



**Brighton & Hove  
City Council**

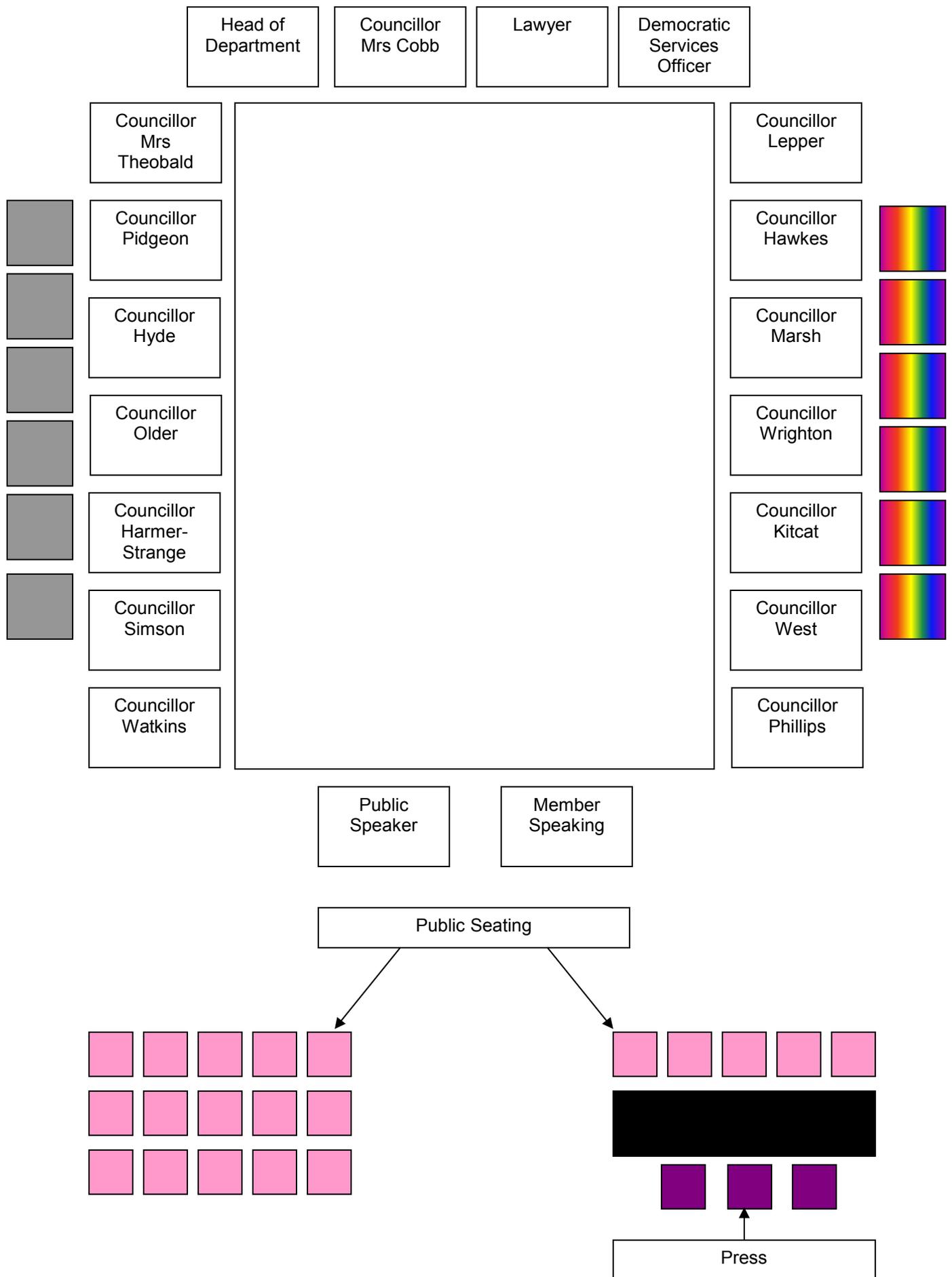
# Licensing Committee

## (Licensing Act 2003 Functions)

Title:	<b>Licensing Committee (Licensing Act 2003 Functions)</b>
Date:	<b>4 March 2010</b>
Time:	<b>3.30pm (or conclusion of Non 2003 Committee)</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillors:</b> Cobb (Chairman), Lepper (Deputy Chair), Harmer-Strange, Hawkes, Hyde, Kitcat, Marsh, Older, Phillips, Pidgeon, Simson, C Theobald, Watkins, West and Wrighton
Contact:	<b>Jane Clarke</b> Democratic Services Officer 01273 291064 jane.clarke@brighton-hove.gov.uk

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# Democratic Services: Meeting Layout



## AGENDA

### 22. PROCEDURAL BUSINESS

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

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

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

### 23. MINUTES OF THE PREVIOUS MEETING

1 - 10

Minutes of the previous meeting held on 26 November 2009 (copy attached).

