a CIA will normally be refused following relevant representations unless it can be demonstrated that there will be no negative cumulative impact.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

**Appendix A** – Draft Cumulative Impact Assessment including police and public health data analysis, maps and commentary regarding special policy

- Police's submission
- Council's Public Health Intelligence Team submission

#### Licensed premises maps

- 1. PH Licensing commentary
- 2. All alcohol licences – citywide
- 3. Both on and off sales – citywide
- 4. Off sale only – citywide
- 5. On sale only – citywide
- 6. CIZ, SSA and all alcohol licences
- 7. CIZ, SSA and both on and off licences
- 8. CIZ, SSA and off-licences
- 9. CIZ, SSA and on-licences
- 10. Supported accommodation, mental health services, substance misuse treatment centres and off-licences (point map)
- 11. Count of off-licences, supported accommodation, mental health services, and substance misuse treatment centres (thematic map)

#### Crime and disorder hotspot maps

- 12. Violence against the person not in a dwelling 2018/19
- 13. Violence against the person not in a dwelling 2018/19 with CIZ and SSA boundary
- 14. Violence against the person not in a dwelling 2016/17 for comparison
- 15. Criminal damage 2018/19
- 16. Criminal damage 2018/19 with CIZ and SSA boundary
- 17. Criminal damage 2016/17 for comparison
  
- 18. Noise complaints against licensed premises April 2016 – March 2019
- 19. Noise complaints against licensed premises April 2016 – March 2019 with CIZ and SSA boundary

#### Health data maps

- 20. Clients in alcohol treatment by ward 2018/19

#### Other:

- 21. SSA proposed extension (city wide)
- 22. SSA proposed extension (close up)
- 23. CIZ and SSA
- 24. CIZ only

**Appendix B** – Map and supporting evidence for the extension of the SSA

**Appendix C** – Summary of Amended Matrix/notes, paragraphs & conditions

**Appendix D** - Revised copy of the Statement of Licensing Policy 2021, including following amendments:

- Revised Matrix and notes
- Shopping Parades
- Alcohol in Shared Workplaces
- Shadow Licences
- Off licences – deliveries

### **Documents in Members' Rooms**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016 as amended 24th March 2016.

Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018.

### **Background Documents**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016 as amended 24th March 2016.

## **Appendix A**

### **Draft Cumulative Impact Assessment (CIA) for Consultation.**

#### **Background.**

The concept of Cumulative Impact has been described in the Home Office Guidance to the Licensing Act 2003 since the commencement of that Act. Cumulative Impact is defined as the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

In some areas where the number, type or density of licensed premises such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance, crime and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport. These conditions are more likely to arise in city centres.

This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is therefore a matter for the market to decide and can, in some circumstances, be a matter for planning consideration; need therefore does not form part of this CIA.

CIA's were introduced into the Licensing Act 2003, and thus given a statutory footing, by the Policing and Crime Act 2017 with effect from 6 April 2018. A CIA may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives.

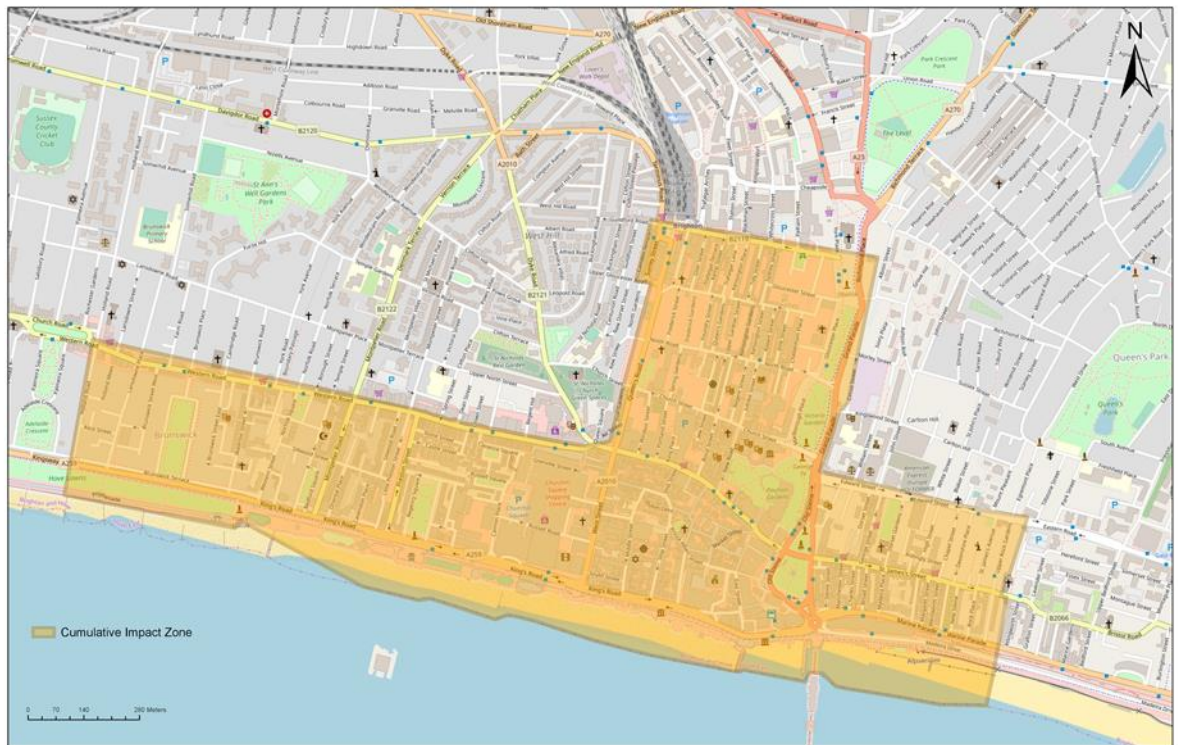
#### **Cumulative impact in Brighton & Hove – Special Policy.**

The licensing authority, after careful consideration, determined that the concentration of licensed premises in an area of the city centre was causing problems of crime and disorder and public nuisance, and that therefore an approach to 'Cumulative Impact' was necessary as part of its statement of licensing policy. The first Special Policy incorporating a Cumulative Impact Zone (CIZ) and Special Stress Areas (SSA's) was adopted in March 2008. Since that date, the licensing authority has kept the CIZ and SSA's under review. On 15 December 2011 Full Council resolved to expand the CIZ and the special stress area, covering 1.5% of the administrative area of Brighton & Hove City Council. On 20<sup>th</sup> November 2014 Licensing Committee resolved to confirm the current CIZ and SSA as defined in the current Statement of Licensing Policy. On the 29<sup>th</sup> November 2018 Licensing Committee resolved to expand the SSA into Central Hove.

## Appendix A

This CIA incorporating the special policy will refer to a Cumulative Impact Zone (“the CIZ”) in the Brighton city centre, a detailed plan of which is shown below:

Cumulative Impact Zone, January 2020



Brighton & Hove Public Health Intelligence, 2020  
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The Cumulative Impact Zone comprises the area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Holland Road to the junction with the west side of Dyke Road at its eastern end; from there, north-east to the junction of the north side of Air Street with the west side of Queens Road and then northward to the north-west corner of Surrey Street junction with Queens Road; thence along the north side of Trafalgar Street eastwards to its junction with York Place and continuing south-east across to Grand Parade, then south to the junction of Edward Street; along the north side of Edward Street to the east side of its junction with Egremont Place and southward along the eastern sides of Upper Rock Gardens and Lower Rock Gardens; southward to the mean water mark and following the mean water line westward to a point due south of the west boundary of Holland Road; northward to that point and along the west side of Holland Road to its northwest boundary and then diagonally across Western Road to its intersection with the west side of Holland Road.

## Appendix A

### **The CIA and special policy.**

The Licensing Authority continues to consider that the number of licensed premises in the CIZ is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives.

This CIA and special policy is thus setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the CIZ.

The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact/ will not add to cumulative impact.

This special policy also applies to all new premises licences and club premises certificates, for example pubs, restaurants and take-away establishments. Off licences also come within this policy as they can contribute to problems of street drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.

The presumption of refusal does not relieve responsible authorities or other persons of the need to make a relevant representation. If there are no representations, the licensing authority must grant the application in terms consistent with the operating schedule submitted.

Furthermore, this special policy is not absolute. Upon receipt of a relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in the light of the individual circumstances of the case. If an application is unlikely to add to the cumulative impact of the area, it may be granted. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant, theatre or live music venue (where alcohol is not the primary activity) may be considered exceptional circumstances. The fact that a premises will be/is exceptionally well managed with a well-qualified applicant, or that there are no residential premises nearby, will not be considered exceptional. Applications for premises within the CIZ should give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives.

The Matrix approach: The licensing authority has published within its statement of licensing policy a framework of what types of premises it would like to see in the CIZ and which it believes are less likely to add to problems of cumulative impact in the

## **Appendix A**

area. Such premises include a restaurant until midnight, a café to 10 pm and favourable consideration to non-alcohol led premises such as theatres.

If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that conditions would be ineffective in preventing the problems involved.

### **Evidence and support for the CIA, special policy and CIZ**

Since it was first introduced in 2008 the Special policy has had widespread support from the responsible authorities – police and licensing authority, from residents and residents associations and from local councillors. Successive reviews of the policy have shown that it remains relevant and necessary. For residents the areas within the CIZ of most concern are the North Laine, St James’s Street and the Norfolk Square and Brunswick areas. The North Laine Community Association (NLCA) has consistently put forward evidence at Licensing Panels about the impact that the increase in licensed premises in this area has had on the licensing objectives notably that of prevention of public nuisance and Crime and Disorder. Likewise Kingscliffe Society representing St James’ Street residents has consistently made representations as have residents in the Norfolk Square and Brunswick area.

For the purposes of this CIA the police have compiled a report to support the continuation of the current special policy. The report highlights the policing challenges of the night time economy and the work of the special task force ‘Operation Marble’. This is attached as **appendix A.**

The public health team at the Council has provided evidence in a series of maps to illustrate the number and types of premises and associated crime and disorder. This is attached at **appendix A.**

Further evidence – looking at including some statistics from the licensing team about representations to panels.



## Appendix A

### Sussex Police Summary for Proposed Cumulative Impact Policy 2021

#### Operation Marble

Due to the large concentration of licensed premises and night clubs in the centre of Brighton, a high proportion of the Division's violent crime and serious sexual offences are committed within a relatively small area. The Division receives a large influx of visitors to the city centre at weekends. Many of these people attend the pubs and night-clubs during night time hours and as a result an enhanced policing operation is provided, called Op Marble. Traditionally this ran from 2100hrs through to 0400hrs on a Friday and Saturday night but since a review in 2017 has run from 20:00 to 06:00 between 1<sup>st</sup> May and 30<sup>th</sup> September. This was in response to pressures from the Night Time Economy as pubs and clubs remained open later and increases in crimes in the earlier hours of the morning. The emphasis of Op Marble is a highly visible presence of officers deployed on foot as well as focus on regularly updated hot spots to help reduce the risk of violent crimes. Recent data analysis (as shown below) has confirmed that these hot spots fall within the CIZ and extend out into the SSA.

In recent years, Police have seen some changes to the patterns of the Night Time economy. Halloween is now a significant event in the calendar and so there are a number of standalone operations such as the Halloween weekend, Bank Holidays, New Year's Eve and Pride in order to reduce risk with an adjusted Police presence/response. In the run up to Christmas, additional resources are at times deployed during the end of week to monitor Christmas Parties.

Op Marble covers an area between Preston Street to the West – The Level to the North – Kemptown to the East and the seafront between West Pier and Concorde 2 to the South. This covers the majority of the Cumulative Impact Zone and is regularly under review to ensure that limited Police resources are being used to their optimum.

#### Hotspot Maps and Police analysis to support continuation of the current footprint of CIZ and SSA within the new Cumulative Impact Assessment that is being formulated.

As part of Operation Marble (Sussex Police response/policing of the Night Time Economy) several pieces of work have been carried out to identify where serious violent crimes hotspots are – both within the time period of Op Marble and outside the time period of Op Marble.

The Op Marble times are as follows:

**Friday** 20:00 – 00:00

**Saturday** 00:01 – 06:00 and 20:00 – 00:00

**Sunday** 00:01 – 06:00

**Total hours:** 20

As of 5<sup>th</sup> May 2020, there were two data sets that have been examined. The first being the period from 01/06/2019 until 15/10/2019 (so the Summer months) and a second period covering 01/01/2020 until 31/03/2020 (winter months). The two periods offer an opportunity for comparison and analysis relating to hot spots and trends in the city centre and beyond.

The scope for 'serious violent crimes' includes crimes categorised as ABH and above, including but not limited to, sexual assault, serious sexual assault, knife crime, robbery. It is also of note that

incidents of domestic assault and domestic violence has been excluded from the Marble time data but included within the non-Marble time data.

***'A caveat to be mentioned– the results collected depend on the accuracy of the individuals recording and updating information onto police systems. The searches will only bring back results if they are there.'***

A number of maps can be used to demonstrate what these hot spots look like and how the CIZ and SSA relate to these. During the summer months, the hot spot for serious violence offences outside the Op Marble times is still focused within the city centre as can be seen in Map 1. The highest affected area can be seen around North Street and Bond Street area, which is the very heart and centre of the CIZ area. Within the Marble timings (Maps 3 and 5) this hot spot for serious violence offences shifts South to the seafront, West Street, Middle Street and North Street where it is known there is a high density of licensed premises. The seafront and West Street in particular have a number of late night opening clubs and bars.

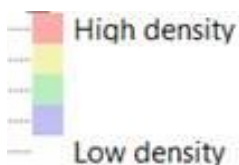
During the winter months, we see a similarly located hot spot for outside the Op Marble times (Map 2), with the focus slightly shifted to encompass West Street, North Street and Boyce's Street as well as the northern ends of Ship Street and Middle Street. Western Road has also been identified as a high harm area. Within the Marble timings (Maps 4 and 6) the highest area for harm is again the very heart of the city with the very centre of the red area being North Street/West Street extending south to beyond the seafront and north to above Gloucester Road.

These hotspot maps support the current location and boundaries of the CIZ and SSA as they can be seen to encompass the violent crime hotspots both within the night time economy timings (Op Marble) and outside of them e.g. day time during the week.

### Key to Maps

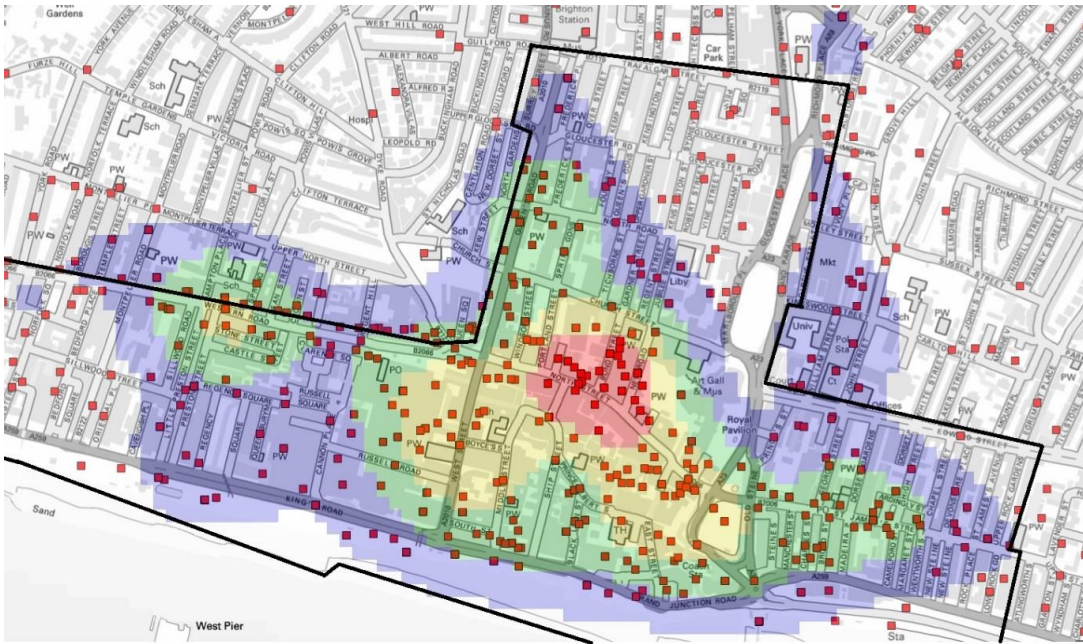
The red squares represent an individual event of crime during the time period mentioned. So each red square = one serious violent crime.

The colours overlaid on the maps represent crime number density as follows:

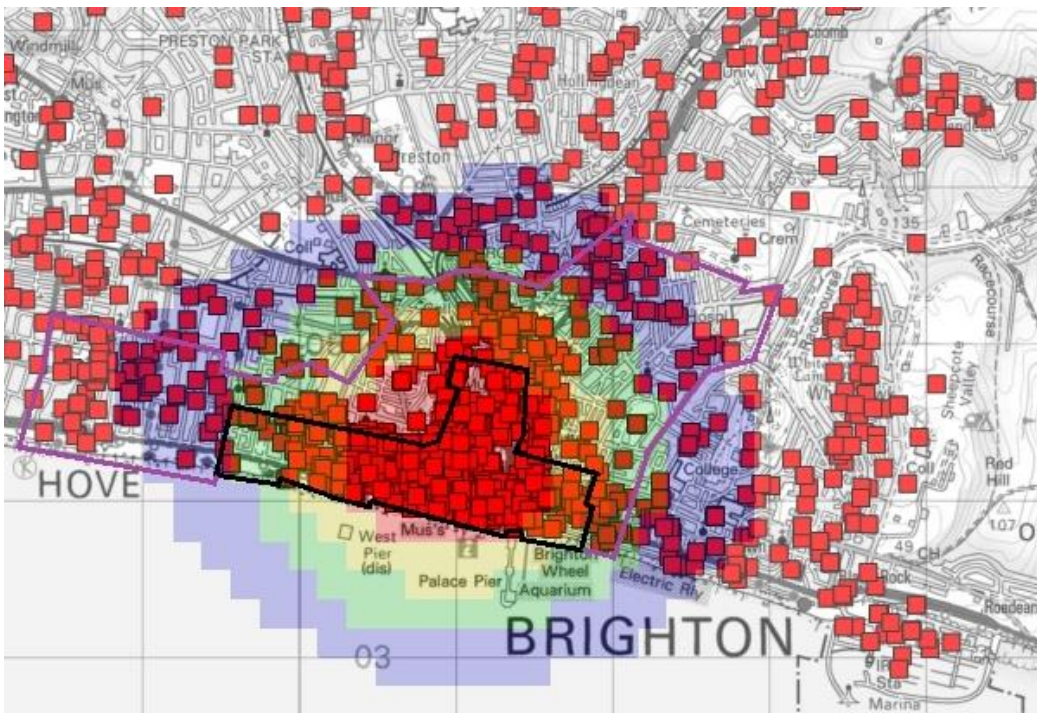


The current footprint of the CIZ is shown with a thick black line and the SSA with a thick purple line. Please note these maps are not to an exact scale and are used for illustrative purposes only.