### 24. CHAIRMAN'S COMMUNICATIONS

### 25. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on Thursday 25 February 2010).

No public questions received by date of publication.

### 26. PETITIONS

11 - 14

Report from the Director of Strategy & Governance (copy attached).

Contact Officer: Jane Clarke

Tel: 29-1064

Ward Affected: All Wards;

## LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

- 27. NOTICE OF MOTION FROM COUNCIL** **15 - 18**
- 28. REDUCING ALCOHOL RELATED HARM TO CHILDREN AND YOUNG PEOPLE - CYPOSC REFERRAL** **19 - 100**

Report from the Director of Environment (copy attached).

*Contact Officer:* Tim Nichols *Tel:* 29-2163  
*Ward Affected:* All Wards;

- 29. WORK OF THE LICENSING AUTHORITY DURING 2009/10** **101 - 120**

Report of the Director of Environment (copy attached).

*Contact Officer:* Jean Cranford, Tim Nichols *Tel:* 29-2550, *Tel:* 29-2163  
*Ward Affected:* All Wards;

### **30. ITEMS TO GO FORWARD TO COUNCIL**

To consider items to be submitted to the 18 March 2010 Council meeting for information.

In accordance with Procedural Rule 24.3a the Committee may determine that any item is to be included in its report to Council. In addition each Minority Group may specify one further item to be included by notifying the Chief Executive by 10.00am on 8 March 2010.

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

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

For further details and general enquiries about this meeting contact Jane Clarke, (01273 291064, email [jane.clarke@brighton-hove.gov.uk](mailto:jane.clarke@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Wednesday, 24 February 2010

**BRIGHTON & HOVE CITY COUNCIL**

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

**3.30PM 26 NOVEMBER 2009**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Cobb (Chairman), Lepper (Deputy Chairman), Allen, Harmer-Strange, Hawkes, Hyde, Kitcat, Older, Phillips, Pidgeon, Simson, C Theobald, Watkins and West

**Apologies:** Councillors Marsh

**PART ONE**

**11. PROCEDURAL BUSINESS**

**11a. Declarations of Substitutes**

11.1 Councillor Kevin Allen declared that he was substituting for Councillor Mo Marsh.

**11b. Declarations of Interests**

11.2 There were none.

**11c. Exclusion of the Press and Public**

11.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Committee (Licensing Act 2003 Functions) considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100(1) of the Act).

11.4 **RESOLVED** – That the press and public be not excluded.

**12. MINUTES OF THE PREVIOUS MEETING**

12.1 **RESOLVED** – That the minutes of the meeting held on 26 June be signed by the Chairman as a correct record.

**13. CHAIRMAN'S COMMUNICATIONS**

13.1 There was none.

**14. PUBLIC QUESTIONS**

14.1 There were none.

**15. ALCOHOL DISORDER ZONES**

15.1 The Committee considered a report from the Director of Environment regarding Alcohol Disorder Zones (for copy see minute book).

15.2 The Head of Environmental Health & Licensing presented the report and stated that requests had been made from Local Action Teams in the city to impose alcohol disorder zones in certain areas. If these zones were established however, more detailed evidence and work would be needed before they could be imposed. Options could include provision of taxi marshals; street wardens attached to and paid for by business districts; more CCTV in public places and additional street lighting. Additional Police resources would need to be prioritised and although Section 27 Dispersal Powers were suggested, these were already being effectively used by Sussex Police. He added that he would like to correct the recommendation in the report as follows:

1. That Members adopt the governments favoured approach, only exploring ADZs as a last resort and following a request from the Chief Officer of Police, and receipt of evidence for the need in a tightly defined area.

15.3 Inspector Nelson from Sussex Police addressed the committee and stated that the Police were keen to see taxi marshals progressed and a scheme was being introduced which would provide two marshals at two main ranks in the city. He stated that the most obvious benefit of this was the release of Police Officers to other tasks who would otherwise be fulfilling this duty.

Inspector Nelson stated that Sussex Police were traditionally keen to embrace any opportunities provided by Central Government legislation and that their primary duty was to keep citizens safe. He added there was a wider responsibility to community cohesion however, and part of this was a need to consider the financial climate of the city. He believed that the results of Alcohol Disorder Zones (ADZ) might place a financial burden on businesses that was not proportionate to the problems they were trying to tackle.

Sussex Police had seriously considered the situation in St James' Street, but other measures had been introduced to ameliorate the problems and the situation had considerably improved. He reiterated that in this case, an ADZ would have been particularly onerous on the businesses in the St James' Street area. The Police were keen to discuss issues with Local Action Teams (LAT) to avoid introducing what was essentially a crisis measure.