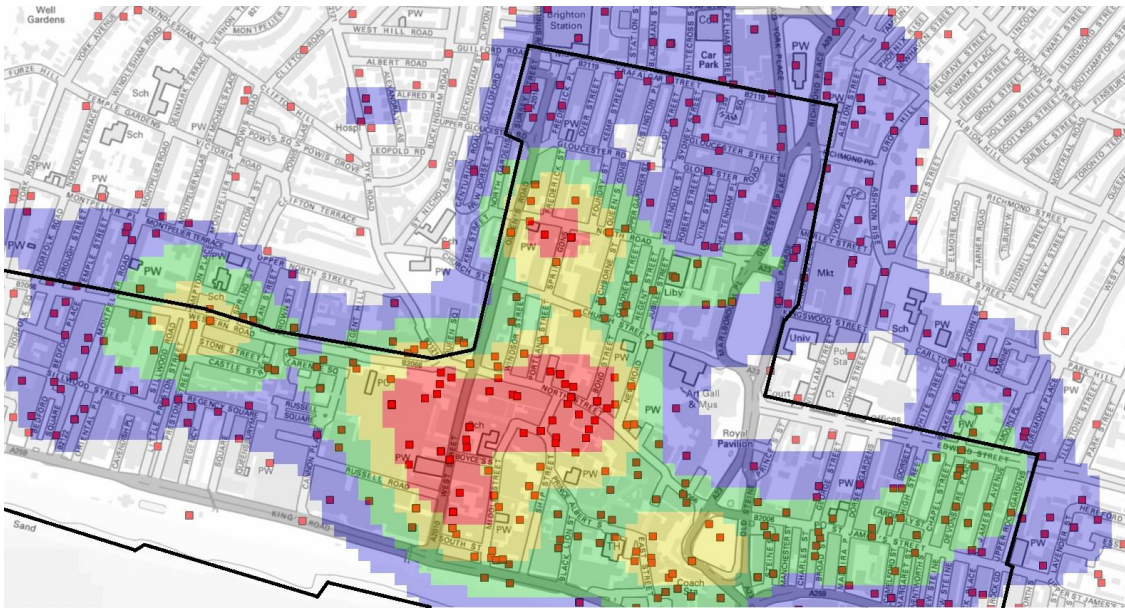
**Map 1a: 01/06/2019 – 15/10/2019 Outside of Marble Time Data:**



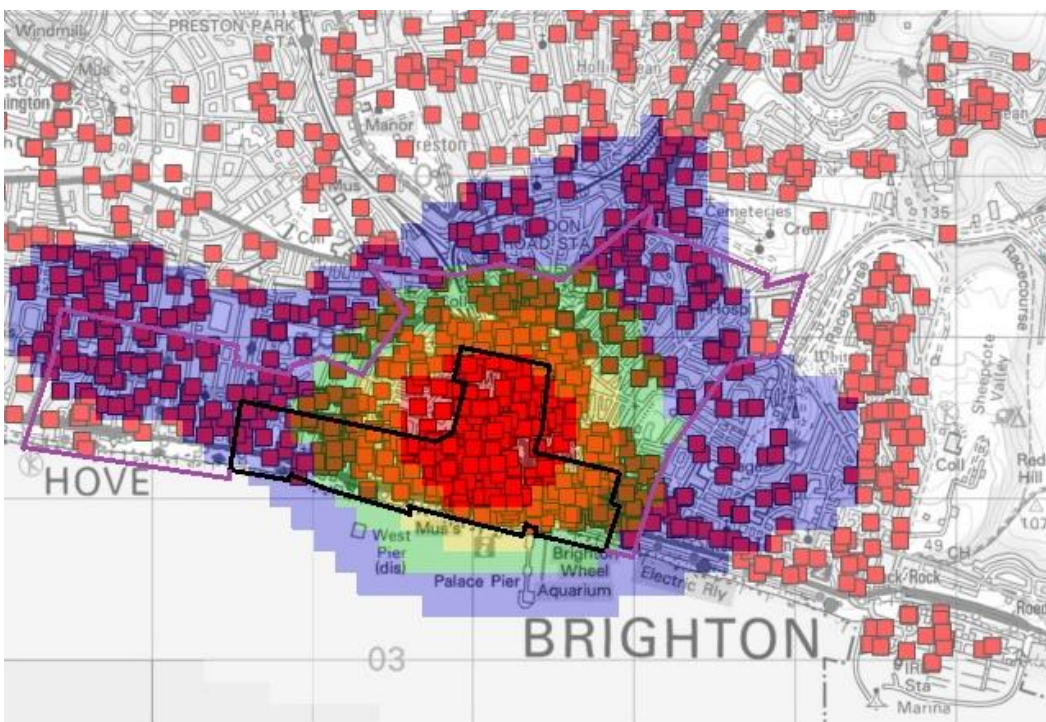
**Map 1b: 01/06/2019 – 15/10/2019 Outside of Marble Time Data (City Wide):**



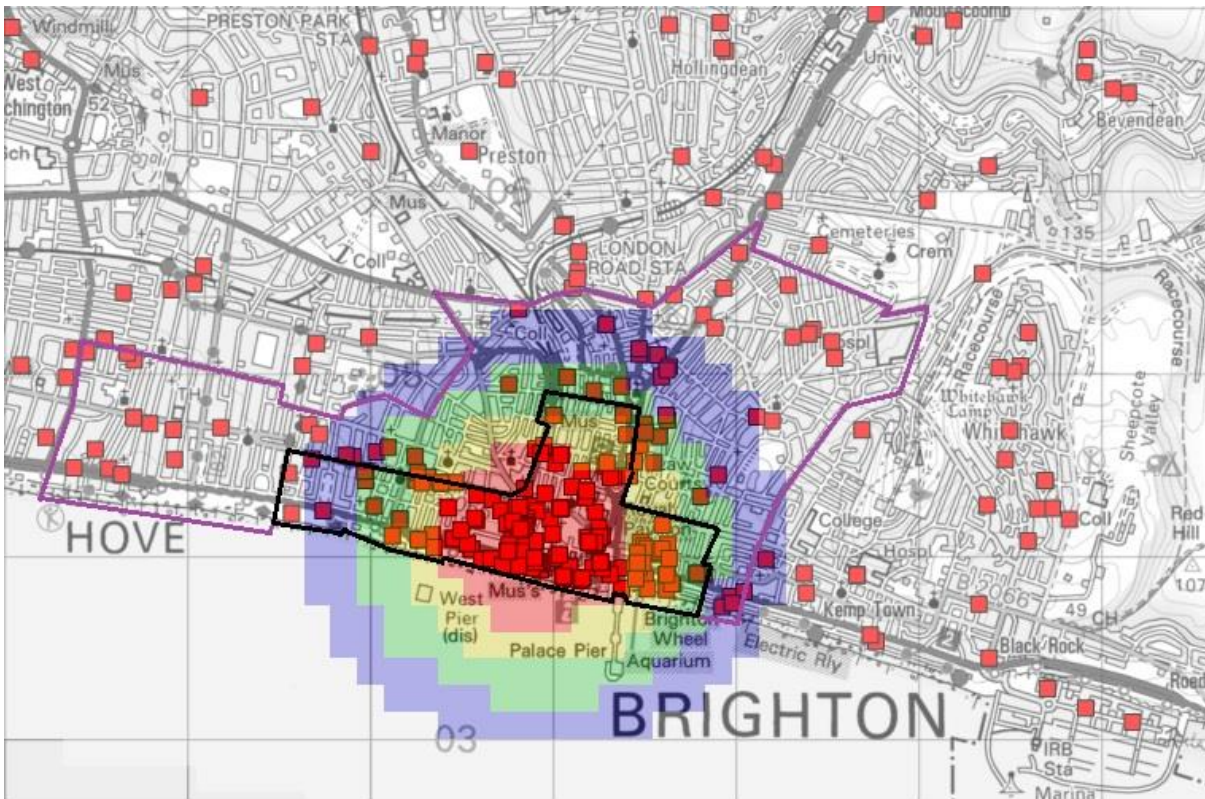
**Map 2a: 01/01/2020 – 31/03/2020 Outside of Marble Time Data:**



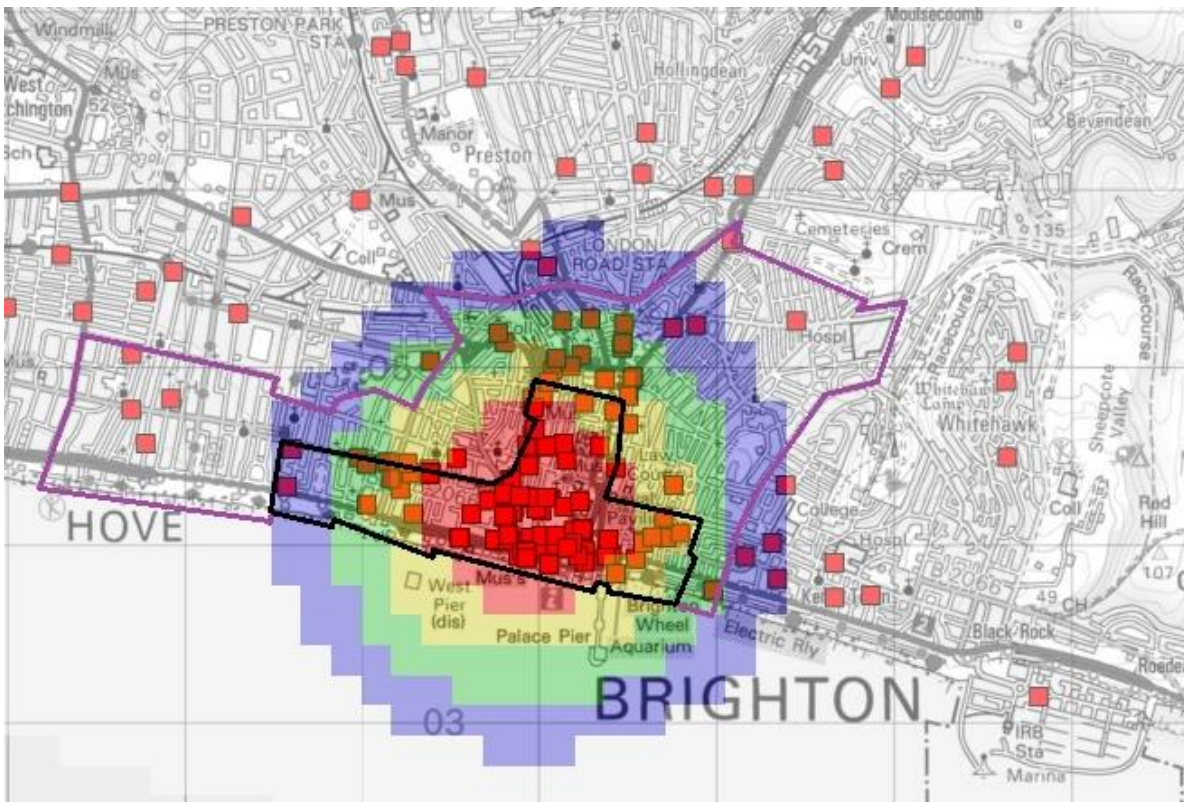
**Map 2b: 01/01/2020 – 31/03/2020 Outside of Marble Time Data (City Wide):**



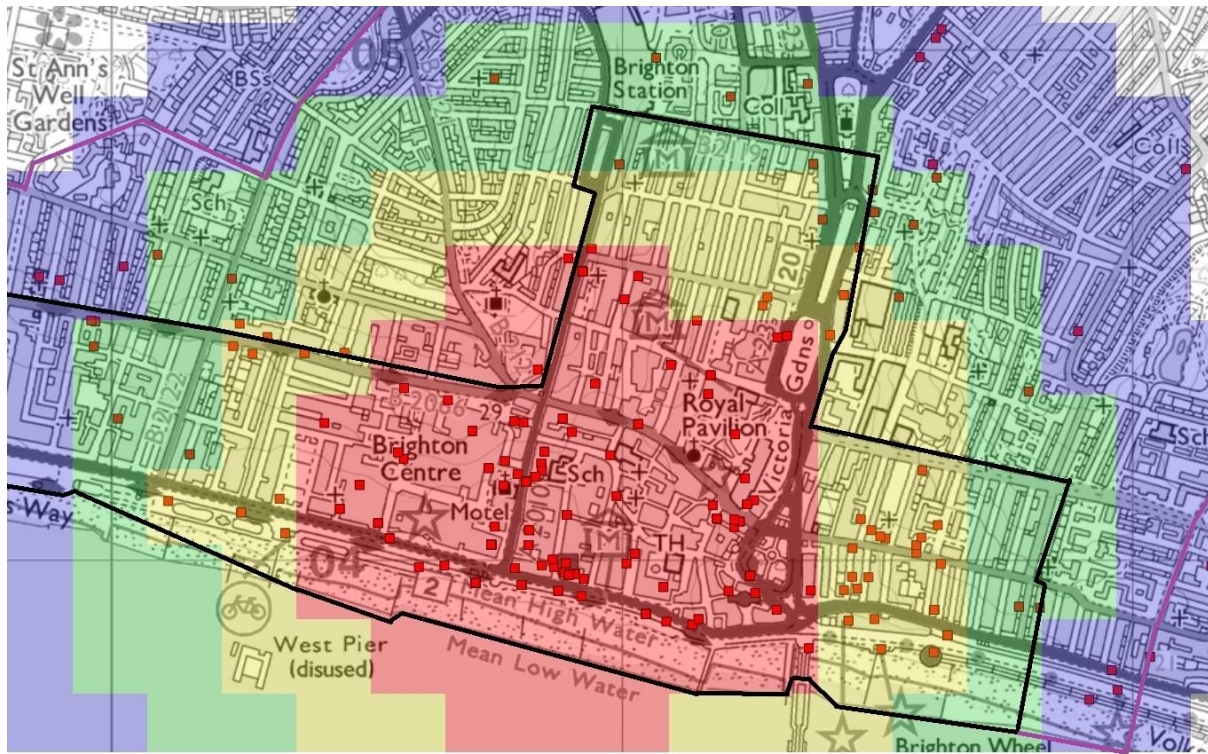
**Map 3: 01/06/2019 – 15/10/2019 Marble Time Frame Data:**



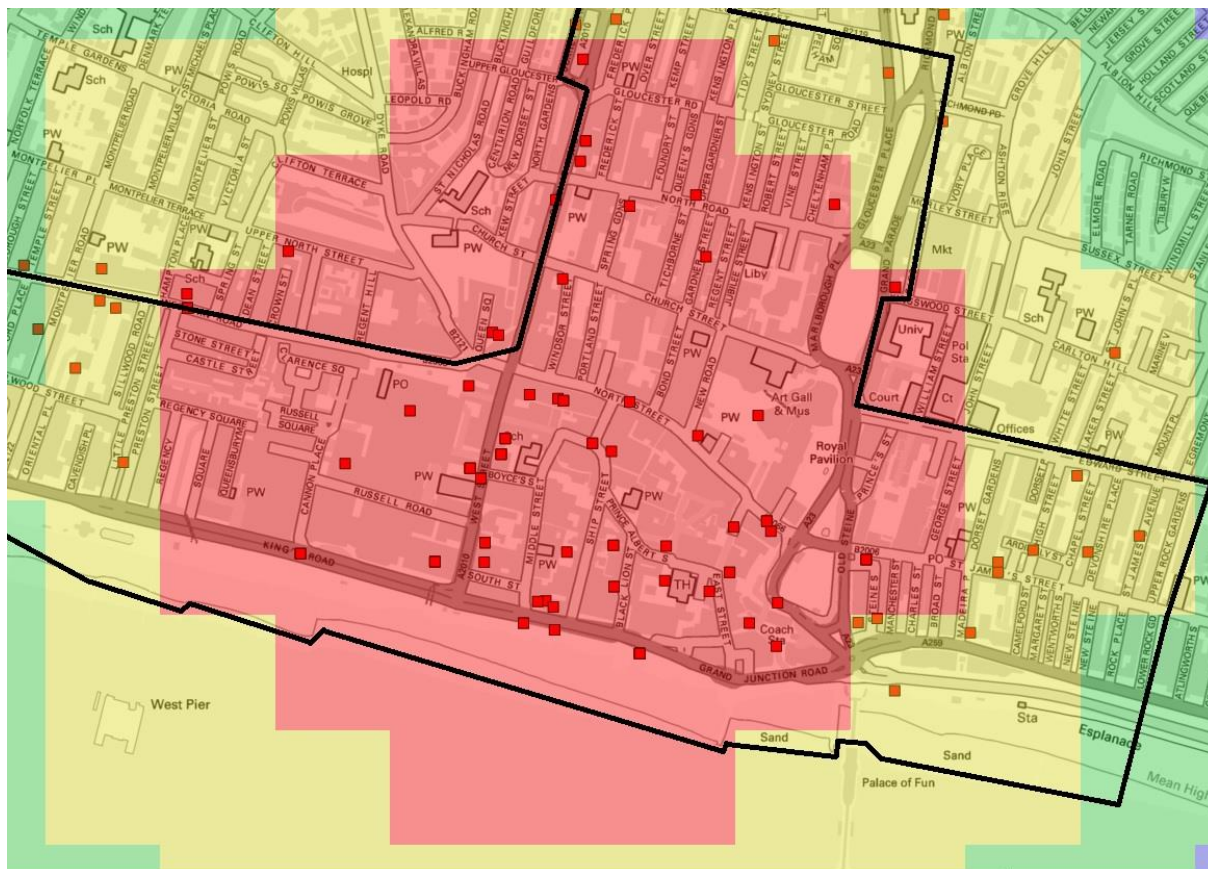
**Map 4: 01/01/2020 – 31/03/2020 Marble Time Frame Data:**



**Map 5: 01/06/2019 – 15/10/2019 Marble Time Frame Data (close up):**



**Map 6: 01/01/2020 – 31/03/2020 Marble Time Frame Data (close up):**



## Timings and the Matrix Approach

There continues to be an increasing demand for Police resources further into the early hours of the morning with the highest concentration of crimes occurring between 21:00 and 06:00 on a Friday into a Saturday and between 20:00 and 06:00 on a Saturday night into a Sunday during the summer months (Data Set 1). This summer data also shows that up to 80% of arrests made in the Marble timeframe 20:00 – 06:00 on these days were affected by alcohol.

The winter months (Data Set 2) show a slightly different trend, likely affected by both colder, wetter weather and then the onset of Covid-19. The hours where the highest proportion of violent crimes are the early hours of 00:00 – 01:00 across the week. This is a common time for many feeder pubs/bars to close so individuals choose to head home or move onto another later night venue. Brighton & Hove is also a University town and the student population will have an impact on the midweek figures due to student nights and other student focused events. The links to alcohol in the winter data is broken down as follows:

**52.3%** of individuals were affected by alcohol and/or drugs

**45.5%** were recorded as 'not known'

**2.1%** were recorded as 'not affected'

It is important to note however that the data drawn from Police systems relies on the Officer inputting it to flag it as 'alcohol/drug' related so the true number in incidents involving alcohol and/or drugs may be much higher.

When looking at just the data for the Op Marble timings within Data Set 2 however (Table 3), a similar concentration of crime timings is seen to Data Set 1, with the highest risk periods being between 20:00 and 04:00 on a Friday into a Saturday and 23:00 and 02:00 (with a smaller rise between 04:00 and 06:00) on a Saturday night into a Sunday morning.

This highlights the need for a continuation of the Cumulative Impact Area and Special Stress Area as well as the matrix and timings approach within it. By limiting the type of new premises as well as their terminal hour for licensable activity, there is a chance to reduce some of the cumulative risk posed by having a larger and larger number of licensed premises all closing at similar times in the same area.

## Key to Tables

Highest risk	
Moderately high risk	
Moderate risk	
Moderately low risk	
Lowest risk	

The numbers in the tables show the numbers of crimes during the time period so for Table 1 it is an analysis of 2802 individual incidents of crime and for Table 2 it is an analysis of 2527 individual incidents of crime.

## Data Set 1: 01/06/2019 – 16/10/2019

	MON	TUE	WED	THU	FRI	SAT	SUN	Total
0000-0100	23.00	12.00	18.00	12.00	26.00	58.00	48.00	197.00
0100-0200	13.00	12.00	10.00	5.00	11.00	36.00	42.00	129.00
0200-0300	4.00	4.00	8.00	8.00	13.00	44.00	42.00	123.00
0300-0400	9.00	12.00	4.00	7.00	6.00	52.00	35.00	125.00
0400-0500	2.00	6.00	11.00	12.00	11.00	38.00	44.00	124.00
0500-0600	4.00	5.00	2.00	4.00	7.00	15.00	26.00	63.00

0600-0700	9.00	4.00	2.00	5.00	5.00	5.00	6.00	36.00
0700-0800	4.00	3.00	0.00	6.00	6.00	8.00	5.00	32.00
0800-0900	13.00	8.00	13.00	18.00	7.00	17.00	4.00	80.00
0900-1000	21.00	10.00	11.00	19.00	12.00	10.00	12.00	95.00
1000-1100	11.00	10.00	11.00	6.00	11.00	9.00	10.00	68.00
1100-1200	16.00	17.00	12.00	18.00	10.00	7.00	14.00	94.00
1200-1300	20.00	18.00	15.00	18.00	17.00	20.00	17.00	125.00
1300-1400	18.00	16.00	13.00	15.00	20.00	11.00	10.00	103.00
1400-1500	20.00	16.00	20.00	18.00	19.00	20.00	6.00	119.00
1500-1600	24.00	24.00	27.00	28.00	13.00	21.00	15.00	152.00
1600-1700	19.00	21.00	27.00	14.00	23.00	21.00	24.00	149.00
1700-1800	17.00	23.00	15.00	20.00	19.00	24.00	16.00	134.00
1800-1900	28.00	18.00	13.00	13.00	14.00	23.00	13.00	122.00
1900-2000	12.00	15.00	12.00	18.00	17.00	22.00	22.00	118.00
2000-2100	16.00	8.00	12.00	12.00	30.00	43.00	19.00	140.00
2100-2200	22.00	16.00	11.00	8.00	44.00	65.00	13.00	179.00
2200-2300	9.00	13.00	11.00	18.00	39.00	31.00	13.00	134.00
2300-0000	12.00	6.00	12.00	13.00	51.00	58.00	9.00	161.00
<b>Total</b>	<b>346.00</b>	<b>297.00</b>	<b>290.00</b>	<b>315.00</b>	<b>431.00</b>	<b>658.00</b>	<b>465.00</b>	<b>2802.00</b>