15.4 Councillor Watkins stated the Cumulative Impact Area (CIA) cut through his ward, and this was of particular concern to the LAT. He stated that his residents wanted the entire

area to be included as more and more premises were selling alcohol in his area and the CIA would help to control this growth. Councillor Watkins added that Brunswick and Adelaide Ward was the most densely populated area of the city and it was incumbent on the authorities to consider the impact of this expansion of licensed premises on the residents of the area. He said that the issues would not go away, and each area needed to be considered on an individual basis.

- 15.5 Inspector Nelson clarified that the CIA area was open to review and the Police would always keep an open mind on possible extensions to the area. However, the area was essentially about controlling the boom in licensed premises that had been experienced previously, but this was less evident in the current economic climate. There was a presumption of refusal in the CIA, but this needed to be proportionate and with valid reasons. He added that the Police were keen to explore other methods of controlling the problems residents were experiencing as a result of licensed premises however.
- 15.6 Councillor Kitcat believed that the CIA was not delivering the controls it promised. He cited only one premises being turned down in the CIA, which had resubmitted recently and been approved. He felt the position of rebuttal was not being used effectively and ADZs could help with the problems his residents experienced and would be very welcome in his ward. Councillor Kitcat added that the residents in his ward were tired of being let down by the Police on this issue and added that in the current regime, it was difficult for residents to build evidence of problems against a specific premises, given the times these problems occurred, and felt that the Police should be working harder on this issue. He asked if it was legal to allow anyone to request an ADZ.
- 15.7 The Chairman replied that although any organisation could request an ADZ if the Council allowed it, it would require proof and the Police were considered the only authority who had the ability to provide this proof.
- 15.8 Inspector Nelson added that the CIA was not an irrebuttable presumption and that the policy provided the Police with a sound basis for requesting much more strenuous conditions on a new licence. However, any decision had to be proportionate and if conditions were enough to ameliorate the negative impact of an application, then there was no grounds to refuse it.

He added that the Police took on board residents views of the problems they were suffering, but it was the case that crime had been reduced in the city centre for several years now. The Police did not expect residents to place themselves in danger at night to gather evidence against a premises, but added that they needed residents intelligence to target a particular establishment if necessary. If the Police were alerted to a problem premises they would investigate carefully, but he added that it was difficult to control problems created by people passing through the area.

- 15.9 Mr Nichols stated that anyone could request an ADZ but noted that ADZs and the CIA were different issues. When the CIA had been initially introduced, Mr Nichols had expressed caution about its effectiveness, and the possible perception that it was an immediate resolution to the problems created by alcohol related anti-social behaviour. The CIA concept was not based in statue and it created an unrealistic expectation for residents. He understood the frustrations expressed by communities in the city centre and realised it was difficult to identify one particular premises as the cause of the

problems. However, the review process was the main tool by which communities could address the issues in their area and this process had steps which could help to alleviate persistent problems, including removal of the Designated Premises Supervisor (DPS) and possible revocation of the licence.

- 15.10 Councillor Hawkes stated that the problems created by students returning to Varley Hall in Coldean was being investigated by Police Officers and noted that it was not just premises in the city centre causing problems but people commuting home through areas afterwards. She suspected this issue was prevalent across the city.
- 15.11 Councillor West felt that the Police had been very enthusiastic about the CIA when it was first introduced, but now when new applications were submitted a general concern about the problems in the city was evident from all concerned, but the Police would deal with the application by negotiating conditions, which was disconcerting for the residents. There was an evident lack of success for this policy and although crime had been reduced, he felt this was attributable to the current recession. He asked if the Police would take a more robust approach in defending the CIA.
- 15.12 Inspector Nelson stated that it was not in the Police powers to refuse an application outright. The CIA afforded the benefit of placing more onerous conditions on a new licence than usual. He added that a greater benefit could be gained from ensuring that current licences were operated effectively. To this effect the Police and other responsible authorities met on a regular basis to look at premises where intelligence had been gathered raising concern about their operation and to ensure that effective and ongoing management of these premises was put into place.
- 15.13 Councillor Wrighton felt there was a gap in the law and in service of control of street noise, which she believed had a major effect on residents' lives. She felt ADZs could be used to alleviate this problem and that street marshals could be the way forward.
- 15.14 Mr Nichols noted that this had not been implemented anywhere else in the Country and the Council would be exploring new territory. He added that there was no Council funding for this however and felt it would be a difficult case to assess, as a problem area would need to be identified with evidence, and action plan put into place and a review conducted on a three monthly basis. He noted that by-laws already created offences for noisy individuals in the street, although recognised that this did not represent a practicle solution.
- 15.15 Inspector Nelson added that Police Officers regularly dealt with individuals who were breeching the peace, but this often happened late at night and was not always an immediately obvious action for residents to note.
- 15.16 Councillor Kitcat asked what could be paid for using ADZs. Mr Nichols replied that all of the actions and proposals as listed in the report could be funded, but this was not an exclusive list and other options could be considered.
- 15.17 Dr Scanlon from the Public Health Directorate of Brighton & Hove stated that he was very keen to support and explore this idea further as he felt there was much that could be done to tackle problems in the city that were over and above the Police's remit.