**Data Set 2: 01/01/2020 – 31/03/2020**

	MON	TUE	WED	THU	FRI	SAT	SUN	Total
0000-0100	31.00	46.00	53.00	35.00	48.00	47.00	58.00	318.00
0100-0200	7.00	6.00	9.00	6.00	8.00	24.00	14.00	74.00
0200-0300	5.00	9.00	6.00	2.00	8.00	17.00	10.00	57.00
0300-0400	5.00	5.00	11.00	7.00	3.00	14.00	9.00	54.00
0400-0500	1.00	3.00	4.00	5.00	4.00	5.00	12.00	34.00
0500-0600	0.00	4.00	3.00	3.00	2.00	2.00	12.00	26.00
0600-0700	3.00	3.00	1.00	6.00	4.00	8.00	4.00	29.00
0700-0800	8.00	5.00	7.00	8.00	7.00	1.00	7.00	43.00
0800-0900	8.00	19.00	8.00	10.00	8.00	9.00	14.00	76.00
0900-1000	19.00	11.00	24.00	15.00	20.00	13.00	14.00	116.00
1000-1100	9.00	16.00	11.00	21.00	22.00	12.00	13.00	104.00
1100-1200	19.00	15.00	15.00	9.00	17.00	18.00	15.00	108.00
1200-1300	20.00	27.00	26.00	25.00	30.00	24.00	15.00	167.00
1300-1400	15.00	22.00	26.00	15.00	17.00	16.00	16.00	127.00
1400-1500	21.00	11.00	14.00	16.00	21.00	22.00	8.00	113.00
1500-1600	16.00	25.00	18.00	27.00	23.00	12.00	18.00	139.00
1600-1700	18.00	17.00	25.00	15.00	29.00	19.00	20.00	143.00
1700-1800	11.00	16.00	27.00	23.00	31.00	32.00	17.00	157.00
1800-1900	20.00	20.00	18.00	13.00	19.00	18.00	15.00	123.00
1900-2000	15.00	12.00	19.00	12.00	24.00	31.00	16.00	129.00
2000-2100	11.00	17.00	16.00	17.00	18.00	13.00	8.00	100.00
2100-2200	17.00	12.00	12.00	6.00	18.00	17.00	8.00	90.00
2200-2300	18.00	18.00	15.00	8.00	17.00	12.00	10.00	98.00
2300-0000	9.00	12.00	13.00	9.00	24.00	21.00	14.00	102.00
<b>Total</b>	<b>306.00</b>	<b>351.00</b>	<b>381.00</b>	<b>313.00</b>	<b>422.00</b>	<b>407.00</b>	<b>347.00</b>	<b>2527.00</b>

**Table 3 - Data solely within Op Marble Timings of Data Set 2 (01/01/2020 – 31/03/2020):**

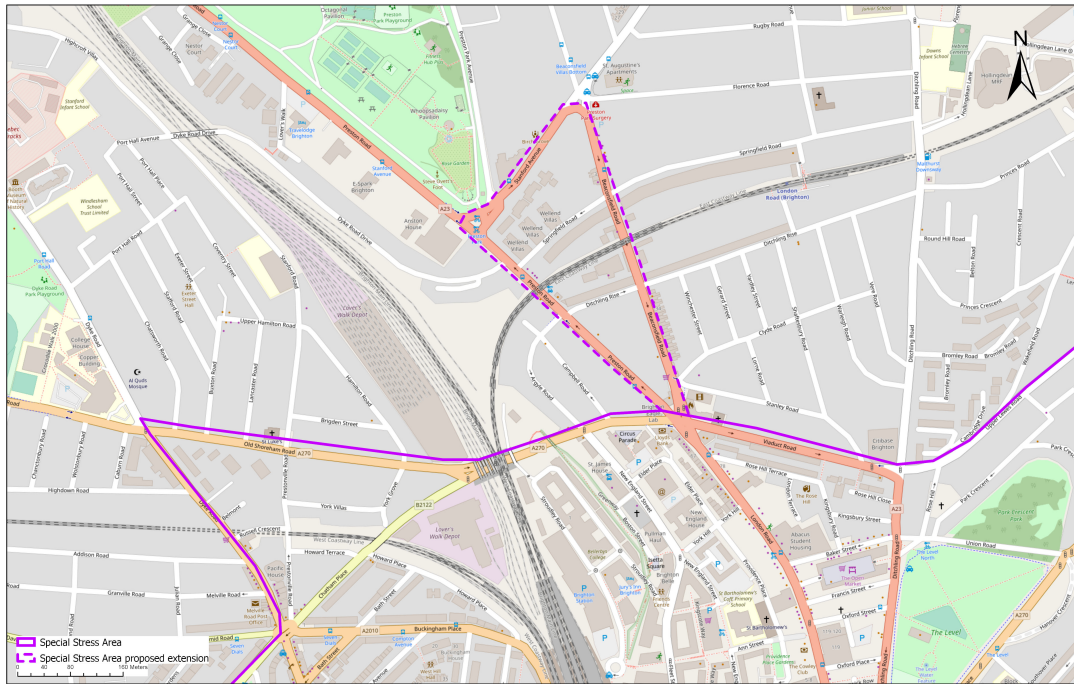
	FRI	SAT	SUN	Total
0000-0100	18.00	17.00	17.00	52.00
0100-0200	5.00	14.00	12.00	31.00
0200-0300	7.00	10.00	5.00	22.00
0300-0400	2.00	11.00	4.00	17.00



<b>0400-0500</b>	1.00	3.00	6.00	<b>10.00</b>
<b>0500-0600</b>	2.00	1.00	6.00	<b>9.00</b>
<b>0600-0700</b>	2.00	1.00	0.00	<b>3.00</b>
<b>0700-0800</b>	0.00	0.00	0.00	<b>0.00</b>
<b>0800-0900</b>	0.00	0.00	0.00	<b>0.00</b>
<b>0900-1000</b>	0.00	0.00	0.00	<b>0.00</b>
<b>1000-1100</b>	0.00	0.00	0.00	<b>0.00</b>
<b>1100-1200</b>	0.00	0.00	0.00	<b>0.00</b>
<b>1200-1300</b>	0.00	0.00	0.00	<b>0.00</b>
<b>1300-1400</b>	0.00	0.00	0.00	<b>0.00</b>
<b>1400-1500</b>	0.00	0.00	0.00	<b>0.00</b>
<b>1500-1600</b>	0.00	0.00	0.00	<b>0.00</b>
<b>1600-1700</b>	0.00	0.00	0.00	<b>0.00</b>
<b>1700-1800</b>	0.00	0.00	0.00	<b>0.00</b>
<b>1800-1900</b>	0.00	0.00	0.00	<b>0.00</b>
<b>1900-2000</b>	0.00	0.00	0.00	<b>0.00</b>
<b>2000-2100</b>	11.00	3.00	4.00	<b>18.00</b>
<b>2100-2200</b>	6.00	6.00	3.00	<b>15.00</b>
<b>2200-2300</b>	11.00	5.00	7.00	<b>23.00</b>
<b>2300-0000</b>	16.00	15.00	4.00	<b>35.00</b>
<b>Total</b>	<b>81.00</b>	<b>86.00</b>	<b>68.00</b>	<b>235.00</b>



# Special Stress Area proposed extension, January 2020



Brighton & Hove Public Health Intelligence, 2020  
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## Appendix B

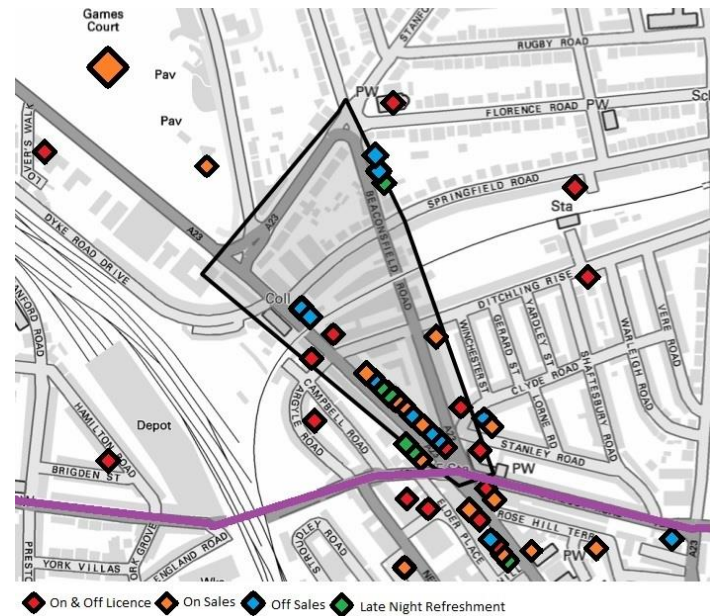
### Sussex Police support for Proposed Extension of the Special Stress Area (SSA) Preston Road/Beaconsfield Road for Statement of Licensing Policy 2021

Discussion has been had around extending the SSA to encompass a section of Preston Road and Beaconsfield Road (A23) as shown on Map A below. This is a main arterial route into and out of Brighton and Preston Road in particular has a high number of licensed premises in a very small area (Map B).

**Map A**



**Map B**



An initial look at the last 3 years of police crime data with an alcohol tag specifically for the area defined in Map 1 shows a rise year on year in crime.

#### **Crime Data:**

Number of Alcohol Related Crimes	
01/11/2016 - 31/10/2017	54
01/11/2017 - 31/10/2018	70
01/11/2018 - 31/10/2019	73

The number of reported alcohol related crimes has increased by 4% (3 actual) in the previous 12 months and the year before has increased by 30% (16 actual).

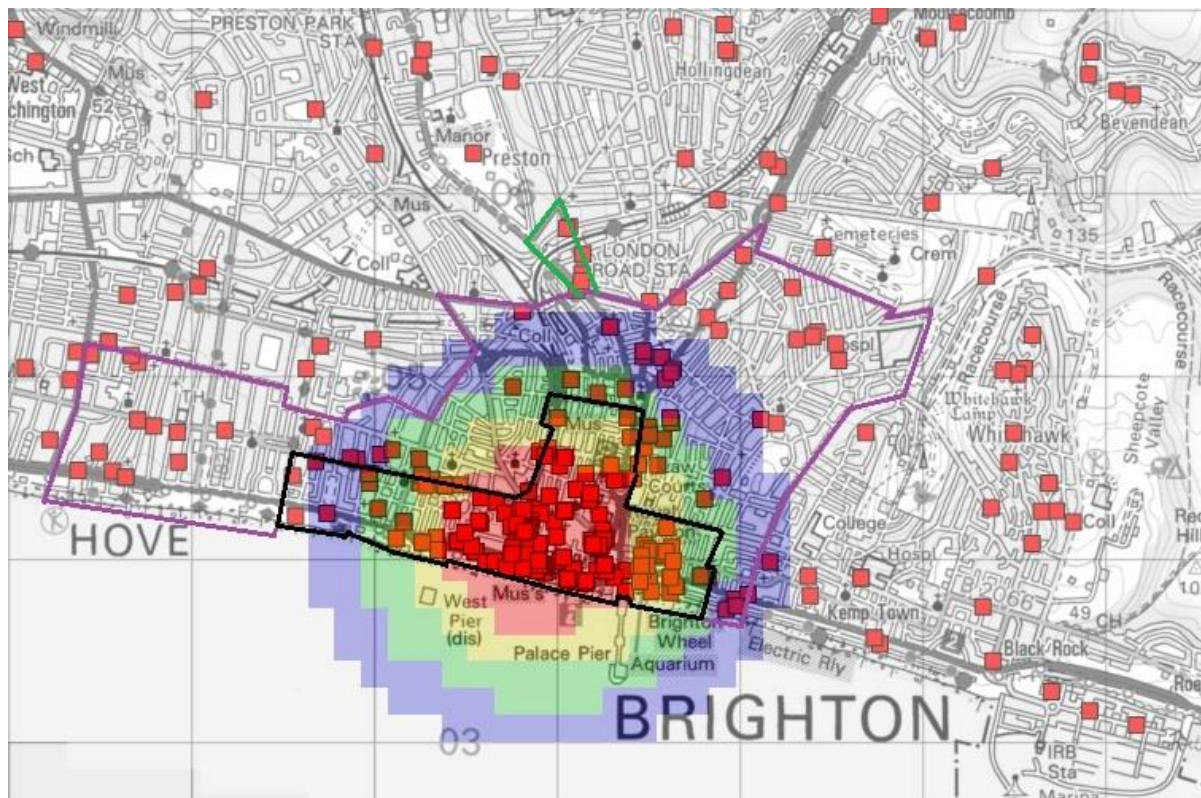
Map B clearly shows the proliferation of premises enclosed by this proposed extension with premises becoming far more spread out moving North, West and East. The Special Stress Area is 'deemed an area of special concern in terms of the levels of crime and disorder and public nuisance experienced within it' (SoLP 2019 3.2) and as can be seen from the crime data, crimes relating to alcohol have increased year on year in the enclosed area.

Preston Road begins from the end of London Road which is a known problem area of Brighton and by extending the SSA up to the edge of Preston Park, a larger buffer is being provided while encompassing an area that already contains a high number of licensed premises. This would ensure greater scrutiny could be given to any new licence applications or variations within this already saturated area.

Further evidence can be seen when looking at the hot spot maps relating to Op Marble (Sussex Police operation relating to the night time economy) – serious violent crimes are happening in this area both within the Op Marble timings (20 hours across the period Friday-Sunday – Maps C and D) and more importantly, outside them (which accounts for the other 148 hours of 168 hours in a week – Maps E and F). This is reflected in both the summer data (01/06/2019-15/10/2019) and the winter data (01/01/2020-31/03/2020).

The proposed extension area is outlined in green on Maps C, D, E and F.

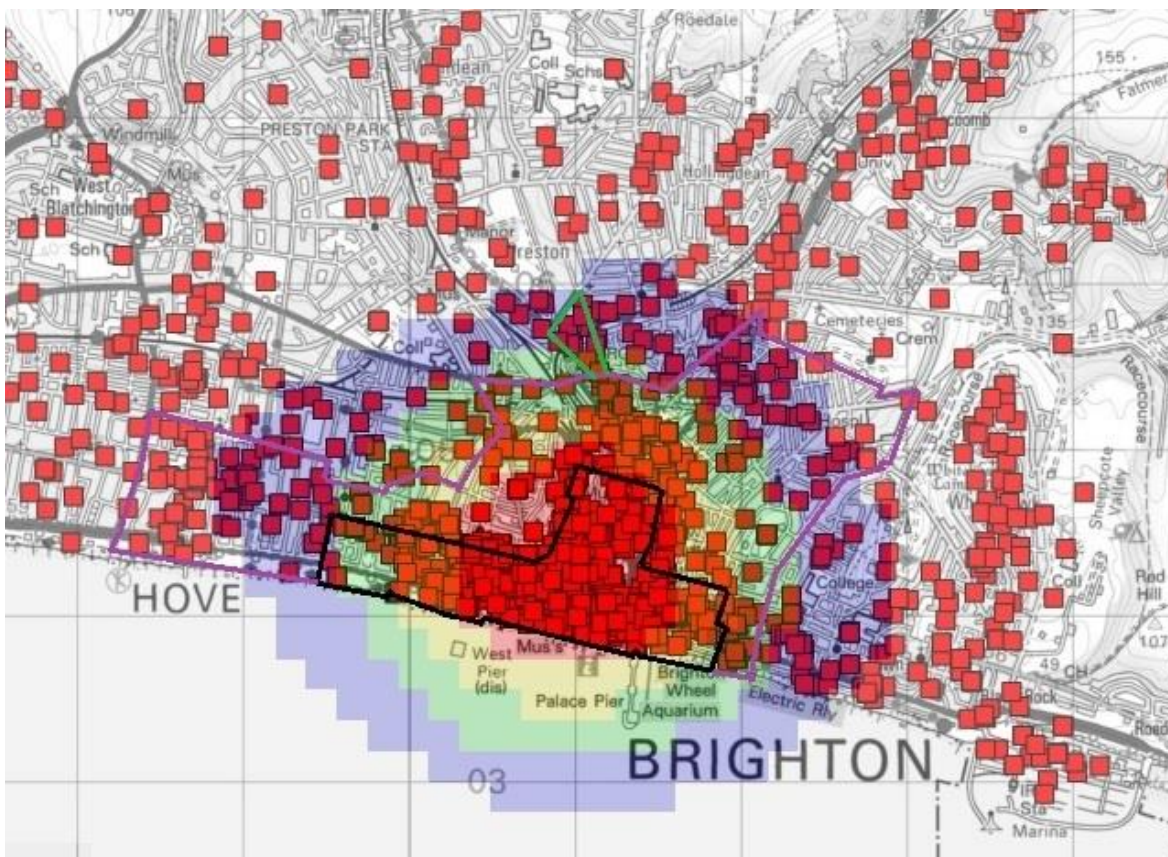
**Map C - 01/06/2019 – 15/10/2019 Marble Time Frame Data:**



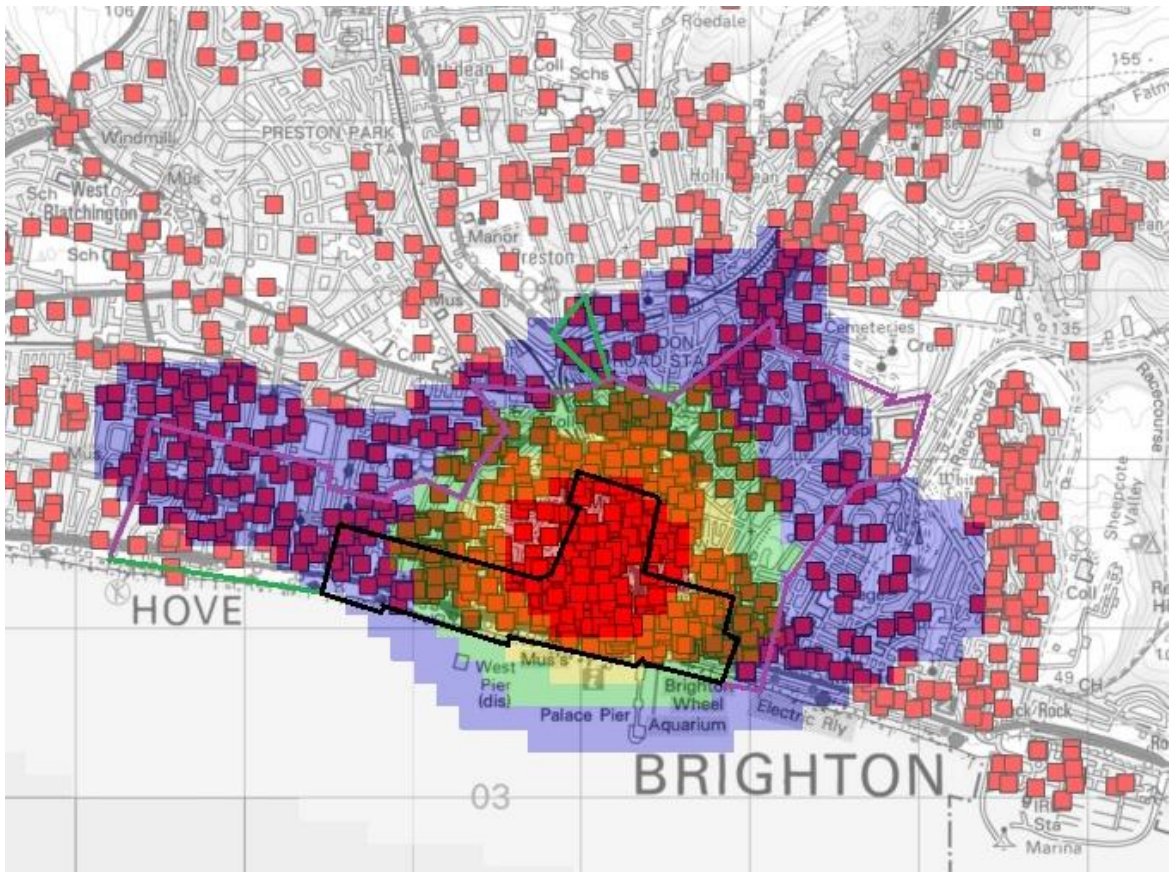
**Map D: 01/01/2020 – 31/03/2020 Marble Time Frame Data:**



**Map E - 01/06/2019 – 15/10/2019 Outside of Marble Time Frame Data:**



**Map F: 01/01/2020 – 31/03/2020 Outside of Marble Time Frame Data:**





## Appendix C - SOLP Review 2021 – Amended Matrix, notes & paragraphs

### Amended Matrix

**3.3.2 A “matrix” approach** to licensing decisions has been adopted and is set out below. It provides a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success or otherwise to investor and businesses making applications.

Matrix approach for licensing decisions in a Statement of Licensing Policy (times relates to licensable activities)

	<b>Cumulative Impact Area</b>	<b>Special Stress Area</b>	<b>Other Areas</b>
<b>Restaurant</b>	Yes (midnight)	Yes (midnight)	Yes (midnight)
<b>Cafe</b>	Yes (10.00pm)	Yes ( <del>midnight</del> ) 10pm	Yes ( <del>midnight</del> ) 10pm
<b>Late Night Takeaways</b>	No	Yes (midnight)	Yes (midnight)
<b>Night Club</b>	No	No	No
<b>Pub</b>	No	Yes (11pm)	Yes (midnight)
<b>Non-alcohol lead (eg Theatre)</b>	Yes (favourable)	Yes (favourable)	Yes (favourable)
<b>Off-licence</b>	No	No	Yes (Up to 11pm but if in densely residential area may be earlier – see note 7 below)
<b>Members Club (club premises certificate)</b>	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes

#### Notes on matrix

Subject to the following notes, the policy, as represented in the matrix, will be strictly adhered to:

- 1) Each application will be considered on individual merit
- 2) Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.
- 3) Departure from the matrix policy is expected only in exceptional circumstances
- 4) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
- 5) Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to offset impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business activity (demonstrable to responsible authorities and licensing

## Appendix C - SOLP Review 2021 – Amended Matrix, notes & paragraphs

authority, for instance by licence condition allowing authorised officers access to sales accounts).

- 6) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.
- 7) Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or cafes, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing and the Street Community and Drug Activity Profile. These documents are available on the following page of our website [www.brighton-hove.gov.uk/licensingact](http://www.brighton-hove.gov.uk/licensingact).
- 8) In an area where there are already several existing off-licences **or where the premises is situated within a parade with another off licence** and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds **or restrictions placed on the terminal hour to reflect opening hours of other shops**.
- 9) Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The licensing authority will have regard to Noise Council guidance.
- 10) **Non-alcohol led category does not include "alcohol in shared workplaces". These type of premises are considered unique. It is recommended that sale of alcohol in shared workspaces should have a terminal hour of no later than 10pm. For further advice and guidance on "alcohol in shared workplaces" please see paragraph 3.3.5-3.3.7.**

**3.3.3 Cafes** - the licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following conditions that will prevent the premises becoming a public house.