- 15.18 Inspector Nelson added that the Police and health colleagues were discussing initiatives including advice on how people could drink responsibly and keep themselves safe. He felt this gave a strong message that the Police cared about residents' safety.
- 15.19 Councillor Simson added that the Police and the Council were working in conjunction with different faiths in the city to provide a street pastors scheme, which would be implemented in March-April 2010.
- 15.20 Councillor West felt that it was clear there were problems being experienced by residents relating to these issues, which were not being addressed. He understood the authority would be the first to implement this but felt that elements of the proposals could be used as a useful tool to alleviate the problems without having to implement a full ADZ. He added that unless the Council explored the options and tested to see if they were successful they would not know if they were effective. He did not want to miss the opportunity to resolve some of these issues and felt that the recommendation in the report was limiting. He proposed the following amendment, seconded by Councillor Watkins, to the recommendation:
1. That Members adopt the governments favoured approach, only exploring ADZs as a last resort and following a request from the Chief Officer of Police, LATs or properly constituted community groups, and receipt of evidence for the need in a tightly defined area.
- 15.21 Councillor Watkins felt that the options to request an ADZ did need to be widened out to LATs, but felt that if ADZs were being used as a last resort all other options needed to be explored and made available to residents first. He added that LATs were extremely responsible organisations with detailed knowledge of their communities.
- 15.22 Inspector Nelson agreed that new legislation should be embraced where opportunities were evident but he reiterated that levying businesses to pay for options could result in an unfair economic burden at a difficult time. He added that the Police were part of the LATs in the city rather than separate from them, and if any LAT wanted to explore ADZs further, this would be considered by the Police.
- 15.23 Councillor Kitcat felt that the opportunities inherent in ADZs should be embraced and proposed another amendment to the recommendations, seconded by Councillor West, as follows:
1. That Members adopt the governments favoured approach, only exploring ADZs as a last resort and following a request from the Chief Officer of Police, LATs or properly constituted community groups, and receipt of evidence for the need in a tightly defined area.
  2. That the Committee accepts the St James Street LAT request for an Alcohol Disorder Zone and will investigate the options further.
- 15.24 A vote was taken on Councillor Kitcat's amendment and was lost. A vote was taken on Councillor West's amendment and was lost. A vote was taken on the recommendation in the report, as corrected by the Head of Environmental Health and Licensing, and was carried.

15.25 **RESOLVED** – That Members adopt the governments favoured approach, only exploring ADZs as a last resort and following a request from the Chief Officer of Police, and receipt of evidence for the need in a tightly defined area.

## 16. HEALTH IMPACT ASSESSMENT OF LICENSING

16.1 The Committee considered a report from the Director of Environment regarding the Health Impact Assessment of Licensing (for copy see minute book).

16.2 The Head of Environmental Health and Licensing presented the report and noted that the assessment had already been considered at the Alcohol Strategy Group where colleagues from the Police had reviewed the findings. The Alcohol Strategy Group felt that lobbying of Central Government on the issues would not be particularly helpful at this current time, given the impending general election. The Group also expressed concern over the management of the actions, given there were so many. However, it was recognised that these were unfiltered responses from members of the public and whilst they were honest accounts, they were not necessarily legally achievable, funded, practical or in some cases, desirable.

In terms of the action points that related to the licensing function of the Council, the Head of Environmental Health and Licensing noted that the Statement of Licensing Policy was due to be reviewed by December 2010, and the Cumulative Impact Area to be reviewed by April 2010. The aspirations in this document could be used to inform these policies.

16.3 Dr Scanlon, Director of Public Health for Brighton & Hove City Council and Brighton & Hove PCT addressed the Committee and stated that this had been an independent report commissioned by Brighton & Hove Primary Care Trust and the Brighton & Hove City Council Directorate of Public Health. The work had been tendered out to expert consultants in health inequality assessment. The original consultation process had produced fairly subjective results and the consultants had been asked to obtain statistical data in support of this.

However, Dr Scanlon felt the data still did not clearly reflect the trend in alcohol related health issues over a significant period, as the information did not adequately pre-date the introduction of the Licensing Act. There was however, some valuable data in the report and the findings did show a significant increase in alcohol related hospital admissions, an increase in alcohol related domestic abuse and an increase in alcohol related violent crimes over the period assessed.

Dr Scanlon added that consultation had been undertaken with the general public, licensees, relevant service providers and elected Members regarding the effects of the Licensing Act, and the general perception was largely negative. Some positive effects of the Act were recognised however, including the increase in tourist trade to Brighton and Hove and the positive economic effects of the licensed trade on the city. Dr Scanlon recognised there was a large amount of recommended actions in the assessment and so a more manageable action list had been drafted as part of the Officers report to consolidate the actions.

- 16.4 Councillor Lepper agreed that the assessment was interesting, but felt the number of actions that had been produced was unreasonable, and many were impossible to implement. She felt that increasing the number of Noise Patrol Officers was highly desirable but financially unachievable, as was the case with many of the action points.
- 16.5 Dr Scanlon agreed that the actions did represent a 'wish list' from residents and local businesses and understood that many of the actions could not currently be implemented. The truncated list in the Officers report represented more attainable goals however.
- 16.6 Councillor Simson agreed with Councillor Lepper and felt that even the truncated list was still a 'wish list' in some respects as there was no money to pay for many of the actions. She noted the cultural change in drinking habits over the last few years, and felt that this played a large part in contributing to the problems. Councillor Simson added that home drinking and 'pre-loading' was as much a problem for society as street drinking, and tackling irresponsible parents was one of the major issues for the authority. A follow-up scheme for young people who had been admitted to hospital as a result of underage drinking had been set up in conjunction with the Health Authority and Councillor Simson felt this was an excellent example of how the local authority could combat anti-social drinking.
- 16.7 Councillor Older noted that one of the actions was to limit the number of licensed premises across the city and asked how this would be achieved. She also raised the issue of anonymous representations from interested parties to Licensing Panels, and asked if this was being considered as an option. The Head of Environmental Health and Licensing stated that the only legal way to cap the number of licensed premises in the city would be to impose a city-wide Cumulative Impact Area (CIA), but this would need evidential proof before it could be imposed.

He added that whilst the actions were not always practical or in some cases legally defensible, they did represent the unfiltered wishes of the local community with regard to licensing issues, and as such were a valuable tool for informing the development and review of the Statement of Licensing Policy. He believed that it would be worthwhile lobbying Central Government in the near future on the issues raised.

The Head of Environmental Health and Licensing went on to add that consideration could be given to the submission and acceptance of anonymous representations at Licensing Panels, but added that the Police and the Local Ward Councillor were able to make representations on behalf of individuals who had safety concerns in this respect. If anonymous representations were accepted an amendment would need to be made to the Statement of Licensing Policy.

- 16.8 Chief Inspector Nelson addressed the Committee and stated that Sussex Police ran a comprehensive test purchase programme of licensed premises to help ensure that underage young people were not sold alcohol, and added that this was now being rolled out to the testing of proxy purchasing. He stated that once a licence had been granted to a premises the Police were also responsible for ensuring that the licensing objectives were upheld and if they gained information that a premises was acting irresponsibly then they would take action.

- 16.9 Councillor Hyde felt that increasing the availability of any product would increase its consumption, and local authorities were now dealing with the impact of this, which she believed was a result of the Licensing Act 2003. She noted the recommendation for referral to Planning Committee and welcomed the report, adding that consideration could be given to directing S106 monies into community facilities that mitigated the effects of increased alcohol consumption.
- 16.10 The Chairman was not sure that an increase in the number of licensed premises necessarily related to an increase in alcohol consumption. She felt that the change in people's lifestyles and attitudes towards alcohol had a more direct impact than the availability of alcohol.
- 16.11 Councillor West was concerned that the value of the report was being disregarded because some of the actions were not currently achievable or affordable. He recognised that it represented a 'wish list' in some respects but felt that this should not detract from the evidence that had been gathered about the negative effects of alcohol on local communities. He felt this was a desperate problem for Brighton & Hove and the authority needed to find imaginative answers to deal with it.
- 16.12 Councillor Wrighton agreed and felt the report represented a damning indictment of the Licensing Act 2003. She noted the 30 per cent increase in alcohol related hospital admissions, the increase in alcohol related crime and the increase in noise complaints and felt these were directly related to the Licensing Act. Councillor Wrighton felt that the Council needed to lobby government for public health to be included as a licensing objective. Councillor Wright proposed, and Councillor Phillips seconded, amendments to 2.2 of the recommendations, and to include an extra recommendation at 2.3, as follows:
- 2.2 That the Licensing Committee refers the Health Impact Assessment to the Planning Committee, the Health Overview and Scrutiny Committee, the Environment and Community Safety Overview and Scrutiny Committee and to Full Council under Procedure Rule 24.3a for information and to inform other corporate policies and strategies.
- 2.3 That the Licensing Committee refers the Health Impact Assessment report to the relevant government minister and requests that due consideration is given to enabling 'public health' impacts to be considered as a Licensing Act objective.
- 16.13 Councillor Watkins felt that the amendments were extremely useful and believed that the Health Impact Assessment was an excellent document. He hoped that A&E departments were keeping their own records of under-age alcohol related hospital attendances, and also of attendances related to illegal drug usage. Councillor Watkins referred to the recent White Night festival as an important example of how communities should be using city facilities at night, and believed that action needed to be taken to ensure that the streets of Brighton & Hove were safe and welcoming for everyone to use whenever they wished.
- 16.14 A vote was taken on each of the recommendations, as amended and proposed, and each vote was carried.