- The sale of intoxicating liquor and other beverages shall be waiter/waitress service for consumption by persons seated at tables.
- Substantial food shall be available at all times. **The licensing authority shall judge each case on its own merits but as a general rule, a bowl of crisps, nuts, or olives does not constitute substantial food.**

**3.3.5 Alcohol in shared workplaces** - for the purpose of this Policy, a shared workplace or shared workspace can be defined by being a building that has been converted into office space, which is operated overall by one company that rents workspace to many different entrepreneurs and small businesses. Its general offering is of hot-desk working, meeting spaces, single or team desk hire and/or private office space, etc.

## **Appendix C - SOLP Review 2021 – Amended Matrix, notes & paragraphs**

3.3.6 Licensing Guidance, issued under Section 182 of the Licensing Act 2003, states that each application must be considered on its own merits. While the council’s Statement of Licensing Policy (SoLP) does provide some guidance within its matrix approach on terminal times for licensable activities in pubs, cafes and restaurants, etc., it does not provide specific guidance for premises that could be defined as shared workplaces. The SoLP does refer to non-alcohol led premises in its Matrix Approach table; however, this definition refers to premises where the primary activity involves regulated entertainment rather than a shared workplaces.

3.3.7 It is recognised that there is a demand for flexible workspace across the UK, particularly in Brighton & Hove, where there is a high proportion of start-ups and one of the UK’s largest homeworker population. Where alcohol is supplied to “members” a premises licence is likely to be required. Whilst there is no evidence to suggest that Local Authorities have encountered issues with these licences, it’s important to acknowledge the potential negative impact alcohol can have on the workplace and to individuals. It will be important to restrict public access to such premises and to ensure that the licensed area on the premises is clearly defined in order to prevent consumption of alcohol throughout a large office premises. Therefore, in order to promote the licensing objectives, the Licensing Authority or applicant may consider the conditions set out in Appendix A for shared workspaces.

### **Suggested conditions – Annex A of revised Policy**

#### **Shared Workspace**

The Licensing Authority and the Police are aware that each set up and office block will be different and so support the approach of each case on its own merits. We would of course look at location, timings of licensable activity as well as the types of licensable activity being applied for upon receipt of any application. This would be taken into consideration as part of the decision making process and appropriate and proportional conditions agreed with the applicant if suitable. The conditions below are a selection of what have been offered/suggested/agreed in recent applications for shared office spaces.

- Access to the premises will be restricted to members only who are in possession of a key fob or similar access device and their invited guests. All guests attending functions at the premises where alcohol will be served must sign in and a record kept.
- ON sales only
- There will be no overt advertising of the licence facilities outside of the premises.

## Appendix C - SOLP Review 2021 – Amended Matrix, notes & paragraphs

- No children under the age of 18 will be allowed on the premises unless accompanied by and under the control of an adult.
- There shall be no consumption of alcohol in the other non-licensed areas of the building and appropriate signage shall be displayed throughout the building to reinforce this.
- The sale of intoxicating liquor on the ground floor shall only be for consumption by persons seated at tables within the café bar area and on the [NAMED/NUMBERED] floor only by persons seated. There will be no vertical drinking in the licensed areas and substantial food shall be available at all times.
- From [X TIME] for pre-arranged events held inside the premises, for educational, networking or other similar events linked with the use of the premises to promote business vertical drinking will be permitted. A record of such of events will be kept on the premises and available for inspection by the Licensing Authority or the police.
- Whenever the premises is conducting the sale of alcohol for events for 100 persons or more, then either the designated premises supervisor, another personal licence holder or suitable Licensing act 2003 trained manager shall be present within the licensed premises.
- SIA registered door supervisors shall be employed when a requirement is identified by the Licence Holders risk assessment. The written risk assessment will be reviewed at least once every calendar year. The written risk assessment will take into account information of guidance offered by the Police and also taking into account busy periods such as Bank Holidays, seasonal variations and other city centre events e.g. Pride. The written risk assessment will be available on the premises for inspection of the Police and Authorised Officers of the Licensing Authority.

### **Alcohol Delivery Service**

Conditions for consideration by any potential applicant may include (but are not exhaustive):

- Alcohol will only be delivered to residential and business addresses. The recipient will be required to show the requisite ID to ensure that they are clearly a resident or employed at the named delivery address. Alcohol will not be delivered to customers at a park, in an open space, the beach, a bus stop etc.

## Appendix C - SOLP Review 2021 – Amended Matrix, notes & paragraphs

- Delivery riders must be instructed to abort delivery where that sale is believed to be a “street sale” or to an open space. All such instances will be recorded in the refusals/incidents log.
- The alcohol delivery service will be ancillary to the provision of takeaway food. All alcohol deliveries must be accompanied by an order for food, the food contingent of the delivery being a minimum of [£X].
- All orders received with an alcohol element will be for delivery only, there will be no collection facilities available from the premises.
- All forms of advertising and promotional literature dealing with the delivery service (including internet sites and flyers/leaflets) will clearly and prominently state that alcohol will only be delivered together with an order for food, the food contingent of the total delivery being a minimum of [£X]. It will also advise of the premises ‘Challenge 25’ policy, which forms of approved ID will be accepted and that failure to show the required form of ID will result in non-delivery of the alcohol. This will be reiterated at the point of sale e.g. through an online ordering website/platform.
- All employees and agents of the premises or agents delivering orders will receive full advance training in selling alcohol, approved forms of ID and Challenge 25 policy as per condition [x] on the premises licence. All staff and agents will be fully trained and understand the company’s policy of non-delivery where approved ID is not available during final interaction with the customer.
- All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
- A record of sales and deliveries will be kept and made available for inspection by the Police, Licensing Authority or officers from the Trading Standards team for 6 months from the date of delivery or refusal of alcohol.
- Where an order is taken for delivery by an employee of the premises to a customer, all customers will sign a delivery note which will contain:
  - a) A list of individual items delivered;
  - b) The delivery address;
  - c) The method of payment;
  - d) The name of the person ordering and receiving alcohol;
  - e) The date and time of delivery;

## Appendix C - SOLP Review 2021 – Amended Matrix, notes & paragraphs

- f) If proof of age was asked for, confirmation of the type of proof of age document presented and accepted;
  - g) The name of the employee or representative of the premises who made the delivery.
- For deliveries where the alcohol is delivered personally by the Designated Premises Supervisor, or their employees or agents (including Deliveroo couriers) where the DPS has direct supervision over them and in the event that the person ordering and paying for the alcohol nominates another person (the third party) as the recipient of the alcohol (as a gift etc) and the alcohol is to be delivered directly to the third party and not the person ordering and paying for the alcohol, then the person ordering and paying for the alcohol will be required to state as part of their order that the third party/recipient is aged over 18.

### 3.10 Shadow Premises Licences

3.10.1 A “shadow licence” is a simple way of describing a licence which has been obtained by one party in respect of premises to which another licence has already been granted to someone else. The usual reason for this would be to protect the landlord in case the tenant surrenders the licence without giving the landlord any notice or if review proceedings are brought against the licence and the licence is revoked and the landlord has no knowledge of this. In such a scenario there is a primary or live licence operated usually by a tenant and the ‘shadow licence’ is an additional licence often by the landlord which sits behind the primary licence.

3.10.2 The word Shadow Licence is used in practice, but has no legal definition. It is simply another licence on exactly the same terms as the first licence, normally granted to a landlord, whose sole purpose is to provide the landlord with the comfort and protection of having a licence in its own name. If the original operating licence then lapses or is surrendered, the landlord is able to use the Shadow Licence to replace it and market the premises as having the benefit of a licence of the same quality.

3.10.3 The Authority recognises that there is no restriction in the Licensing Act 2003 for there to be more than one licence to be in effect at any one time at the same premises. The Licensing Authority has concerns however that the holding of additional licences has the potential to undermine the decisions made as a result of determining applications to review a premises licence whereby if one licence was modified, suspended or revoked the premises could effectively continue to operate under the second licence.

3.10.4 Similarly Responsible Authorities, including the Police, Trading Standards and the Licensing Team, have expressed concerns regarding the enforcement of the terms and conditions of the premises licences if it is unclear under the authorisation of which premises licence the licensable activities are taking place and who is the relevant premises licence holder and DPS.

## Appendix C - SOLP Review 2021 – Amended Matrix, notes & paragraphs

3.10.5 In order to promote the licensing objectives and provide clarity as to which premises licence is being used to provide licensable activities conditions can be added to the an additional premises licence application, these may include:

- The Licensing Authority and Police are informed at least 14 days prior to the provision of licensable activities under this licence.
- When this licence is used to provide licensable activities and the licence summary is displayed on the premises, the licence summary of any other premises licence will not be displayed at the same time.
- The premises licence holder will not trade/operate the premises for a period of 3 months after the revocation of the existing trading premises licence. This condition will not apply if the aforementioned licence is surrendered or lapses due to insolvency or death.
- The conditions will remain in exactly the same terms as licence number [LICENCE NUMBER]

3.10.6 To promote the licensing objectives this Authority will take a holistic view of the licensing circumstances at the premises. The Licensing Authority will encourage Responsible Authorities and other persons when submitting an application to review a premises licence, to also consider whether it is appropriate to review all the licences in effect at the premises in order to promote the licensing objectives.





**Brighton & Hove City Council**

# **Statement of Licensing Policy 2021**

**Licensing Act 2003**



**Brighton & Hove  
City Council**

## Executive Summary

This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 (the Act) and having regard to Guidance issued by the Home Office under Section 182 of the Act. The licensing authority is Brighton & Hove City Council. The purpose of this statement is to promote the licensing objectives and set out a general approach to making licensing decisions. This policy will inform the approach to be taken when deciding applications and imposing conditions when relevant representations are received.

The Policy recognises the public health role in local authorities and the legal framework for local government after the introduction of The Health and Social Care Act 2012. Local authorities will be responsible amongst other things for alcohol and drug misuse services.

The city receives 9.5 million tourism day trips and 1.5 million staying visitors per year. The cultural and tourism offer in Brighton & Hove is crucial to the ongoing economic success of the city; it brings both money and jobs. The city has the highest level of current arts engagement outside London and the seventh highest out of 150 in the country at 61.2%. Brighton & Hove is known for its colourful and interesting arts and creative industries which attract tourism and new businesses. The sale and consumption of alcohol contributes greatly to the city's economy and tourism.

However, alcohol-related death rates are above the national average in Brighton & Hove. The city experiences local problems and local trends such as pre- and post loading, binge drinking and street drinking created by cheap alcohol and fierce, localised price competition, particularly between off-licence stores and supermarkets.

The Alcohol Programme Board (APB), a partnership of licensee representatives and colleagues from health, licensing, the police, universities and voluntary sector oversees the city's public health approach to minimising the harms from alcohol.

Brighton & Hove has created a Cumulative Impact Zone (CIZ) and adjacent Special Stress Area (SSA), designed to restrict the amount of licensable premises in the city centre and promote good practices to minimise the adverse impact from alcohol-use. The Council have also adopted a matrix approach to decision making to encourage the right type of alcohol establishment across the city. Enforcement polices focus on reducing irresponsible promotions and underage sales.

In addition, the APB also supports various initiatives: such as the council-led "Sensible on Strength" scheme to reduce the availability of cheap super strength beers and ciders; working with student organisations to raise the awareness of alcohol harm; and night-time economy safeguarding initiatives that protect the vulnerable and raise awareness of sexual exploitation.

# Brighton & Hove City Council: Statement of Licensing Policy 2021

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# Brighton & Hove City Council: Statement of Licensing Policy

## 1 Introduction

1.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 (the Act) and having regard to Guidance issued by the Home Office under Section 182 of the act. The licensing authority is Brighton & Hove City Council. The purpose of this statement is to promote the licensing objectives and set out a general approach to making licensing decisions. The discretion of the licensing authority in relation to applications under the act is only engaged if 'relevant representations' are made by other persons or responsible authorities. This policy will inform the approach to be taken when deciding applications and imposing conditions when relevant representations are received. It is also intended as a guide for applicants as to what to include in their operating schedules, always recognising that if no representations are received, the application must be granted. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this policy is framed around those objectives. Each application will be given individual consideration on its merit. 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.

### 1.2 The licensing objectives are:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

### 1.3 Scope

1.3.1 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations; i.e. the premises and its vicinity. Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the act.

### 1.4 Consultation

1.4.1 Before **revising** or determining policy for any five-year period, the licensing authority must consult:

- (a) the chief officer of police for the licensing authority's area;
- (b) the fire and rescue authority for that area;

- (c) the Director of Public Health
- (d) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
- (e) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by the authority;
- (f) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and
- (g) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

1.4.2 In relation to this, its fifth statement of licensing policy, the licensing authority has also chosen to consult the following persons or bodies:

- The Licensing Strategy Group
- South East Coast Ambulance Service
- Accident & Emergency Services
- Brighton & Hove Bus and Coach Company
- Taxi Forum
- The council's Transport Planning, Planning Policy, Community Safety, Tourism, Drug & Alcohol Awareness and Economic Development departments
- Ward Councillors
- Individual premises and personal licence holders and club premises certificate holders
- Residents' Associations
- Generally via the licensing pages of the council's website and also via the council's Consultation Portal.
- Brighton & Hove Economic Partnership, Business Investment District (BID).

Appropriate weight was given to the views of all of those who responded. This policy is subject to Guidance and Regulations issued by the government including any issued after the date of publication of this statement.

## **1.5 Partnership**

- 1.5.1 The Policy recognises the public health role in local authorities and the legal framework for local government after the introduction of The Health and Social Care Act 2012. Local authorities are responsible amongst other things for commissioning alcohol and drug misuse treatment and prevention services.
- 1.5.2 Local leadership for public health is at the heart of the new public health system. Unitary authorities have responsibilities to improve the health of their populations, backed by a ring-fenced grant and a specialist public health team, led by the Director of Public Health. Unitary authorities are supported in this by the expertise within Environmental Health, Trading Standards and Licensing.
- 1.5.3 Local authorities should embed public health functions into all their activities including its duty as licensing authority, tailoring local solutions to local problems, and using all the levers at their disposal to improve health and reduce inequalities. They will create a 21st century local public health system, based on localism, democratic accountability and evidence.
- 1.5.4 Supporting local political leadership in improving health is the duty of the director of public health and their team. The Director of Public Health is the lead officer in the

local authority for health, and a statutory chief officer. The Regulatory Services Manager will act as principal licensing officer.

- 1.5.5 They champion health across the whole of the authority's business, promoting healthier lifestyles to promote better health and ensure threats to health are addressed.
- 1.5.6 The policy recognises the need to balance economic prosperity with community protection. Good regulation at a local level provides fair trading conditions. This creates a fair trading environment, discourages irresponsible practices and promotes community well-being. Local regulation is attuned to supporting the local economy and local businesses. Partnership between responsible authorities reduces conflict between agencies and targets resources.
- 1.5.7 The licensing authority encourages partnership working with other authorities and agencies. The Licensing Strategy Group, Business Crime Reduction Partnership, Pub and Club Watch, Door Supervisors Business Forum and similar schemes, for instance with Home Office approval, will be encouraged to share information and facilitate exclusion of troublemakers.

## **1.6 Local features**

- 1.6.1 The local visitor economy is characterised by three sectors: conferences, leisure and English language education. In 2018 the city welcomed 9.5 million tourism day trips and 1.5 million staying visitor, this translated to just under 5 million bed nights used in the City for that year. Tourism generates £850m of direct income for local businesses and supports in excess of 21,000 jobs which equates to approximately 16% of the total number of employed in jobs supported by tourism in Brighton & Hove.

## **1.7 Culture and Tourism**

- 1.7.1 Licensing policy supports entrepreneurial activity, promoting the city's businesses, supporting growth of creative industries sector, extending the business improvement district. The cultural and tourism offer in Brighton & Hove is crucial to the ongoing economic success of the city; it brings both money and jobs. This range of work also provides solutions to some of the problems of inequality in the city.
- 1.7.2 VisitBrighton, the council's tourism department, has developed and implemented The Brighton & Hove Visitor Economy Strategy 2018-2023 as one of its guiding principles it recognises the value of all visitors to the city and continues, alongside important work on 'target leisure markets' to improve the visitor experience for everyone.

## **1.8 Arts**

- 1.8.1 Brighton & Hove has taken a leading role in the national consortium, the Cultural Cities Network. The city's cultural offer has grown through new festivals, venues and organisations developing in or moving to the city.
- 1.8.2 The city has the highest level of current arts engagement outside London and the seventh highest out of 150 in the country at 61.2%. Brighton & Hove is known for its colourful and interesting arts and creative industries which attract tourism and new businesses. About one in five businesses and 10% of jobs are in the arts or creative industries.

1.8.3 The city currently hosts around 60 festivals each year including the largest arts festival in England, the Brighton Festival and its Fringe, which contributes annually £20 million to our economy

## 1.9 The Planning Context

- 1.9.1 Planning, building control and licensing will be properly separated to avoid duplication and inefficiency. Granting of licences will not relieve applicants of the need to apply for planning permission or building control consent and there is an expectation that these issues will have been explored before licensing applications are submitted. Applicants are recommended to obtain correct planning consents prior to applying for a licence to avoid potentially inoperative licences.
- 1.9.2 Where appropriate, matters for consideration in licensing applications will not duplicate matters considered as part of any planning application. Licensing decisions will take into account any relevant planning decisions either by the Planning Committee or following appeals against decisions taken by that committee and will not normally cut across such decisions.
- 1.9.3 Where appropriate, when considering planning applications within the above policy framework, planning conditions can be attached to permissions to safeguard amenity and mitigate against cumulative impact.

## 1.10 Delegations

For convenience, the national scheme of delegation for determinations is set out below.

<b>Matter to be dealt with</b>	<b>Full Licensing Committee</b>	<b>Sub-committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no relevant representation made
Application for personal licence with unspent convictions		If a police objection	
Application for premises licence/club premises certificate	If discretion engaged for major applications	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 premises supervisor		If a police objection	All other cases
Request to be removed as designated personal licence holder			All cases



Application for transfer of premises licence		If a police objection	All other cases
Application 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, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Determination of a police/EHA objection to a temporary event notice		All cases	
Policy decisions	All cases		
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

1.10.1 The professional development and competence of licensing councillors will be provided and maintained to support the need to act as a professional licensing authority, meeting lawful standards of good administrative decision making.

## 1.11 Human Rights

1.11.1 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 licensing authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:-

- Article 6 that in the 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 private and family life and his home.
- Article 1 of the First Protocol that everyone is entitled to the peaceful enjoyment of his possessions (including for example possession of a licence).

## 2 Public Health and Alcohol

### 2.1 Public Health Perspective

- 2.1.1 Where a local authority's Director of Public Health exercises its functions as a responsible authority, it should have sufficient knowledge of the licensing policy and health issues to ensure it is able to fulfil those functions. If the authority wishes to make representations, the DPH will decide how best to gather and coordinate evidence from other bodies which exercise health functions in the area, such as emergency departments and ambulance services. Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may be used by the health body to make representations in its own right or to support representations by other responsible authorities, such as the police. Such representations can potentially be made on the grounds of all four licensing objectives.
- 2.1.2 Public Health England and the Local Government Association recognise that the Statement of Licensing Policy provides an important opportunity to incorporate relevant local public health concerns within the wider policy context of the local licensing authority and that as a responsible authority, the Director of Public Health has a key role in identifying and interpreting health data and evidence. Although there have been improvements in some alcohol related health issues alcohol still has a significant impact on the health and wellbeing of local people. The Statement of Licensing Policy operates in this context and decisions about licensing need to be taken to protect the local population, including families and children, from the many harms that alcohol can cause.
- 2.1.3 In 2017/18 there were 4,416 hospital admissions episodes for a broad definition of alcohol-related conditions in Brighton & Hove, a rate of 1,820 per 100,000 population. In recent years the Brighton & Hove rate has fallen below the rate for England Although for alcohol specific conditions the Brighton & Hove rate of 697 per 100,000 was greater than the national rate of 570 per 100,000, the gap between the two has narrowed considerably over the last ten years.
- 2.1.4 Central Brighton and particularly the West Street area have been identified as a violent crime hotspot. Through effective coordination of relevant strategies and policy areas (e.g. licensing, policing and public safety), the council will seek to improve safety by encouraging a more balanced range of complementary evening and night-time economy uses which appeal to a wide range of age and social groups and managing existing late night uses within identified parts of central Brighton. Local work to reduce violent crime is coordinated through the Local Public Service Agreement / Violent Crime Action Plan. In addition, a 'Cumulative Impact Area' within central Brighton has been adopted by the Council and grants greater powers to control the number of licensed premises in the city centre.