**16.15 RESOLVED –**

1. That the findings from this report are considered by the relevant stakeholders and that findings are used to influence the next review of the Statement of Licensing Policy.
2. That the Licensing Committee refers the Health Impact Assessment to the Planning Committee, the Health Overview and Scrutiny Committee, the Environment and Community Safety Overview and Scrutiny Committee and to Full Council under Procedure Rule 24.3a for information and to inform other corporate policies and strategies.
3. That the Licensing Committee refers the Health Impact Assessment report to the relevant government minister and requests that due consideration is given to enabling 'public health' impacts to be considered as a Licensing Act objective.

**17. REDUCING ALCOHOL RELATED HARM TO CHILDREN AND YOUNG PEOPLE - CYPOSC REFERRAL**

- 17.1 The Committee considered a referral from the Children and Young People's Overview & Scrutiny Committee (CYPOSC) regarding a report on Reducing Alcohol Related Harm to Children and Young People (for a copy see minute book).
- 17.2 Councillor Kitcat and Councillor West raised concern that there were no recommendations resulting from the report and Councillor West proposed, seconded by Councillor Hawkes, a deferral of consideration of the CYPOSC referral as follows:
1. To defer consideration of the referral from CYPOSC to enable officers in Environmental Health and Licensing to consider the report and establish recommendations to the Committee.
- 17.3 A vote was taken on Councillor West's proposed deferral and was carried.
- 17.4 **RESOLVED** – To defer consideration of the referral from CYPOSC to enable officers in Environmental Health and Licensing to consider the report and establish recommendations to the Committee.

**18. GAMBLING ACT 2005 - REVISED POLICY**

- 18.1 The Committee considered a report from the Director of Environment regarding the Gambling Act 2005 – revised policy (for a copy see minute book).
- 18.2 The Licensing Manager presented the report and stated that the policy needed to be reviewed every three years according to procedures set out in the Gambling Act 2005, which included details of whom should be consulted. In addition to these statutory consultees, responses were also received from a charity, East Sussex Fire and Rescue Service and Sussex Police. The main proposals in the report were to continue with the existing policy and the Licensing Manager added that the reviewed policy would need to be referred on to Full Council for adoption.

18.3 Councillor Wrighton expressed concern that details of regional casinos had been taken out of the reviewed policy and asked what impact this would have. The Licensing Manager stated that when regional, large and small casino sitings were originally proposed by Government, Brighton & Hove City Council had considered accepting a large casino. The city had not be chosen to take this forward however, so there was no longer any need to include this provision in the policy.

Councillor Wrighton remained concerned that Brighton & Hove might be chosen as a site at a future date and the Licensing Manager stated that there was no longer a risk to the city as it had not been chosen as part of the original plans.

18.4 Councillor West recognised that casino gambling in the city was an issue that needed to be controlled, but believed that as this was done in a more social atmosphere it was easier to control any problems or help people with gambling additions. He felt that the more serious issue was controlling solitary gambling and finding ways to help people with gambling addictions that were using the internet or TV to gamble.

18.5 **RESOLVED –**

- 1) That the Director of Environment be authorised to refer the final version of the Statement of Gambling Policy to Full Council for adoption; and
- 2) That final Statement of Gambling Policy is presented to Full Council and recommended for adoption.

## 19. SCHEDULE OF LICENSING APPEALS

19.1 **RESOLVED –** That the Committee notes the Schedule of Licensing Appeals.

## 20. SCHEDULE OF LICENSING REVIEWS

20.1 **RESOLVED –** That the Committee notes the Schedule of Licensing Reviews.

## 21. ITEMS TO GO FORWARD TO COUNCIL

21.1 **RESOLVED -** That the Licensing Committee refers the Health Impact Assessment to the Full Council under Procedure Rule 24.3a for information and to inform other corporate policies and strategies.

The meeting concluded at 6.45pm

Signed

Chairman

Dated this

day of

# LICENSING COMMITTEE

## (LICENSING ACT 2003 FUNCTIONS)

## Agenda Item 26

Brighton & Hove City Council

**Subject:** *Petitions*  
**Date of Meeting:** **4 March 2010**  
**Report of:** *Director of Strategy & Governance*  
**Contact Officer:** Name: Jane Clarke Tel: 29-1064  
E-mail: [jane.clarke@brighton-hove.gov.uk](mailto:jane.clarke@brighton-hove.gov.uk)  
**Key Decision:** No  
**Wards Affected:** Various

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To receive any petitions presented at Council, any petitions presented directly to the Chairman of Licensing or any e-Petitions submitted via the council's website.
- 1.2 To receive the following e-Petition submitted via the council's website and signed by **23** people:

*We the undersigned petition the council to instigate an ADZ (Alcohol Disorder Zone) under the Local Authorities (Alcohol Disorder Zone) Regulations 2008.*

**[Notes]** A. This e-petition can be viewed on the Council's website using the following link:

<http://present/mgEPetitionDisplay.aspx?ID=84&RPID=348431>

- B. Supplementary information regarding this e-petition can be found at appendix 1 to this report.



**E-Petition against Late Night Noise & Disturbance**

E-Petition detail for the Council to resolve the issue of Residents suffering with alcohol-related Late Night disturbance from noise nuisance, crime and disorder outside their Homes each and every night of the week.

***We the undersigned petition the Council to instigates an ADZ under The Local Authorities (Alcohol Disorder Zones) Regulations 2008.***

Residents Statutory Rights

The 'Crime & Disorder Act 1998 Section 17'  
UK & European Environmental Law  
Human Rights Act 1998  
The right of peaceful enjoyment of your property

Information in support

- That there has been considerable noise nuisance plus annoyance to local residents each and every night of the week.
- That the noise, disorder plus annoyance is directly related to consumption of alcohol in the area.
- That this noise nuisance, annoyance and disorder is more than likely to be repeated, this is supported by residents noise diaries over a period of 4 years.
- That all existing measures have failed to reduce alcohol-related noise nuisance, crime and disorder.
- That this is now causing many residents sleepless nights with the resultant Health problems of
  - a) diminished quality of sleep
  - b) sleep disorder
  - c) extreme tiredness
  - d) irritability
  - e) depression
  - f) behavioural deviation
  - g) inability to concentrate, indecisiveness
  - h) stress-related psychological problems
  - i) communication difficulties
  - j) permanent stress during these noise concentration outbreaks

Other statements in the Public domain in support.

- Late night disturbance in Camelford Street reported to City Council Licensing Committee.
- That David Derrick Central NPT Inspector has stated in other situations in the City that "disturbing the peace of all residents who cannot sleep, then clearly we are duty bound to intervene"
- Street Notices Posted by Police & Safe in the City in Princes Street, "QUIET please keep noise down to a minimum late at night in this area" fixed 7 foot up a lamppost. How these are to be read and obeyed by singing drunks is yet to be proved even if they are singing at 90db, "*silent night holy night*".

**What is an Alcohol Disorder Zones Regulations 2008.**

Simply, an ADZ is designed to help local authorities and the police tackle high levels of alcohol-related nuisance, crime and disorder that cannot be directly attributed to individual licensed premises. They are only used in tightly defined areas and as a last resort, when other tools and measures have failed to resolve the problem.

In designating an ADZ, B&HCC will have to adhere to the following step-by-step guide;

**Step 1 Proposal** where existing measures have failed to reduce alcohol-related nuisance, crime and disorder the local authority gathers any additional evidence required supporting an ADZ.

**Step 2 Consultation** The local authority will publish a notice setting out details of the proposed ADZ and invite responses within 28 days.

**Step 3 Amendment** B&HCC will publish the response to consultation, highlighting any changes to the initial proposal. It then will make a final decision on whether to designate an ADZ.

**Step 4 Action Plan** B&HCC will then send out an action plan to all license-holders in the proposed ADZ, then monitor the impact of preventative measures on alcohol-related nuisances, crime and disorder.

**Step 5 Designation** if the Action Plan fails to have a positive impact, the local authority notifies all licence-holders that an ADZ is coming into force and will start levying charges.

*Licence-holders will then pay charges in relation to their Rates for late night Policing*

**Step 6 Review** B&HCC will review ADZ every 3 months. It can be revoked at any time.

But what needs to be appreciated is that if an ADZ is enforced then it is not just to the benefit of the Residents but also a benefit to the customers and clients of those Licensed Premises as they can attend these venues late at night knowing that the area is Policed. **Safe in the City.**

Please also email your Local Noise and Disorder Problems to the City Council referring it to this Late Night Noise and Disorder Petition.

**NOTICE OF MOTION**

**RESPONSIBLE LICENSING**

“This council notes that:

Nationally there are over 200,000 hospital admissions related to alcohol each year, of which 20,000 are under the age of 18.

Brighton & Hove has a serious problem with excessive alcohol consumption in people of all ages, with over 2,000 hospital admissions per year related to alcohol.