Brighton & Hove scores significantly worse than the England average for a range of indicators that profile alcohol related harm. Of the indicators produced by Public Health England, [\[localalcoholprofiles\]](#) Brighton & Hove does significantly worse than England for many of them including:

- Alcohol-Specific Mortality
- Alcohol-related mortality
- Alcohol specific hospital admissions – under 18s
- Alcohol specific hospital admissions
- Adults binge drinking on their heaviest drinking day

- Adults drinking over 14 units per week
- Dependent drinkers

- 2.1.5 An annual report entitled 'Public Health Framework for assessing Alcohol licensing' is produced by the Public Health Intelligence team. It contains ward by ward analysis of crime and disorder data and health data and as such is a valuable tool in assessing the potential impact of new licences within a community. The Director of Public Health may use this information to inform a representation relating to an individual application. This document is available on the following page of our website [www.brighton-hove.gov.uk/licensingact](http://www.brighton-hove.gov.uk/licensingact).
- 2.1.6 From 1<sup>st</sup> April 2020 the substance misuse recovery service for Brighton and Hove has been provided by Change, Grow, Live (CGL). CGL is a large health and social care charity successfully providing drug and alcohol services in many areas across the UK including East and West Sussex. The recovery service is delivered by an integrated team of doctors, nurses, psychiatrists, recovery coordinators, recovery champions, peer mentors and volunteers. Some aspects of the service are subcontracted to community pharmacy and local specialist voluntary sector partners Oasis Project and Cascade Creative Recovery. The service works collaboratively with a range of NHS and voluntary sector partners across the City to improve outcomes for those affected by drugs or alcohol.

## **2.2 Alcohol Programme Board and Sensible on Strength Campaign**

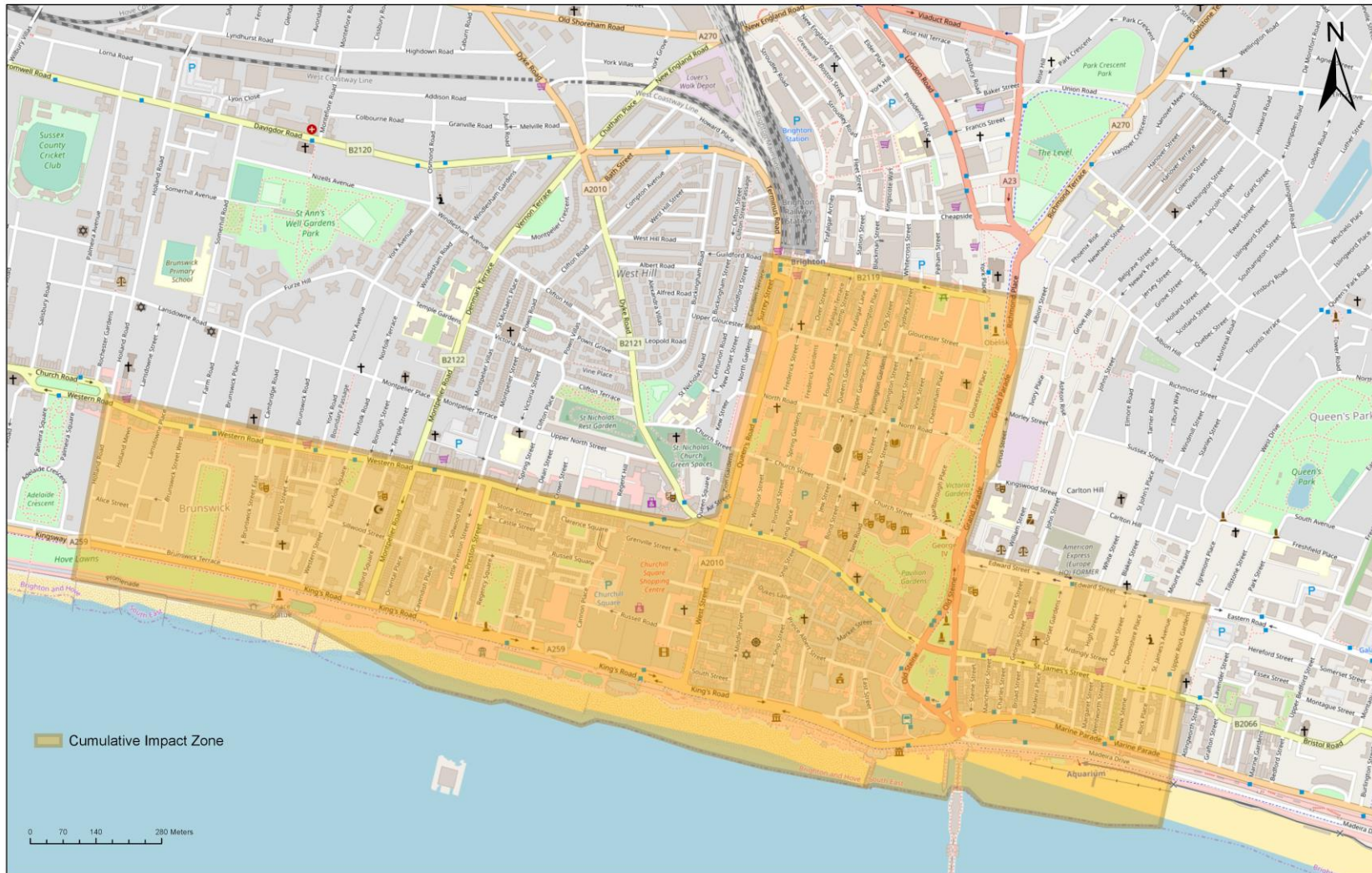
- 2.2.1 The Alcohol Programme Board (APB) includes health commissioners and NHS/voluntary sector providers, the Council, University student reps, police, licensees, retailers and probation services. The APB is concerned about the availability of alcohol, in particular, local problems such as pre-loading, binge drinking and street drinking created by cheap alcohol and fierce, localised price competition, particularly between off-licence stores and supermarkets.
- 2.2.2 Over recent years problems associated with street drinking have been experienced across the city but particularly by the Level, Lewes Road, Norfolk Square and New Road. There are many support services in place to deal with this and the drinkers themselves. In November 2013 the Licensing Authority launched the 'Sensible on Strength' scheme to reduce the availability of cheap super-strength beers and ciders. Off licences voluntarily sign up not to sell cheap super-strength beers and ciders over 6% ABV and operate good practice measures (see 3.5.3), for which they receive an accreditation as a responsible retailer. This has been a considerable success and we have received positive feedback including from businesses, alcohol treatment centres and health professionals, where 80% of the high profile street drinkers have moved to lower ABV and more clients are engaging with rehab treatment centres, as well as breaking up hot spot drinking areas. This is an ongoing scheme that is regularly reviewed.
- 2.2.3 Through achieving this change, the ultimate aim is to reduce alcohol related harm and anti-social behaviour, and to move vulnerable drinkers onto weaker alcohol as experience shows that if this can be achieved, the level of deterioration in health is dramatically slowed and there is more likelihood that they will take the step to abstinence and long-term sobriety. Public health is not a licensing objective but reducing high alcohol by volume drinks from the off licence trade should benefit alcohol related morbidity and mortality.
- 2.2.4 Out of a total of 286 off licences in Brighton and Hove over 70% have joined the scheme (205), with a further 49 stopped selling but not joined the scheme.

### 3 Special Policies and Initiatives

#### 3.1 Cumulative impact

- 3.1.1 The licensing authority may receive representations from either a responsible authority or other persons that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is therefore a matter for the market to decide and can, in some circumstances, be a matter for planning consideration; need therefore does not form part of this licensing policy statement.
- 3.1.2 **Special Policy** - Cumulative Impact is defined as the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 3.1.3 The licensing authority, after careful consideration, has determined that the concentration of licensed premises in an area of the city centre is causing problems of crime and disorder and public nuisance, and that therefore an approach to 'Cumulative Impact' is necessary as part of its statement of licensing policy. The first Special Policy incorporating a Cumulative Impact Zone (CIZ) and Special Stress Areas (SSA's) was adopted in March 2008. Since that date, the licensing authority has kept the CIZ and SSA's under review. On 15 December 2011 Full Council resolved to expand the CIZ and the special stress area, covering 1.5% of the administrative area of Brighton & Hove City Council. On 20<sup>th</sup> November 2014 Licensing Committee resolved to confirm the current CIZ and SSA as defined in the current Statement of Licensing Policy. On the 29<sup>th</sup> November 2018 Licensing Committee resolved to expand the SSA into Central Hove. It is now proposed to expand the SSA into Preston Road and Beaconsfield Road. The licensing authority has published a Cumulative Impact Assessment which can be found at Appendix E.
- 3.1.4 This special policy will refer to a Cumulative Impact Zone ("the CIZ") in the Brighton city centre, a detailed plan of which is shown below.

# Cumulative Impact Zone, January 2020



- 3.1.5 The Cumulative Impact Zone comprises the area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Holland Road to the junction with the west side of Dyke Road at its eastern end; from there, north-east to the junction of the north side of Air Street with the west side of Queens Road and then northward to the north-west corner of Surrey Street junction with Queens Road; thence along the north side of Trafalgar Street eastwards to its junction with York Place and continuing south-east across to Grand Parade, then south to the junction of Edward Street; along the north side of Edward Street to the east side of its junction with Egremont Place and southward along the eastern sides of Upper Rock Gardens and Lower Rock Gardens; southward to the mean water mark and following the mean water line westward to a point due south of the west boundary of Holland Road; northward to that point and along the west side of Holland Road to its northwest boundary and then diagonally across Western Road to its intersection with the west side of Holland Road.
- 3.1.6 The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact.
- 3.1.7 This special policy also applies to all new premises licences and club premises certificates, for example pubs, restaurants and take-away establishments. Off licences also come within this policy as they can contribute to problems of street drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.
- 3.1.8 The presumption of refusal does not relieve responsible authorities or other persons of the need to make a relevant representation. If there are no representations, the licensing authority must grant the application in terms consistent with the operating schedule submitted.
- 3.1.9 Furthermore, this special policy is not absolute. Upon receipt of a relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in the light of the individual circumstances of the case. If an application is unlikely to add to the cumulative impact of the area, it may be granted. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant, theatre or live music venue (where alcohol is not the primary activity) may be considered exceptional circumstances. The fact that a premises will be/is exceptionally well managed with a well qualified applicant, or that there are no residential premises nearby, will not be considered exceptional.
- 3.1.10 If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that conditions would be ineffective in preventing the problems involved.

### **3.2 Special Stress Area**

3.2.1 The map below details the area of the city centre which borders the Cumulative Impact zone at 3.1.3 and which is deemed an area of special concern in terms of the levels of crime and disorder and public nuisance experienced within it. The area recommended for further monitoring and detailed guidance within the Special Policy comprise the following as pictured below delineated in purple:

Special Stress Area & Cumulative Impact Zone, January 2021





The Special Stress Area - an area bounded by and including: The west side of Hove Street/Sackville Road, northwards to the intersection with the north side of Blatchington Road, along north side of Blatchington Road and Eaton Road, southwards at the junction onto the east side of Palmeira Avenue and then eastwards at the junction onto the north side of Landsdowne Road; eastwards to the junction with Furze Hill, along the north side Furze Hill to its end and then due east along the north side of Victoria Road to its junction with Montpelier Road (west side), north to where Montpelier Road joins Vernon Terrace then north to Seven Dials; north west along the west side of Dyke Road until the junction with the Old Shoreham Road, then East along the north side of Old Shoreham Road, continuing on the north end of New England Road, north west at Preston Circus at the junction of New England Road and Preston Road along the west side of Preston Road until the junction with Stanford Avenue then and north east along the north side of Stanford Avenue until the junction with Beaconsfield Road, south along the east side of Beaconsfield Road until the junction at Preston Circus and Viaduct Road, eastwards along the north side of Viaduct Road, then at the junction with Ditchling Road, North East along the north side of Upper Lewes Road until the junction with Lewes Road; south along the Lewes Road to junction with Hartington Road, along the north side of Hartington Road until the junction with St. Helen's Road, south into the north side of May Road, eastwards until its junction with Freshfield Road (east side), then south into Upper Bedford Street, into Bedford Street to the mean water mark south of Bedford Street, then due west until the mean water mark south of Lower Rock Gardens; North on Upper Rock gardens, to the north side of Eastern Road, west along Eastern Road and Edward Street until Grand Parade, north along the Eastern side of Grand Parade to the junction of York Place and Trafalgar Street, West along the Northern boundary of Trafalgar Street, up to and including Surrey Street and then South along the Western boundary of Queens Road to the junction with Air Street, West along the north side of Air Street, South-west to the junction of Western Road Brighton, then West along the North side of Western Road Brighton, South along the West side of Holland Road to the mean water mark south of Kingsway and Kingsway Esplanade as far as the west side of Hove Street/ Sackville Road.

- 3.2.2 This Special Stress Area (SSA) is of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced within it. The area will be kept under review.
- 3.2.3 New and varied applications for premises and club premises certificates within the SSA will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas. Appendix A of the SoLP sets out a list of potential measures the licensing authority considers may be appropriate. These may be more or less appropriate depending upon the style of operation applied for.
- 3.2.4 On receipt of any application in the SSA, where a relevant representation has been made, the licensing authority will scrutinise the application carefully and will look at the measures proposed in the operating schedules and compare them to the measures set out in Appendix A, Licensing Best Practice Measures. Where discretion has been engaged, those applications which fall short may be refused or conditions applied to comply with policy measures.

3.2.5 The Licensing Authority will keep the Cumulative Impact Zone and Special Stress Area under review. Should the authority find that problems of crime and disorder or nuisance are not improving, or are worsening, the Special Policy will be reviewed.

### 3.3 The Matrix Approach

#### The Licensing Authority will support:

3.3.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will have a positive effect in reducing people’s fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time may create opportunities for violent crime and public disorder and therefore supports: mixed use venues encouraging a wider age balance.

3.3.2 A “matrix” approach to licensing decisions has been adopted and is set out below. It provides a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success or otherwise to investor and businesses making applications.

Matrix approach for licensing decisions in a Statement of Licensing Policy (times relates to licensable activities)

	<b>Cumulative Impact Area</b>	<b>Special Stress Area</b>	<b>Other Areas</b>
<b>Restaurant</b>	Yes (midnight)	Yes (midnight)	Yes (midnight)
<b>Cafe</b>	Yes (10.00pm)	Yes ( <del>midnight</del> ) 10pm	Yes ( <del>midnight</del> ) 10pm
<b>Late Night Takeaways</b>	No	Yes (midnight)	Yes (midnight)
<b>Night Club</b>	No	No	No
<b>Pub</b>	No	Yes (11pm)	Yes (midnight)
<b>Non-alcohol lead (eg Theatre)</b>	Yes (favourable)	Yes (favourable)	Yes (favourable)
<b>Off-licence</b>	No	No	Yes (Up to 11pm but if in densely residential area may be earlier – see note 7 below)
<b>Members Club (club premises certificate)</b>	Yes (□100 capacity) (11pm)	Yes (□100 capacity) (11pm)	Yes

### Notes on matrix

Subject to the following notes, the policy, as represented in the matrix, will be strictly adhered to:

- 1) Each application will be considered on individual merit
- 2) Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.
- 3) Departure from the matrix policy is expected only in exceptional circumstances
- 4) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
- 5) Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to offset impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts).
- 6) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.
- 7) Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or cafes, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing and the Street Community and Drug Activity Profile. These documents are available on the following page of our website [www.brighton-hove.gov.uk/licensingact](http://www.brighton-hove.gov.uk/licensingact).
- 8) In an area where there are already several existing off-licences or where the premises is situated within a parade with another off licence and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds or restrictions placed on the terminal hour.
- 9) Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The licensing authority will have regard to Noise Council guidance.
- 10) Non-alcohol led category does not include "alcohol in shared workplaces". These type of premises are considered unique. It is recommended that sale of alcohol in shared workspaces should have a terminal hour of no later than 10pm. For further advice and guidance on "alcohol in shared workplaces" please see paragraph 3.3.5-3.3.7.

**3.3.3 Cafes** - the licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following conditions that will prevent the premises becoming a public house.

- The sale of intoxicating liquor and other beverages shall be waiter/waitress service for consumption by persons seated at tables.
- Substantial food shall be available at all times. The licensing authority shall judge each case on its own merits but as a general rule, a bowl of crisps, nuts, or olives does not constitute substantial food.

3.3.3 **Restaurants** - the licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following restaurant condition.

- Intoxicating liquor shall not be supplied or sold on the premises otherwise than to persons taking table meals there and for the consumption by such a person as an ancillary to their meal. There will be no vertical drinking.
- Restaurants with outside service - the licensing authority will also consider applications from restaurants that request to serve alcohol to areas adjacent to or immediately outside their premises. In addition to the above conditions for cafes, the licensing authority will require evidence that the applicants have an agreement with the local authority to use the area as defined on a plan provided. The following condition may also apply:
- The sale and supply of alcohol for consumption off the premises shall be restricted to an area licensed by the Local Authority for use of the public highway as shown on the plan deposited and such area shall be defined by a physical barrier acceptable to the licensing authority.

3.3.4 **Alcohol in shared workplaces** - for the purpose of this Policy, a shared workplace or shared workspace can be defined by being a building that has been converted into office space, which is operated overall by one company that rents workspace to many different entrepreneurs and small businesses. Its general offering is of hot-desk working, meeting spaces, single or team desk hire and/or private office space, etc.

3.3.5 Licensing Guidance, issued under Section 182 of the Licensing Act 2003, states that each application must be considered on its own merits. While the council's Statement of Licensing Policy (SoLP) does provide some guidance within its matrix approach on terminal times for licensable activities in pubs, cafes and restaurants, etc., it does not provide specific guidance for premises that could be defined as shared workplaces. The SoLP does refer to non-alcohol led premises in its Matrix Approach table; however, this definition refers to premises where the primary activity involves regulated entertainment rather than a shared workplaces.

3.3.6 It is recognised that there is a demand for flexible workspace across the UK, particularly in Brighton & Hove, where there is a high proportion of start-ups and one of the UK's largest homeworker population. Where alcohol is supplied to "members" a premises licence is likely to be required. Whilst there is no evidence to suggest that Local Authorities have encountered issues with these licences, it's important to acknowledge the potential negative impact alcohol can have on the workplace and to individuals. It will be important to restrict public access to such premises and to ensure that the licensed area on the premises is clearly defined in order to prevent consumption of alcohol throughout a large office premises. Therefore, in order to promote the licensing objectives, the Licensing Authority or applicant may consider the conditions set out in Appendix A for shared workspaces.

### **3.4 Night-time Economy Safeguarding Initiatives**

The licensing authority continue to support safeguarding initiatives such as the Beach Patrol Quad bike, safe space and street pastors. The Community Safety Partnership Board continues to oversee the Community Safety Strategy and Safety in the Night Time Economy Action Plan as part of their remit. The action plan has been updated and recently the updated strategic assessment has been completed. In addition, the University of Sussex operates a “Good Night Owl” scheme which includes 40 volunteers and is currently funded by the Police Community Safety Fund. Licensed premises are being encouraged to use the “Ask 4 Angela” initiative.

#### **3.4.1 Operation Marble (Sussex Police)**

Due to the large concentration of licensed premises and night clubs in the centre of Brighton, a high proportion of the Division’s violent crime and serious sexual offences are committed within a relatively small area. The Division receives a large influx of visitors to the city centre at weekends. Many of these people attend the pubs and night-clubs during night time hours and as a result an enhanced policing operation is provided, called Op Marble. Traditionally this ran from 2100hrs through to 0400hrs on a Friday and Saturday night but since a review in 2017 has run from 20:00 to 06:00 between 1st May and 30th September. This was in response to pressures from the Night Time Economy as pubs and clubs remained open later and increases in crimes in the earlier hours of the morning. The emphasis of Op Marble is a highly visible presence of officers deployed on foot as well as focus on regularly updated hot spots to help reduce the risk of violent crimes.

In addition to the standard Friday and Saturday night, there are a number of standalone operations such as Bank Holidays, New Year’s Eve, Halloween and Pride. In the run up to Christmas, additional resources are at times deployed during the end of week to monitor Christmas Parties.

Op Marble covers an area between Preston Street to the West – The Level to the North – Kemptown to the East and the seafront between West Pier and Concorde 2 to the South. This covers the majority of the Cumulative Impact Zone defined in this policy at 3.1 and is regularly under review to ensure that limited Police resources are being used to their optimum.

#### **3.4.2 Doorstaff Briefing**

In association with BCRP – Business Crime Reduction Partnership – Police attend a weekly Friday night doorstaff briefing at Pryzm. Covered are persons of interest and share information on any events that might impact the city during that weekend – music events, football etc. Weekly meeting is held between Police and BCRP. The previous weekend is reviewed and plan for the weekend ahead and any future events. Premises of concern are also discussed.

#### **3.4.3 Vulnerability training**

Training delivered by Sussex Police to staff working within the night time economy to provide them with knowledge of vulnerability and ensure they understand their responsibilities and duty of care to vulnerable people including actions that must be taken to reduce identified risk. Training will include:

##### **Ask for Angela**

An initiative for persons that are on dates and they are feeling uneasy and need a safe way of leaving. The individual can approach a member of bar staff and ask for Angela and the staff will know this person needs some help getting out of a situation

they don't feel safe or comfortable in. This could be calling them a taxi or a friend of family member to come and collect them.

### **Op Bobcat**

How to identify a possible sexual predator within the night time economy. What kind of behaviour to look out for. What to do when you feel someone could be out to cause sexual harm to other individuals.

## **Partner Agencies Initiatives**

### **3.4.4 Safe Space**

YMCA Safe Space, run by the YMCA DownsLink Group, on West Street runs throughout the year on Fridays and Saturdays (23.30-04.00Hrs) from its base in St Pauls Church, West Street. The project provides a safe place for users of the night time economy who are rendered more vulnerable due to alcohol and/or drug use, or through physical injury or emotional distress. Safe Space regularly provides emotional support to distressed people, including delivering suicide prevention interventions and safety planning (through the ASIST model). First Aid is provided by EMS Ltd, with emotional and practical support from the YMCA team. Dependent on funding, the YMCA can also provide a mobile outreach team to operate along the seafront, providing an immediate response to vulnerable people, and where safe to do so taking people to St Pauls Church. Mobile teams also operate on New Year's Eve in the Kemp Town and East Street areas. Safe space also has a positive impact in reducing the need for police and medical attendance.

The Licensing Authority supports initiatives such as the YMCA's sexual exploitation project, YMCA WiSE, which amongst its work, increases awareness of sexual and criminal exploitation in the night time economy through the offer of training to the NTE workforce and through awareness campaigns.

### **3.4.5 Beach Patrol**

Quad bike(s) patrolling the beach between 23:00-05:00 Friday and Saturday nights by SIA qualified staff. Equipped with first aid kits, thermal blankets, defibrillator and night-safe radio. Visual presence has reduced crime on the beach including sexual assaults. Educates persons of the dangers of going in to the sea and has actively got people out of the sea and back on to the safety of the beach.

Brighton Beach Patrol (BBP) started in May 2015 and is operated by volunteers. The service is currently joint funded by Resolve Security Solutions Ltd and the Laines Brewery Company. BBP are in the process of applying for charitable status. The service utilises a quad bike and SIA security staff to patrol the beach between the Piers protecting the vulnerable from potential drownings, assaults, intoxication and safeguarding matters. BBP operate every weekend and operate on additional days for high risk events and bank holidays. BBP provide weekly reports to key stakeholders, including the police, council and coastguard.

### **3.4.6 Street Pastors**

Operate every Friday night from around 22:00-02:30. Patrol West Street, North Street, East Street, Queens Road, Churchill Sq., The Lanes and Seafront.

### **3.4.7 Street Wise Community Street Marshalling Scheme**

Operates during term time pm a Wednesday, Thursday and Friday night between 22:00-04:00. Covering Lewes Road, Hanover, Upper Lewes Road and around the North end of London Road, they are looking out of students to ensure they get home safely as well as reminding them of noise levels and prevent ASB issues. This is run by University of Sussex.

### 3.5 Off licences

In recent years there has been a noticeable shift towards more people buying alcohol from shops and drinking at home prior to going into premises such as pubs and clubs. The council is concerned that alcohol loading from off-licence sales is a significant problem in the city and adversely affects the licensing objectives as it gives rise to problems of drunkenness, disorderly behaviour and a higher risk of alcohol sales to children. Representations from the police, local residents and the director of public health at licensing panel hearings have testified to these problems and Information published in the Public Health Framework for assessing alcohol licensing presents a ward by ward analysis of crime and disorder and health data which is relevant in this respect.

- 3.5.1 The special policy on cumulative impact and the special stress areas apply to off-licences as explained in the matrix approach at 3.3. But in general where applications are made for new premises or variations to existing licences, and where the police or others make representations against the grant of a further licence for off sales, the council will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. Decisions will be grounded in the Public Health Framework for assessing alcohol licensing. The council will want to be assured that the operating schedule of premises, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. Retail outlets and stores where the provision of fresh produce is the principal product sold maybe considered more favourably.
- 3.5.2 The Licensing Authority encourage off licences to join the Council led “Sensible on Strength” scheme to reduce the availability of cheap super strength beers and ciders. Off licences voluntarily sign up not to sell cheap super-strength beers and ciders over 6% ABV and operate good practice measures (see 3.5.4), for which they receive an accreditation as a responsible retailer.
- 3.5.3 Areas of best practice that may be included in an Operating Schedule include;
- the installation of a digital CCTV system by liaison with, and to a standard approved by Sussex Police
  - Challenge 25 policy
  - Refusals system
  - Documented staff training including underage sales, drunkenness and proxy sales
  - Voluntary restriction of high strength alcohol - operating schedules may be used to limit high ABV beers and ciders
  - BCRP membership (or other accredited scheme)
  - No sale of single cans
  - Displays should not be located at the entrance/exit points or near checks out
- 3.5.5 The Licensing Authority and Sussex Police have specific concerns around the delivery of alcohol off the premises due to issues around the end location of

delivery, age verification checks (Challenge 25), the increased possibility of the alcohol coming into the CIZ and SSA from other areas, as well as the personal safety of drivers when having to refuse a delivery at the end destination.

- 3.5.6 Alcohol delivery poses a unique set of challenges as it often transfers the final age verification to a person who has no responsibility in relation to the Premises Licence which authorised the sale of alcohol. A premises licence holder needs to be satisfied that their drivers or the delivery drivers of the third party company they chose to use, have received regular and comprehensive training in age verification and identifying persons who have consumed too much alcohol.
- 3.5.7 Evidence has shown that customers have previously used landmarks/businesses not related to them as addresses for delivery so that alcohol could be consumed in open spaces/parks. The risk being that this may lead to increased crime and disorder including anti-social behaviour and criminal damage, as well as the possibility that underage persons can gain access to alcohol. Concerns have also been raised about the delivery of alcohol to known street drinking hotspots. Therefore, a condition requiring all deliveries to be to a verifiable residential or business address and a face to face ID verification is vital in mitigating some of this risk.
- 3.5.8 While the Licensing Authority and Sussex Police recognise this is a growing area of business, new or variation applications to include the delivery of alcohol off the premises will be subject to increased scrutiny. Suggested conditions for the provision of an alcohol delivery service can be found at Appendix A. These are not exhaustive and each application will be considered on its own merits.

### **3.6 Street drinking**

- 3.6.1 The Licensing Authority will have regard to areas highlighted by Sussex Police that are at risk from alcohol related anti-social behaviour. The nature of these areas can be fluid/seasonal and so updated maps and data will be produced regularly to ensure the information is current. These hot spot areas are considered high risk for street drinkers and the Licensing Authority will have regard to prevention of crime and disorder by virtue of street drinking and anti-social behaviour when considering applications in this area.

### **3.7 Temporary Event Notices**

- 3.7.1 The Licensing Authority will encourage bona fide community events. Applications for TENs at existing licensed premises will not be encouraged where the proposal is simply to extend the existing hours of operation and applications made in cumulative impact areas will be subject to increased scrutiny by Police and Environmental Health. Licensing Guidance recognises that TENs are a light touch process, not requiring specific authorisation. The role of the licensing authority is purely administrative. However, the licensing authority will take into account the history. If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must issue an objection notice.

### **3.8 Student and Organised Pub Crawls**

- 3.8.1 The Licensing Team and other agencies work with universities, event organisers and promoters to ensure events are responsibly run to include good practice measures based on mandatory conditions and promoting licensing objectives. Such



measures include stewarding, on site medics, discounted non alcoholic drinks, water angels, and promotion of non-alcohol events.

### **3.9 Promoters and irresponsible drinks promotions**

- 3.9.1 The Licensing Act 2003 makes no mention or provision for the use of promoters within licensed premises. Many of the late night bars and clubs within the Brighton & Hove Cumulative Impact Area regularly hire promoters to sell nights at their venues. In recent years with the introduction of promoters within the Brighton night time economy, several issues have arisen. This includes promoters vouching for underage customers to get them inside licensed premises where they can access alcohol, providing flyers to passers by who throw them on the floor and irresponsible promotions for their nights. Many premises now have an agreement with their promoter for acceptable promotions and behaviour which includes the signing of a written contract of expectations. This shows premises evidencing their due diligence and ensures that promotion companies know what is expected of them. The contract could include, obligations to pick up self generated litter, verification of ages of their customers and users of their social media, promoters being over the age of 18 and responsible advertising on social media.
- 3.9.2 The Licensing Authority expect licensed premises to develop staff policy and training on recognising signs of drunkenness and vulnerability, for example, offering drinking water and tips for refusing customers who appear drunk. And discourage company policies that promote bonuses and sales incentives for selling alcohol. Licensing Authority will expect necessary precautionary processes to restrict drunkenness, e.g. Licensing Guidance states happy hours should not be designed to encourage individuals to drink excessively or rapidly.

### **3.10 Shadow Licences**

- 3.10.1 A “shadow licence” is a simple way of describing a licence which has been obtained by one party in respect of premises to which another licence has already been granted to someone else. The usual reason for this would be to protect the landlord in case the tenant surrenders the licence without giving the landlord any notice or if review proceedings are brought against the licence and the licence is revoked and the landlord has no knowledge of this. In such a scenario there is a primary or live licence operated usually by a tenant and the ‘shadow licence’ is an additional licence often by the landlord which sits behind the primary licence.
- 3.10.2 The word Shadow Licence is used in practice, but has no legal definition. It is simply another licence on exactly the same terms as the first licence, normally granted to a landlord, whose sole purpose is to provide the landlord with the comfort and protection of having a licence in its own name. If the original operating licence then lapses or is surrendered, the landlord is able to use the Shadow Licence to replace it and market the premises as having the benefit of a licence of the same quality.
- 3.10.3 The Authority recognises that there is no restriction in the Licensing Act 2003 for there to be more than one licence to be in effect at any one time at the same premises. The Licensing Authority has concerns however that the holding of additional licences has the potential to undermine the decisions made as a result of determining applications to review a premises licence whereby if one licence was modified, suspended or revoked the premises could effectively continue to operate under the second licence.

- 3.10.4 Similarly Responsible Authorities, including the Police, Trading Standards and the Licensing Team, have expressed concerns regarding the enforcement of the terms and conditions of the premises licences if it is unclear under the authorisation of which premises licence the licensable activities are taking place and who is the relevant premises licence holder and DPS.
- 3.10.5 In order to promote the licensing objectives and provide clarity as to which premises licence is being used to provide licensable activities conditions can be added to the an additional premises licence application, these may include:
- The Licensing Authority and Police are informed at least 14 days prior to the provision of licensable activities under this licence.
  - When this licence is used to provide licensable activities and the licence summary is displayed on the premises, the licence summary of any other premises licence will not be displayed at the same time.
  - The premises licence holder will not trade/operate the premises for a period of 3 months after the revocation of the existing trading premises licence. This condition will not apply if the aforementioned licence is surrendered or lapses due to insolvency or death.
  - The conditions will remain in exactly the same terms as licence number [LICENCE NUMBER]
- 3.10.6 To promote the licensing objectives this Authority will take a holistic view of the licensing circumstances at the premises. The Licensing Authority will encourage Responsible Authorities and other persons when submitting an application to review a premises licence, to also consider whether it is appropriate to review all the licences in effect at the premises in order to promote the licensing objectives.

## **4 Prevention of Crime and Disorder**

The following details and measures are intended to address the need for the prevention of crime and disorder which may be associated with licensed premises and certificated club premises. Conditions attached to licences and certificates will, as far as possible, reflect local crime reduction strategies.

- 4.1.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.
- 4.1.2 It is expected that the DPS 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 and that staff are authorised by the DPS.
- 4.1.3 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 4.1.4 Measures put in place should support the intentions of Operation Marble (police operational order), which aims to prevent incidents of crime and disorder within the

night time economy, at weekends. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the city centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night time economy and the responsibly run businesses within it.

## 4.2 Sussex Police

- 4.2.1 Sussex Police have a specific Operation relating to the night time economy called Operation Marble (detailed in 3.4.1) and work closely with partners to ensure a safe and vibrant city centre. There continues to be an increasing demand for resources further into the early hours of the morning with the highest concentration of crimes occurring between 21:00 and 06:00 on a Friday into a Saturday and between 20:00 and 06:00 on a Saturday night into a Sunday. The data set used shows that up to 80% of arrests made in the timeframe 20:00 – 06:00 on these days were affected by alcohol. For full details of these statistics see the Cumulative Impact Assessment at Appendix A.
- 4.2.2 The dealing and use of drugs remains an issue across the city and Sussex Police welcome proactive policies from licensed premises. A drug safe and seizure recording initiative is in place of which further details can be obtained by contacting Brighton & Hove Police Licensing ([brighton.licensing@sussex.pnn.police.uk](mailto:brighton.licensing@sussex.pnn.police.uk)). This initiative encourages licensed premises with Door Supervisors to search and seize drugs from persons attempting to enter their premises and ensures that once drugs are removed from persons, they can be safely collected and destroyed by Sussex Police.
- 4.2.3 Dispersal from the city centre during the late evening and early morning remains a policing challenge. Over recent years, there has been a proliferation of off-licences and late night refreshment venues along the city's arterial routes. This has led to incident 'hot spots' where patrons from the night time economy continue to interact, albeit away from any safety measures afforded by on-licences. As such, Sussex Police support the Council's Special Policy in offering guidance to both applicants and the Licensing Committee in relation to off-licences and late night refreshment licences.
- 4.2.4 Sussex Police have continuing concerns that, despite staff training in age-restricted sales, under age individuals are still being served alcohol both on and off the premises in some of the city's licensed premises. As such, regular intelligence-led 'test-purchase' operations are conducted to highlight premises where sales are taking place and ensure appropriate enforcement action is taken to prevent further sales. The introduction of identification scanning machines at premises throughout the city has proved successful in mitigating some risk, but operators must maintain vigilance regarding the fraudulent use of genuine IDs. Sussex Police continue to work alongside the Business Crime Reduction Partnership to tackle the problem of those who use false or another's identification to enter licensed premises and purchase alcohol.
- 4.2.5 Sussex Police work closely with venues and other organisations within the city to protect vulnerable people from becoming victims of crime. As well as work to prevent under age sales, vulnerability training is offered to identify persons who may have been made vulnerable through alcohol or drugs. Sussex Police also support initiatives such as (but not limited to) safe spaces, mobile teams of volunteers actively checking people's well-being and the Beach Patrol.

- 4.2.6 Public Space Protection Orders have proved an effective tool for Sussex Police in targeting enforcement action in problem areas of the city. It 'allows Police Officers and Police Community Support Officers to remove alcohol from any person in a public place if that person is involved in anti-social behaviour (ASB) or the officer believes that by having alcohol in their possession there is an increased risk of ASB. It is an offence to refuse to hand over alcohol when required to do so.' They have been particularly effective in the day time economy where members of the street community are causing ASB issues for members of the public and local businesses, especially during the summer months where there is a large influx of visitors to Brighton & Hove.
- 4.2.7 Policing the night time economy continues to provide a challenge and in the climate of limited resources and newly emerging problems, Sussex Police support maintaining the council's Special Policy which defines cumulative impact and special stress and will continue to take enforcement action where appropriate if the actions of a Premises Licence Holder, Designated Premises Supervisor, Door Supervisors or Staff have fallen below the high standard expected across the city. Sussex Police also recognise and support businesses which are aware of their social responsibilities and as such, actively contribute towards keeping Brighton & Hove a safe and enjoyable city.

### **4.3 Care, control and supervision of premises**

- 4.3.1 The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.
- 4.3.2 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff. The police may ask for conditions which support such measures to be imposed when licensing applications are granted, eg type of licence, capacity, operating hours restrictions.
- 4.3.3 Following the grant of a licence, the management and supervision of the premises, in so far as it might impact on crime and disorder, will continue to be monitored. Particular attention will be paid to any licensed premises where there is evidence of criminal activity or any association with racist or homophobic crime. The licensing authority will keep itself well briefed on the nature, location and type of premises where alcohol related violence and disorder are occurring so it can take full account of the facts and avoid exacerbating problems as required by the Community Safety Strategy. Where licensed premises are found to cause nuisance or be associated with disorder or unreasonable disturbance, the review process may be invoked, and powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier

closing times. Such action to restrict the operation may be taken for trial periods to allow businesses an opportunity to remedy existing disorder, nuisance or disturbance.

- 4.3.4 This policy recognises the use of registered Door Supervisors All Door Supervisors will be licensed by the Security Industry Authority. Mobile security units and similar systems are in use by some premises operators as a means of providing security cover at very short notice at premises which may not normally require a permanent security presence. This policy endorses the use of units following such guidance and standards in appropriate circumstances.
- 4.3.5 The development of codes of practice and general operating standards for security companies is encouraged for local businesses; premises operators are urged to ensure that security services, when engaged, are provided by suitably qualified businesses operating to recognised standards and who should be working towards SIA accreditation.
- 4.3.6 Enforcement will be achieved by the enforcement policy appended (Appendix B).

## **5 Public Safety**

The following details and measures are intended to address the need for the protection of public safety which may be associated with licensed premises and certificated club premises.

- 5.1.1 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 5.1.2 Normally in the city centre, pubs and clubs will be expected to operate using polycarbonate or toughened/shatterproof glass.
- 5.1.3 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 drinking vessels; bottles requiring use of toughened glass or plastic should normally be required unless applicants can show exceptional reasons.
  - (c) use of 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) occupant capacity conditions will be applied where appropriate.
  - (f) the provision of designated and suitably trained first aiders.
- 5.1.4 Where appropriate, licence holders or their authorised representatives will submit event safety plans and operating manuals, attend Event Planning Teams or Safety Advisory Groups 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 approved code of practice for events.

## **6 Prevention of Public Nuisance**

The following details and measures are intended to address the need for the prevention of public nuisance which may be associated with licensed premises and certificated club premises:

- 6.1.1 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and 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 (eg in order to smoke).
- 6.1.2 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. Noise emanating from within licensed premises should not normally be audible outside.
- 6.1.3 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.
- 6.1.4 Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The Licensing Authority will have regard to Noise Council guidance.
- 6.1.5 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.
- 6.1.6 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 (see 6.2 below).

### **6.2 Smoking Advice**

6.2.1 Premises licence holders will be expected to:

- Develop a management plan on how to manage smoking on their premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented. Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.
- Comply with any planning conditions restricting the use of outdoor areas.
- Ensure that any structures used by smokers comply with the design criteria detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc have the relevant planning permission.
- Ensure any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.

- Ensure that the conditions on the premises licence are complied with. There may be conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence it may be necessary to request a variation of your licence.
- Licence tables and chairs on the Public Highway under the provisions of the Highways Act 1980. These licences may have conditions restricting the times that the area can be used.
- Ensure drinks, glasses and bottles are not taken onto the highway unless there is a tables and chairs licence permitting use. A system should be adopted to prevent theft and 'spiking' of drinks, and reminding customers not to leave unattended items.
- Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.
- Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters will also be turned off.
- Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.
- Employ staff and/or SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.
- Ensure door supervisors maintain order outside venues and protect customer safety. BCRP supports the use of Night Safe. Radio net and other pager systems and pub watch schemes can be used to provide for rapid police response and alert other venues where customers and staff are endangered.
- Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats above. By changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.
- Use CCTV to manage outside areas.

6.2.2 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

## **7 Protection of Children from Harm**

The following details and measures are intended to address the need for the protection of children from harm; this includes emotional and physical harm which may be associated with licensed premises and certificated club premises (for example the exposure too early to strong language and sexual expletives, eg in the context of film exhibitions or where adult entertainment is provided). It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions (unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely).

7.1.1 Licensees should note the concern of the authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, all licensees should work with a suitable 'proof of age' scheme and ensure that appropriate identification is requested prior to entry and when requesting

alcohol, where appropriate. Appropriate forms of identification are currently considered to be those recommended by police, trading standards officers and their partners in the Licensing Strategy Group (eg passport, photo driving licence or pass card).

- 7.1.2 It is the licensing authority'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 reasonable steps to prevent under age sales. The licensing authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of emotional or psychological harm to them. Each application will be considered on its own merit but particular areas that will give rise to concern in respect of children are to be found in section 7.4 below.
- 7.1.3 To reduce alcohol-induced problematic behaviour by under 18 year olds, to enforce underage purchase and drinking laws 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 sales to under 18s in on and off sales licensed premises
  - 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 specifically catering for unaccompanied children should consider whether all staff at such events need to be DBS checked
- 7.1.4 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 of an adult or sexual nature is commonly 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 (below 18);
  - limitations or exclusions when certain activities are taking place;
  - requirements for an accompanying adult;
  - full exclusion of people under 18.
- 7.1.5 Licensees of premises giving film exhibitions will be expected to include in their operating schedules arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification,



or in specific cases where such certificates have not been granted, the licensing authority. The licensing authority does not intend to adopt its own system of film classification. The licensing authority's procedures for dealing with unclassified films are appended at Appendix C.

- 7.1.6 Where children are expected to attend a public entertainment, appropriate adult supervision will be required to control the access and egress of children and to protect them from harm. This will normally be an adult member of staff for every 100 children. Where the entertainment is music and dancing, 2 persons, licensed by the Security Industry Authority (door supervisors) should be employed for every 100 children but will be subject to advice within the Event Safety Guide. Nothing in this policy shall seek to override child supervision requirements contained in other legislation or regulations. For exclusively under 18 events reference should be made to police guidelines (available from the Police Licensing Unit, Brighton tel. 101). The licensing authority recognises the Director of Children's Services as being competent to advise on matters relating to the protection of children from harm. Applicants shall copy their applications to the Director of Children's Services in its capacity as the responsible authority. Copies should be sent care of the Police. The "What to do" booklet is a national one and can be accessed at: [www.brightonandhovelscb.org.uk/wp-content/uploads/What-to-do-if-a-child-is-being-abused.pdf](http://www.brightonandhovelscb.org.uk/wp-content/uploads/What-to-do-if-a-child-is-being-abused.pdf) Probably also worth getting him to put in that if you are concerned about a child locally to contact the Multi-Agency Safeguarding Hub (MASH) on 01273 290400, or you can contact Sussex Police on 101. If they think a child is in immediate danger to dial 999.
- 7.1.7 Trading standards and the police undertake ongoing enforcement operations around under-age sales and test purchasing. Sussex Police and BCRP undertake work concerning proxy purchases and counterfeit ID as part of the partnership support work with Community Safety and Trading Standards.
- 7.1.8 Trading standards have a programme of business support including training for local businesses to avoid under-age sales.

## **8 Integration of Strategies**

- 8.1.1 The licensing authority shall secure the proper integration of this policy with local crime prevention, planning policy, transport, tourism and cultural strategies by:-
- Liaising and consulting with the Sussex Police, Community Safety Forum, Sustainability Commission representatives and following the guidance in community safety and crime and disorder strategy
  - Liaising and consulting with Public and Alcohol Programme Board
  - Liaising and consulting with the East Sussex Fire & Rescue Service
  - Liaising and consulting with the Local Strategic Partnership, Safety Advisory Group (Emergency Planning) and Equalities and Social Justice Consultation Forum
  - Liaising and consulting with the Planning authority
  - Liaising and consulting with the Highways authority
  - Liaising and consulting with local business and business associations. Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols
  - Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice

- 8.1.2 In line with statutory requirements and the council's Inclusion Policy, the Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, for example communities of interest such as: lesbian, gay, bisexual and transgender people; disabled people; racial and ethnic groups; religious and faith groups.
- 8.1.3 This policy supports the aims of the tourism strategy, recognising the benefits for the tourism economy of creating a safer and more attractive city centre and improving competitiveness with other European cities. The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that it considers these matters.
- 8.1.4 The Licensing Committee should receive relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.
- 8.1.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening. Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.
- 8.1.6 The licensing authority will have regard to the need to disperse people quickly and safely from the city centre to avoid concentrations which may produce disorder and disturbance.

## 8.2 Other regulatory regimes

- 8.2.1 This policy avoids duplication with other regulatory regimes wherever possible. The following notes are made with regard to specific regimes:

**Health and Safety:** Certain premises will be the subject of health and safety enforcement by the local authority or the Health and Safety Executive (HSE). If other existing law already places certain statutory responsibilities on an employer or operator of premises, for example the Management of Health and Safety at Work Regulations 1999, it will not be necessary to impose the same or similar duties on the premises licence holder or club. However, existing duties will not always adequately cover specific issues that arise on the premises in connection with, for example, certain types of entertainment, and where additional and supplementary measures are necessary to promote the licensing objectives, necessary, proportionate conditions will need to be attached to a licence.

**Fire Safety:** Premises and their operators will be regulated by general duties under current fire safety regimes and the Regulatory Reform (Fire Safety) Order 2005 rather than licensing provisions.

**Noise:** Statutory and public nuisances are dealt with by the local authority's Environmental Health department under the Environmental Protection Act 1990, Noise Act 1996 and associated legislation. Noise from commercial premises may often fall under review powers set out in licensing provisions and closure powers in anti-social behaviour provisions.

**Equality Act 2010:** The Public Sector Equality Duty obliges public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between persons who share protected characteristics and persons who do not share it. The local authority's equality and inclusion policy produced under these obligations shall include reference to this statement of licensing policy.

**Community relations:** Integration of corporate strategies with licensing policy will include the Inclusive Council Policy which recognises the council's role, as a community leader, to promote community cohesion and good relations between diverse communities. Measures to address prevention of crime and disorder recognise the need to improve well being and safety of all the communities in the city. Licensing policy supports the Crime and Disorder Reduction Partnership's crime reduction strategy. In particular it seeks to confront and reduce racist, homophobic, transphobic and religiously motivated crimes, incidents and anti-social behaviour.

**Anti-Social Behaviour, Crime and Policing Act 2014:** Contains powers to close premises that are causing nuisance or disorder. These powers can be exercised by the council or Police and they replace the closure powers in the Licensing Act 2003. The Act also contains powers to issue Community Protection Notices in respect of persons or businesses committing anti-social behaviour which is spoiling a community's quality of life.

**Litter and Smoking:** Cityclean contractors have Clean Neighbourhoods powers to enforce premises operators' responsibilities to keep frontages clear of litter.

**Gambling Act 2005:** In relation to casinos and bingo clubs, the principal purpose is gaming. The sale of alcohol and the provision of entertainment in such premises is incidental to gaming and in determining whether to permit entertainment that constitutes regulated entertainment under the act, gaming license committees and / or the Gambling Commission will have taken into account relevant government guidance. Accordingly it is felt that the licensing objectives will have been, or will be in the main, adequately considered by such committees and duplication of conditions should be avoided when considering applications under the 2003 Act where relevant representations have been made.

### **8.3 Enforcement**

8.3.1 The Enforcement of licensing law and inspection of licensed premises is detailed in the Protocol between Sussex Police, the East Sussex Fire & Rescue Service and Brighton & Hove City Council. This protocol reflects the need for more efficient deployment of Police and Local Authority staff commonly engaged in licensing enforcement and can be found at Appendix D (Lead Agency Status) of the Statement of Licensing Policy. In addition the Licensing Authority will have regard to its published Licensing Enforcement Policy in making enforcement decisions in accordance with Brighton & Hove City Council's Statement of Licensing Policy (Appendix B). In order to better target enforcement resources, inspections will be undertaken outside of normal office hours and the sharing of information between all enforcement agencies will be encouraged through joint meetings or similar arrangements.

8.3.2 Attention is drawn to the targeting of agreed problem and high risk premises requiring greater attention as identified in the protocol. A number of other council

and government policies, strategies and guidance documents must be taken into account to complement the policy, including:

- Community Safety & Crime Reduction Strategy
- Drugs and alcohol strategies – local alcohol harm reduction strategy
- Objectives of the Security Industry Authority
- The Anti Social Behaviour Act 2003/ASBPC Act 2014
- The Health Act 2006
- The Violent Crime Reduction Act 2006
- Policing and Crime Act 2009

## **9 Reviews**

- 9.1.1 Reviews represent a key protection for the community. Where the licensing authority considers action necessary under its statutory powers it will take necessary steps to support the licensing objectives. Action following review will be informed by licensing enforcement policy – Appendix B.
- 9.1.2 Where style of operation of a premises leads to applications concerning likelihood of racist, religiously motivated, homophobic or transphobic crimes or incidents, the review process should also support the community safety policy. Action should be proportionate and licences would normally be suspended or revoked in these circumstances to deter further incidents.

## **10 Live Music, Dancing & Theatre**

- 10.1.1 This policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues the potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. The impact of licensing on regulated entertainment, particularly live music and dancing, will be monitored. Where indications are that such events are being deterred by licensing requirements, the policy will be revisited with a view to investigating how such situations might be reversed.
- 10.1.2 The Licensing Committee represents the general interests of a community in determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. All members of the Licensing Committee will be trained on Licensing Act 2003 and S182 Guidance. The Licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre - such as imposing indirect costs out of proportion to the income of the licence holder and to the risks presented. Only appropriate, proportionate and reasonable licensing conditions should impose any restrictions on such events.
- 10.1.3 The licensing committee will support the cultural zones, outdoor eating areas, food led operations, community pubs, live entertainment and protect living conditions in mixed use areas.

## 11 Contact Details, Advice and Guidance

11.1.1 Guidance notes to accompany this policy and details about the licensing application process, including application forms, can be found:

- E-mail [ehl.safety@brighton-hove.gov.uk](mailto:ehl.safety@brighton-hove.gov.uk)
- Via [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk) (search under Licensing Act 2003 and follow the relevant links, for example to the Licensing Applications page for a weekly update of applications received)
- By contacting the Health & Safety and Licensing Team at:  
Bartholomew House  
Bartholomew Square  
Brighton BN1 1JP
- By telephoning them on 01273 294429

11.1.2 Advice and guidance to applicants may also be sought from other agencies and departments by contacting them at:

### **Police**

Licensing Unit  
Police Station  
John Street  
Brighton  
BN2 0LA  
Tel: 101

### **East Sussex Fire and Rescue Service**

Brighton & Hove Fire Safety Office  
Hove Fire Station  
English Close  
Hove  
BN3 7EE  
Tel: 01323 462130

### **Health & Safety**

For non-council owned premises:  
Environmental Health & Licensing  
Bartholomew House  
Bartholomew Square  
Brighton BN1 1JP  
Tel: 01273 294429

For council parks & other council-run premises:  
Enforcement Liaison Officer, HSE  
Phoenix House  
23-25 Cantelupe Road  
East Grinstead RH19 3BE  
Tel: 01342 334200

### **Planning**

Development Control  
Hove Town Hall  
Norton Road  
Hove  
BN3 1PT  
Tel: 01273 290000

### **Child Protection**

Director of Children's Services  
Hove Town Hall  
Norton Road,  
Hove BN3 1PT  
Tel: 01273 290000

### **Environmental Health:**

Environmental Protection Team  
Bartholomew House  
Bartholomew Square  
Brighton, BN1 1JP  
Tel: 01273 290000

### **Trading Standards:**

Bartholomew House  
Bartholomew Square  
Brighton  
BN1 1JP  
Tel: 01273 292523

**Director of Public Health**

Hove Town Hall

Norton Road

Hove

BN3 1PT

Tel: 01273 296555

Please note the above were correct at time of publication but may be subject to change; please contact the Licensing Authority if you have queries regarding the above contact points.

## APPENDIX A – Licensing Best Practice Measures

Best Practice Measures to be included for consideration, in particular in SSA:

Matters that would normally be expected in operating schedules:

- the adoption of a policy (e.g. Challenge 25) with acceptable proof of ID as per existing Statement of Licensing Policy
- all off sales to be made in sealed containers for consumption away from the premises
- a smoking policy which includes an assessment of noise and litter created by premises users
- the use of plastic or polycarbonate drinking vessels and containers, especially in outside areas or after specified hours
- a policy in relation to searching customers and for drugs, weapons, seized or lost and found property
- use of a refusals book for registering attempts to buy alcohol by under-age persons or refusals to those intoxicated
- the installation of a digital CCTV system by liaison with, and to a standard approved by, Sussex Police
- policies for dispersal of customers which may include signage regarding taxi services' telephone numbers and advice to respect neighbours and minimize noise

Items to which positive consideration would be given:

- membership of Business Crime Reduction Partnership, Pubwatch, Neighbourhood Watch or similar schemes
- use of 'NightSafe' radio system or similar accredited scheme
- regular training and reminders for staff in respect of licensing legislation, policies and procedures; records of which should be properly recorded and available for inspection
- records of regular checks of all parts of the premises in relation to drug use
- systems in place to ensure details of barred clients are exchanged with other operators
- giving an agreed minimum notice of special events (screening of major sports events, birthday parties, adult entertainment, etc.) to relevant authorities and use of appropriate additional measures at such events

Recommend best practice for both on and off premises

- Staff must be aware of the risk of the problem of proxy sales and offer assistance to responsible authorities to deter offences
- Signage on premises should set out legal duties
- Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders
- Staff training – in addition to personal licence holders training, staff must be adequately trained for duties
- Challenge 25 would be the norm, particularly in the off licence trade
- Signage – proxy sale – deterrence

## Shared Workspace

The Licensing Authority and the Police are aware that each set up and office block will be different and so support the approach of each case on its own merits. We would of course look at location, timings of licensable activity as well as the types of licensable activity being applied for upon receipt of any application. This would be taken into consideration as part of the decision making process and appropriate and proportional conditions agreed with the applicant if suitable. The conditions below are a selection of what have been offered/suggested/agreed in recent applications for shared office spaces.

- Access to the premises will be restricted to members only who are in possession of a key fob or similar access device and their invited guests. All guests attending functions at the premises where alcohol will be served must sign in and a record kept.
- ON sales only
- There will be no overt advertising of the licence facilities outside of the premises.
- No children under the age of 18 will be allowed on the premises unless accompanied by and under the control of an adult.
- There shall be no consumption of alcohol in the other non-licensed areas of the building and appropriate signage shall be displayed throughout the building to reinforce this.
- The sale of intoxicating liquor on the ground floor shall only be for consumption by persons seated at tables within the café bar area and on the [NAMED/NUMBERED] floor only by persons seated. There will be no vertical drinking in the licensed areas and substantial food shall be available at all times.
- From [X TIME] for pre-arranged events held inside the premises, for educational, networking or other similar events linked with the use of the premises to promote business vertical drinking will be permitted. A record of such of events will be kept on the premises and available for inspection by the Licensing Authority or the police.
- Whenever the premises is conducting the sale of alcohol for events for 100 persons or more, then either the designated premises supervisor, another personal licence holder or suitable Licensing act 2003 trained manager shall be present within the licensed premises.
- SIA registered door supervisors shall be employed when a requirement is identified by the Licence Holders risk assessment. The written risk assessment will be reviewed at least once every calendar year. The written risk assessment will take in to account information of guidance offered by the Police and also taking in to account busy periods such as Bank Holidays, seasonal variations and other city centre events e.g. Pride. The written risk assessment will be available on the



premises for inspection of the Police and Authorised Officers of the Licensing Authority.

### **Alcohol Delivery Service**

Conditions for consideration by any potential applicant may include (but are not exhaustive):

- Alcohol will only be delivered to residential and business addresses. The recipient will be required to show the requisite ID to ensure that they are clearly a resident or employed at the named delivery address. Alcohol will not be delivered to customers at a park, in an open space, the beach, a bus stop etc.
- Delivery riders must be instructed to abort delivery where that sale is believed to be a “street sale” or to an open space. All such instances will be recorded in the refusals/incidents log.
- The alcohol delivery service will be ancillary to the provision of takeaway food. All alcohol deliveries must be accompanied by an order for food, the food contingent of the delivery being a minimum of [£X].
- All orders received with an alcohol element will be for delivery only, there will be no collection facilities available from the premises.
- All forms of advertising and promotional literature dealing with the delivery service (including internet sites and flyers/leaflets) will clearly and prominently state that alcohol will only be delivered together with an order for food, the food contingent of the total delivery being a minimum of [£X]. It will also advise of the premises ‘Challenge 25’ policy, which forms of approved ID will be accepted and that failure to show the required form of ID will result in non-delivery of the alcohol. This will be reiterated at the point of sale e.g. through an online ordering website/platform.
- All employees and agents of the premises or agents delivering orders will receive full advance training in selling alcohol, approved forms of ID and Challenge 25 policy as per condition [x] on the premises licence. All staff and agents will be fully trained and understand the company’s policy of non-delivery where approved ID is not available during final interaction with the customer.
- All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
- A record of sales and deliveries will be kept and made available for inspection by the Police, Licensing Authority or officers from the Trading Standards team for 6 months from the date of delivery or refusal of alcohol.
- Where an order is taken for delivery by an employee of the premises to a customer, all customers will sign a delivery note which will contain:

- a) A list of individual items delivered;
  - b) The delivery address;
  - c) The method of payment;
  - d) The name of the person ordering and receiving alcohol;
  - e) The date and time of delivery;
  - f) If proof of age was asked for, confirmation of the type of proof of age document presented and accepted;
  - g) The name of the employee or representative of the premises who made the delivery.
- 
- For deliveries where the alcohol is delivered personally by the Designated Premises Supervisor, or their employees or agents (including Deliveroo couriers) where the DPS has direct supervision over them and in the event that the person ordering and paying for the alcohol nominates another person (the third party) as the recipient of the alcohol (as a gift etc) and the alcohol is to be delivered directly to the third party and not the person ordering and paying for the alcohol, then the person ordering and paying for the alcohol will be required to state as part of their order that the third party/recipient is aged over 18.

## APPENDIX B - Licensing Enforcement Policy

### 1.0 STATEMENT OF OBJECTIVES

The council as licensing authority and responsible authority is committed to the council's priorities and will inform the enforcement actions taken. Amendments to priorities will be embedded automatically.

1.1 This service policy promotes efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code.

1.2 In certain instances the service may conclude that a provision in the code is either not relevant or is outweighed by another provision. It will ensure that any decision to depart from the code will be properly reasoned, based on material evidence and documented.

1.3 The service pursues a positive and proactive approach towards ensuring compliance by:

- Supporting the better regulation agenda;
- Helping make prosperity and protection a reality for the city's community;
- Helping and encouraging regulated entities to understand and meet regulatory requirements more easily;
- Responding proportionately to regulatory breaches; and
- Protecting and improving public health and the environment.

1.4 This policy is based on the seven 'Hampton Principles' of:

**Economic Progress:** Regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection;

**Risk Assessment:** Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources in the areas that need them most;

**Advice and Guidance:** Regulators should provide authoritative, accessible advice easily and cheaply;

**Inspections and other visits:** No inspection should take place without a reason;

**Information requirements:** Businesses should not have to give unnecessary information or give the same information twice;

**Compliance and enforcement actions:** The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions; and

**Accountability:** Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take.

- 1.6 The rights and freedoms given under the Human Rights Act, particularly Article 6 and 8, will be observed, as will the provisions of the Regulation of Investigatory Powers Act.

## **2.0 SCOPE OF THE POLICY**

- 2.1 This policy supports and supplements specific guidance on enforcement action contained in the Statutory Code of Practice for Regulators, Brighton & Hove City Council's Corporate Enforcement Policy, Statutory Codes of Practice and relevant guidance documents and guidelines issued by government departments and co-ordinating bodies.
- 2.2 This policy relates to actions taken to educate and enforce legislation where non-compliances have been identified or have a realistic potential to occur.
- 2.3 The policy is limited to those enforcement activities lead by the Head of Environmental Health & Licensing.

## **3.0 TRAINING**

- 3.1 Officers undertaking enforcement duties will be suitably trained and qualified so as to ensure they are fully competent to undertake their enforcement activities.

## **4.0 MANAGEMENT SYSTEMS**

- 4.1 The service will maintain management systems to monitor the quality and nature of enforcement activities undertaken, so as to ensure, so far as is reasonably practicable, uniformity and consistency.

## **5.0 ENFORCEMENT OPTIONS**

- 5.1 The service recognises the importance of achieving and maintaining consistency in its approach to enforcement. Statutory Codes of Practice and guidance issued by government departments, other relevant enforcement agencies or professional bodies will therefore be considered and followed where appropriate.
- 5.2 Sanctions and penalties will be consistent, balanced, fairly implemented and relate to common standards that ensure individual's, public safety or the environment is adequately protected. The aim of sanctions and penalties are to:
- Change the behaviour of the offender;
  - Eliminate any financial gain or benefit from non-compliance;
  - Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
  - Proportionate to the nature of the offence and the harm caused; and
  - Aim to deter future non-compliance.
- 5.3 Criteria to be taken into account when considering the most appropriate enforcement option include:
- the potential of the offence to cause harm;
  - confidence in the offender;

- consequences of non compliance;
- likely effectiveness of the various enforcement options.

5.4 Having considered all the relevant options the choices for action are:

- **Informal Warning:** All advice issued will be given in writing and specify the nature of the breach or offence, and the actions required to remedy the issue. An informal warning may be included with the advice, and may accompany higher-level actions, such as Enforcement Notices or Voluntary Surrender:
- **Licence review:** Licence review power will be used where an application for review relates to one or more of the licensing objectives.
- **Taxi licence:** Taxi licence suspension or revocation will be used to protect public safety. Other sanctions such as DSA testing will be used to protect public safety and in accordance with the taxi licensing policy (Blue book).
- **Simple Caution:** The issue of a Simple Caution by an authorised officer may be undertaken as an alternative to prosecution where it is considered unnecessary to involve the courts, and the offender's response to the problem makes repeat offending unlikely, or the offender's age or health make it appropriate. Cautions may only be issued where the offender makes a clear and reliable admission of guilt and understands the significance of acceptance.
- **Prosecution:** A prosecution is appropriate where there is a breach of a legal requirement, such that public safety, health, economic or physical well-being or the environment or environmental amenity is adversely affected.

The Crown Prosecutor's Code of Evidential and Public Interests tests must be met in all cases. However, certain circumstances will normally justify prosecution to prevent the undermining of the service's enforcement responsibilities.

- Failure to comply with an Enforcement Notice
- Declining a Simple Caution
- Continued, reckless, negligent or pre-meditated non-compliance.
- Failure to pay a fixed penalty.
- Non-cooperation, acts of obstruction or threats of physical harm or abuse.
- **Injunctions:** Injunctive action as a means of preventing an activity or course of action likely to result in significant risk to public or community safety or economic wellbeing of consumers and businesses.

5.5 If the department is considering taking enforcement action which it believes may be inconsistent with that adopted by other authorities, the matter will be referred to the appropriate local co-ordinating body.

## 6.0 **INFORMAL WARNING**

6.1 Informal action may be taken when:

- the act or omission is not serious enough to warrant formal action, or
- from the individual's/enterprise's past history it can be reasonably expected that informal action will achieve compliance, or
- confidence in the individual/enterprise's management or ability to resolve the matter is high, or
- the consequences of non-compliance will not pose a significant risk to public health, public safety, animal welfare or the environment.

- 6.2 When an informal approach is used to secure compliance with regulations, written documentation issued will:
- contain all the information necessary to understand what is required and why;
  - indicate the regulations contravened, measures which will enable compliance with legal requirements and that other means of achieving the same effect may be chosen;
  - clearly differentiate between legal requirements and recommendations of good practice. Such a differentiation will also be made when verbal advice is given.

## **7.0 SIMPLE CAUTIONS**

7.1 A Simple Caution may be issued as an alternative to a prosecution. Cautions may be issued to:

- deal quickly and simply with less serious offences;
- divert less serious offences away from the courts;
- reduce the chances of repeat offences.

7.2 The following factors will be considered when deciding whether a caution is appropriate:-

- evidence of the suspect's guilt
- has a clear and reliable admission of the offence been made either verbally or in writing
- is it in the public interest to use a caution as the appropriate means of disposal when taking into account the public interest principles set out in the Code for Crown Prosecutors.
- the suspected offender must understand the significance of a simple caution and give an informed consent to being cautioned.

7.3 No pressure will be applied to a person to accept a Simple Caution.

7.4 The 'cautioning officer' will be the most appropriate officer from Service Director, Service Assistant Director, Head of Service Environmental Health Manager or Licensing Manager. The Cautioning Officer must not have taken an active part in investigating the case.

7.5 Should a person decline the offer of a simple caution a prosecution will be recommended.

## **8.0 PROSECUTION**

8.1 The department recognises that the decision to prosecute is significant and could have far reaching consequences on the offender.

8.2 The decision to undertake a prosecution will be taken after proper consultation in accordance with the Scheme of Delegation for the council's functions. The decision to proceed with a prosecution will normally be taken following legal advice. The matters to be taken into account when deciding if the issue of proceedings is proportionate include:

- the seriousness and nature of the alleged offence;
- the role of the suspect in the commission of the offence;
- any explanation by the suspect or any agent or third party acting on their behalf;
- was the suspect in a position of trust, responsibility or authority in relation to the commission of the offence;
- is there evidence of premeditation or disregard of a legal requirement for financial reward;
- risk of harm to the public, an individual or the environment;
- relevant previous history of compliance;
- reliability of evidence and witnesses
- any mitigating or aggravating circumstances or the likelihood that the suspect will be able to establish a defence;
- suspect's willingness to prevent a recurrence of the offence;
- the need to influence future behaviour of the suspect;
- the likely penalty to be imposed; and
- a prosecution is in the public interest, there is realistic prospect of conviction and sufficient evidence to support proceedings.

8.3 All relevant evidence and information will be considered before deciding whether to instigate proceedings in order to enable a consistent, fair and objective decision to be made.

8.4 Where an act or omission is capable of constituting both a summary and either way offence, when deciding which offence to charge the following will be considered:

- the gravity of the offence;
- the adequacy or otherwise of the powers of the summary court to punish the offence;
- the record of the suspect;
- the suspect's previous response to advice or other enforcement action;
- the magnitude of the hazard;
- any circumstances causing particularly great public alarm;
- comments from the council's Solicitor's Office.

8.5 As a general rule an individual or business will be given a reasonable opportunity to comply with the law although in some circumstances prosecution may be undertaken without giving prior warning, e.g.

- the contravention is a particularly serious one;
- the integrity of the licensing framework is threatened.

## **9.0 Home Office and Government Advice: Problem premises on probation**

9.1 The licensing authority supports the strategies of interventions and tough conditions to be assembled into packages released in 2008. The current version is appended (appendix A).

## 10. **APPEALS**

If any person is unhappy with the action taken, or information or advice given they will be given the opportunity of discussing the matter with the relevant team manager, Head of Service or Assistant Director.

Any such appeal does not preclude any aggrieved person from making a formal complaint about the service or any officers. Any such complaint will be dealt with in accordance with corporate procedures and guidance.

Complaints that are not dealt with by the council's complaints procedure are listed in corporate policy and include:

- Complaints where the complainant or another person has commenced or intends to commence legal proceedings against the council.
- Complaints where the council has commenced or intends to commence legal proceedings against the complainant or another person relating to the matter of complaint.

## 11. **SHARED ENFORCEMENT ROLES**

Lead agency status between Sussex Police, East Sussex Fire and Rescue Service and the council's trading standards, environmental health and licensing officers are determined between the agencies at county level. The current position is appended (appendix H).



## ANNEX A

### “PROBLEM PREMISES ON PROBATION” – RED AND YELLOW CARDS : HOW IT WOULD WORK

#### The problem

1. In many cases, revocation of a premises licence effectively kills any business which is focussed on retailing alcohol. This means that not only the business owner suffers, but most people working there will lose their livelihoods. Many of these workers will be entirely innocent of any wrong-doing. There is also an impact on those who rely indirectly on income from the premises – such as local food suppliers or cleaning contractors, and the closure of a premises can deprive some communities of their local shop or restrict local consumer choice. Enforcement agencies that apply for reviews and local councillors sitting on licensing committees are well aware of this potential impact and it can lead to a reluctance to use the powers in the act to revoke the licence instantly for any failure to promote the licensing objectives. This risks patchy enforcement and uneven solutions to alcohol-related problems around the country.
2. In addition, in many cases, enforcement agencies will prefer to negotiate additional voluntary conditions with problem premises against the threat of review as an immediate, pragmatic and less bureaucratic solution. While this may be a reasonable approach in many cases, there is a risk that some premises are not being dealt with as firmly as necessary, particularly given the level of test purchase failures. Nor are voluntary agreements particularly visible, lessening the deterrent effect on other premises.
3. Government wishes to support the enforcement agencies and licensing authorities by providing clear guidance on a “yellow card / red card” system, which would ensure a firm response to problems, but which give premises an opportunity to reform. The intention is that such a system would be highly visible and send a clear message to alcohol retailers, and the public, that action will be taken against those who act contrary to the licensing objectives and the law.
4. The proposed interventions below would not prevent the giving of an instant red card in an appropriately serious case. It should be realised that a “test purchase” failure often masks multiple offences that have gone undetected.

#### **Supporting enforcement agencies**

5. The government will encourage enforcement agencies – mainly the police, trading standards officers and environmental health officers – to seek more reviews in the knowledge of the yellow card/red card system described below. This will mean not giving formal warnings. It will mean that on identifying problem premises, the licensing authority will be engaged faster than it might have been in the past.
6. Enforcement agencies would be encouraged to seek reviews when local intelligence suggests that individual premises are selling to children or causing other crime problems or causing noise nuisance.

7. Under the law, the licensing authority must then hold a hearing so long as the application relates to one of the four licensing objectives and is made by a responsible authority or by other persons like a local resident or another local business.

### **First intervention**

8. Responsible authorities will be encouraged to propose a package of touch new conditions to be added to the existing conditions which are designed to combat the identified problem. The kinds of conditions that we have in mind are set out in Annex A. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises. Such action should be supplemented where appropriate by:
  - Removal of the designated premises supervisor and his/her replacement (the manager is removed);
  - Suspension of the licence for between one day and three months according to the circumstances.
  - Restriction on trading hours – cutting hours of trading in alcohol.
  - Clear warning that a further appearance will give rise to a presumption of revocation.
9. If appropriate following review, the licensing authority should consider these packages of conditions and actions to challenge problem premises more aggressively.
10. For example, requiring a major supermarket to make all alcohol sales through a single till manned by a person aged 25 years or older in order to tackle sales to underage. Over a year, this would potentially cost such a supermarket £millions. It would also make them reflect on their levels of supervision at other stores.
11. In addition, enforcement agencies should make the premises in question a priority for test purchases and more regular inspections.
12. The aim would be to put the premises on probation. Effectively, they are given a yellow card. They are put on notice that the next offence or breach would mean an automatic second intervention – a red card.

### **Second intervention**

13. In the absence of improvement, enforcement agencies should seek another review. The licensing authority again must grant a hearing.
14. If satisfied on the issue of the lack of improvement, the licensing authority should look to **revoke the licence**. The action should be publicised in the area as an example to other retailers.

## **Implementation**

15. Requires:
  - Development with the Home Office of a toolkit and guidance for police, trading standards and ethos;
  - Initial letters to Leaders of local authorities and Chief Executives;
  - Ultimately, stronger statutory Guidance to be laid in Parliament for licensing authorities themselves.
  
16. Central Government cannot tell licensing authorities what to do. The review powers are devolved to them. Similarly, central government cannot direct enforcement agencies how to enforce the law. It would remain their judgement when and how to act.

## **ANNEX B**

### **POSSIBLE TOUGH CONDITIONS TO BE ASSEMBLED INTO PACKAGES**

n.b. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises.

#### **GREATER CONTROL OVER SALE**

1. Designated checkout(s) for alcohol sales (supermarket). Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
2. Personal licence holder/DPS to be on site at all times during sales of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
3. Personal licence holder/DPS to supervise and authorise every individual sale of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
4. SIA registered security staff to be present at points of sales to support staff refusing sales to u-18s and drunks.
5. Alcohol sales only to be made only by person aged not less than 25 years. Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
6. CCTV installed at all points of sale and recorded. Recordings can be examined by a constable or trading standards officer to determine sales to minors or drunks.
7. The licensed premises shall join the Business Crime Reduction Partnership scheme.

#### **TRAINING**

8. All staff to read and sign a declaration that they understand the law every time they start a shift.
9. Train all staff engaged in selling alcohol in alcohol awareness (not just personal licence holders). All new staff to be trained within two weeks of commencing employment. Evidence of training to be retained in writing and to be available for inspection by any authorised person and training standards officers. Impact on all licensing objectives.

## **ALCOHOL SALE BANNED AT CERTAIN HOURS**

10. No alcohol sales Mon – Fri between 4pm and 8.30pm. Impact on protection of children from harm or targeted hours reflecting times when local intelligence indicates under 18s may be purchasing alcohol.
11. No alcohol sales – Friday to Sunday. Impact on all four licensing objectives.

## **ALCOHOL DISPLAYS**

12. No displays of alcohol or advertising of alcohol promotions that can be seen from outside the premises.
13. No alcohol stocks promoted alongside goods likely to appeal to children (eg confectionary, toys).

## **CUTTING DOWN ON SHOPLIFTING**

14. SIA registered security staff to be present at alcohol aisles during opening times to prevent attempted under age sales or theft.
15. Location of alcohol stocks/displays not to be sited near the entrance/exit to deter shoplifting.
16. No direct public access to alcohol products – like tobacco, alcohol to be kept behind a dedicated kiosk.

## **NAMING AND SHAMING**

17. Display an external sign/yellow card to state which of the licensing act objectives they have breached and what action has been taken against them.

## **OTHERS**

18. Maintain a log of all under attempted purchases from those who appear to be under 18 or drunk.
19. Children aged under [18 years] not to be present or (not more than one child at any one time) on premises (other than children living on the premises or of the people working on the premises); or only children under 18 accompanied by an adult to be permitted on the premises during retailing hours. Impact on protection of children from harm.

20. Products to be labelled (a label stuck to the bottle or can) to show the details of the shop from which it was bought. Purpose would be to provide evidence of unlawful sales if product found commonly in possession of persons under 18.
21. Designated single items – beer, alcopops and cider – not to be sold to any person. Impact on protection of children from harm. Purpose would be to reduce sales to children and drunks. Alternative would be to prescribe sales of beer, alcopops and cider in quantities of less than four.
22. CCTV installed, monitored and 24 hour recordings kept for a week and made available to constables and persons authorised under the 2003 Act to help identify attempted proxy purchasing.
23. Where there is no designated smoking area, readmission after midnight should normally be prohibited.

## **APPENDIX C - Film Classification**

- 1.1 The British Board of Film Classification (BBFC) and the Licensing Authority are the classification bodies for films shown in the city, and as such has the right to issue film classifications to films that are shown in premises such as cinemas and film festivals. The Licensing Authority can be requested to classify a film that has not yet been classified by the BBFC. A typical example of this would be a locally made film, such as a student production, to be shown at a film festival in the borough.
  - 1.2 Under the Licensing Act 2003 any premises that has permission to show films as part of their permitted licensable activity, such as a cinema, has mandatory conditions attached to the licence regarding the exhibition of films.
  - 1.3 Any classification issued by the Licensing Authority only applies when the film is exhibited within the city, and does not effect the classification in other areas.
  - 1.4 A decision will be made at an officer level regarding the classification to be issued. This decision will be based on the BBFC guidelines. In sensitive cases, officers would consult with the Chair or Deputy.
- 1.5 Classification Requirements when films are not viewed in advance
- Requests for an 18 certificate classification requirements be determined on an officer basis subject to the conditions shown below.. An 18 certificate would be issued based only on the synopsis of the film and would be appropriate in the following cases:
- (a) A film festival
  - (b) A one off screening of a film
  - (c) A trailer for a film
- 1.6 Any request to classify a film will be considered by the licensing authority and must be accompanied by both the synopsis of the film and a full copy of the film in DVD or video format.
  - 1.7 All requests must be made with a minimum of 7 days notice of the proposed screening or 28 days for multiple requests.

### **Mandatory Conditions - Licensing Act 2003**

The conditions detailed below are mandatory conditions required to be placed on all Premises Licenses where the showing of films is authorised under the Licensing Act 2003

#### **Exhibition of films**

S 20; mandatory condition: exhibition of films

- the admission of children is to be restricted in accordance with the following
  - (a) where the film classification body is specified in the licence, unless subsection (3)(b) of S 20 applies, admission of children must be restricted in accordance with any recommendation made by that body

- (b) where the film classification body is not specified, or [(S20 (3)(b)] the relevant licensing authority has notified the holder of the licence that this subsections applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority

### **Additional Conditions Attached to Cinema Licences**

#### **Conditions Attached to an 18 Certificate Film Classification Requirements where films have not been viewed in advance**

The conditions listed below are attached by BHCC on all waivers to the film classification requirements:

1. The films must not encourage or incite crime; or lead to disorder; or stir up hatred against any section of the public in Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex; or promote sexual humiliation or degradation of or violence towards women.
2. The films must not have the effect such as to tend to deprave and corrupt persons who see them.
3. The films must not contain a grossly indecent performance thereby outraging the standards of public decency.
4. Persons under the age of 18 must not be admitted to any such film exhibitions.



## APPENDIX D - Lead Agency Status

Offence / Issue	Police	Local / Licensing Auth	Fire & Rescue	Trading Standards
<b><u>Licensing Objective 1:</u></b> <b>Crime and Disorder</b>				
Offences of failing to notify changes in details <i>Section 33(6) Licensing Act 2003</i>		Lead		
Offences of failing to display licences or certificates <i>Section 57(4) Licensing Act 2003</i>		Lead		
Unauthorised use of premises for licensable activities <i>Section 136 Licensing Act 2003</i>	Shared Lead	Shared Lead		
Exposing alcohol for unauthorised sale <i>Section 137 Licensing Act 2003</i>	Shared Lead	Shared Lead		
Keeping alcohol on premises for unauthorised sale <i>Section 138 Licensing Act 2003</i>	Shared Lead	Shared Lead		
Allowing Disorderly Conduct on Licensed Premises <i>Section 140 Licensing Act 2003</i>	Lead			
Obtaining/supplying alcohol to drunk <i>Sections 141 / 142 Licensing Act 2003</i>	Lead			
Failure to leave licensed premises <i>Section 143 Licensing Act 2003</i>	Lead			
Keeping of smuggled goods <i>Section 144 Licensing Act 2003</i>	HMRC&E	HMRC&E		
False statements made for purposes of the Act <i>Section 158 Licensing Act 2003</i>	Shared Lead	Shared Lead		
Enforcement of closure order <i>Section 169 Licensing Act 2003 (repealed by the Anti-Social Behaviour Crime and Policing Act 2014)</i>	Lead			

<b>Offence / Issue</b>	<b>Police</b>	<b>Local / Licensing Auth</b>	<b>Fire &amp; Rescue</b>	<b>Trading Standards</b>
Prohibition of alcohol sales at service / garage areas <i>Section 176 Licensing Act 2003</i>	Shared Lead	Shared Lead		
Public Drunkenness <i>Section 12 Licensing Act 1872</i>	Lead			
Underage drinking <i>Section 169 Licensing Act 1964</i>	Shared Lead			Shared Lead
Misuse of Drugs <i>Section 4 Misuse of Drugs Act 1971</i>	Lead			
Anti Social Behaviour <i>Section 1 Crime &amp; Disorder Act 1998 (repealed by the Anti-Social Behaviour Crime and policing Act 2014 (ASBO)</i>	Shared Lead	Shared Lead		
Acceptance of accredited proof of age cards				Lead
Provision of effective CCTV in and around premises	Lead			
Employment of SIA licensed door staff	Shared Lead	Shared Lead		
Failure to comply with CCTV conditions	Shared Lead	Shared Lead		
Employment of SIA licensed door staff	Shared Lead	Shared Lead		
Requirements to provide toughened or plastic glasses	Shared Lead	Shared Lead		
Provision of secure deposit boxes for confiscated items (sin bins)	Shared Lead	Shared Lead		
Provision of litterbins, other security measures such as lighting	Shared Lead	Shared Lead Lead		

<b><u>Licensing Objective 2:</u></b> <b>Public Safety:</b>	<b>Police</b>	<b>Local / Licensing Auth</b>	<b>Fire &amp; Rescue</b>	<b>Trading Standards</b>
Sales of alcohol on vehicles <i>Section 156 Licensing Act 2003</i>	Lead			
Overcrowding of premises	Shared Lead	Shared Lead	Primary Lead	
Use of special effects such as lasers, pyrotechnics, smoke machines and foam		Shared Lead	Shared Lead	
Blocked or locked means of escape		Shared Lead	Primary Lead	
Provision of sufficient number of people employed to secure safety of patrons	Shared Lead	Shared Lead Lead		
Regular testing and certification of systems and appliances		Shared Lead	Shared Lead	

<b><u>Licensing Objective 3:</u></b> <b>Public Nuisance:</b>				
Public nuisance from noise		Lead		
Public nuisance from litter		Lead		
Public nuisance from persons leaving the premises	Shared Lead	Shared Lead		
Public nuisance from odour		Lead		
Effective public transport		Lead		
Adequate public lighting/security lighting		Lead		

<b><u>Licensing Objective 4:</u></b> <b>Protection of Children from harm:</b>	<b>Police</b>	<b>Local / Licensing Auth</b>	<b>Fire &amp; Rescue</b>	<b>Trading Standards</b>
Exposure to explicit films/plays <i>Sections 74 &amp; 76 Licensing Act 2003</i>		Lead		
Requirements for children to be accompanied by an adult <i>Section 145 Licensing Act 2003</i>	Shared Lead	Shared Lead		
Sale of Alcohol to Children <i>Section 146 Licensing Act 2003</i>	Lead On licence			Lead Off licence
Sale of liqueur confectionery to children under 16 years <i>Section 148 Licensing Act 2003</i>	Lead			
Purchase, acquisition or consumption of alcohol by or for children <i>Sections 149 &amp; 150 Licensing Act 2003</i>	Lead			
Delivering to or sending a child to obtain alcohol <i>Sections 151 &amp; 152 Licensing Act 2003</i>	Lead			
Unsupervised sales by children <i>Section 153 Licensing Act 2003</i>	Lead			
Confiscation of sealed containers of alcohol and unsealed <i>Confiscation of Alcohol (Young Persons) Act 1997)</i>	Lead			
Provision of sufficient number of staff to secure protection of children from harm <i>Section 12(1) Children and Young Persons Act 1933</i>	Shared Lead	Shared Lead	Shared Lead	
Concerns of moral/psychological harm	Shared Lead	Shared Lead		
Concerns over physical harm	Shared Lead	Shared Lead	Shared Lead	
Exposure to drugs, dealing or taking	Lead			
Exposure to gambling	Shared Lead	Shared Lead		
Exposure to activities of adult/sexual nature	Shared Lead	Shared Lead		
Exposure to incidents of violence/disorder	Lead			

Exposure to environmental pollution such as noise or smoke		Lead (with HSE)		
Exposure to special hazards i.e. suitability of the premises		Shared Lead	Shared Lead	
Limitation on hours when children may be present on all or parts of premises	Shared Lead	Shared Lead		
Exclusions by age when certain activities are taking place		Lead		



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

**Agenda Item 8**

Brighton & Hove City Council

**Schedule of Licensing Appeals:  
Date of Meeting: 25<sup>th</sup> June 2020**

<b>Premises</b>	<b>Appellant</b>	<b>PTR</b>	<b>Hearing</b>	<b>Outcome</b>
Border Store, 2 Western Road, Hove, BN3 1AE	Licence Holder; appeal against decision to revoke the licence.			Appeal withdrawn by the licence holder therefore the panel decision to revoke licence came into effect and premises closed.
The Gin Tub, 16 Church Road, Hove BN3 2FL	Licence Holder; appeal against decision to revoke the licence.			Appeal settled by consent and decision to revoke changed to: removal of the DPS, new drug prevention policy, 10 day suspension of licence.





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

**Agenda Item 9**

Brighton and Hove City Council

**Schedule of Reviews from Nov 2019**

<b>NAME AND ADDRESS OF PREMISES</b>	<b>Review called by</b>	<b>DATE OF HEARING</b>	<b>DETERMINATION</b>
The Border Store 2 Western Road Hove BN3 1AE	Licensing Authority	02.12.19	Licence revoked at hearing and appeal received. Appeal withdrawn so licence remains revoked.
The Gin Tub 16 Church Road Hove BN3 2FL	Sussex Police	09.12.19	Licence revoked at hearing and appeal received. Consent order agreed on appeal, additional conditions added, removal of DPS & 10 day suspension of licence.
Nisa Local 47-49 The Highway Brighton BN2 4GB	Sussex Police	16.03.20	Additional conditions added & removal of DPS
Kestrel Mini-Market Kestrel Court 1a Swanborough Place, Brighton BN2 5PZ	Sussex Police	16.03.20	Additional conditions added
Wimpy, 14 Station Road Portslade BN41 1GA	Sussex Police	TBC (received 15.05.20)	Yet to be determined