According to Sussex Police, five children a week, on average, are hospitalised in Brighton and Hove owing to alcohol abuse - a staggering ten times higher than the national average.

Brighton & Hove PCT has recognised and is targeting the need to reduce hospital related admissions due to alcohol consumption.

In the published 2008 report of Brighton and Hove's Director of public Health Dr Tom Scanlon reported that the negative health impacts of alcohol use by children and young people are worsening in the city.

Furthermore, organisations such as Alcohol Concern have found that the average amount of pocket money young people receive would enable them to buy 57 units of alcohol per week.

The recent scrutiny 'Reducing Alcohol related harm to children and young people' recognised the correlation between a lower price of alcohol and off-sales purchasing with higher rates of alcohol consumption.

70 per cent of all alcohol supplied in the UK is sold by supermarkets where most alcohol is the cheapest.

A great deal of anti-social behaviour is associated with people drinking on the street, i.e. drinking alcohol purchased from off-licenses rather than pubs and clubs where the alcohol is consumed on-site.

Deliberately selling alcohol at a loss, known as 'loss leaders' encourages people to purchase alcohol in off-licenses where it is virtually impossible for the licensee to have any control over its consumption.

Earlier this year a Sussex Police and Sussex Police Authority issued a joint statement calling for a ban on volume-related alcohol discounts in pubs and called for '2 for 1' deals to be scrapped in favour of lowering drinks prices across the board. The statement, a response to the Government's consultation of revisions to its Code of Conduct for Alcohol Retailers, also called for a ban on 'loss leaders' - the practise of alcohol being sold for less than it costs retailers - especially in supermarkets.

Therefore this Council requests the Chief Executive to write to Gerry Sutcliffe, the Minister for Alcohol Licensing, calling for:

- a) A ban on the practice of selling alcohol at a cost which is lower than the cost price for the licensee; and
- b) A ban on the practice of drinks promotions such as '2 for 1' and 'Happy Hour' which encourage people to consume more alcohol and at a faster rate than they would otherwise have done
- c) A thorough overhaul of the Licensing Act 2003 including giving councils the power to (i) make it easier to remove licences from any premises which are continually causing problems, in particular, those found selling alcohol to children; and (ii) charge more for late night licences to pay for additional policing.

Furthermore it calls on:

- a) the Licensing Committee to draw up a list of 'best practice' which takes into account the recommendations of the 'Reducing Alcohol related harm to children and young people' scrutiny and looks into ways of publicly recognising and rewarding responsible licensees who follow best practice, in a similar way to its successful 'Scores-on-the-Doors' scheme;
- b) The Cabinet to consider how planning policy and enforcement could be more effectively used to supplement the existing licensing powers to control the availability of alcohol through licensed premises in the City and to bring forward a report as a matter of priority."

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cc JR  
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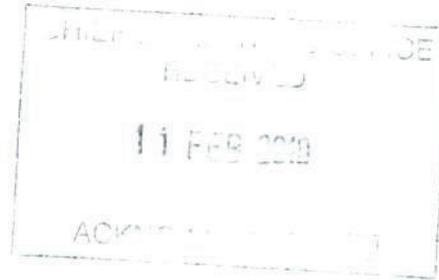


department for  
culture, media  
and sport

Mr John Barradell  
Brighton & Hove City Council  
King's House  
Grand Avenue  
Hove  
BN3 2LS

Your Ref JB/JH  
Our Ref CMS/135171

10 February 2010



Dear Mr Barradell

## RESPONSIBLE LICENSING

Thank you for your letter of 3 February to Gerry Sutcliffe, the Minister with responsibility for licensing legislation. I have been asked to reply on his behalf with regard to the issues you have raised in page two of your letter.

Your Council has called for a ban on the practice of selling alcohol at a cost which is lower than the cost price for the licensee and also a ban on irresponsible drinks promotions, such as "2 for 1" and "Happy Hour". You may be aware that the Home Secretary made an announcement on 19 January about the Government's new mandatory code for tackling alcohol-related crime and disorder. The code will ban the worst types of irresponsible price promotions, help customers to drink less, and strengthen measures for the prevention of underage drinking.

The code will be introduced in two stages. The first three conditions covering irresponsible promotions (e.g. "all you can drink for £10"), a ban on "dentist's chairs (where alcohol is poured directly into the mouths of customers, making it impossible for them to control the amount they are drinking) and the availability of free tap water for customers will come into effect on 6 April. The remaining conditions on age verification and ensuring smaller measures are available will come into effect on 1 October.

Your Council has also asked for councils to be given greater powers which would make it easier to remove licences from premises which continually cause problems for their communities, especially with regard to the sale of alcohol to children. As of 29 Jan, 'three strikes and you're out' became 'two strikes and you're out'. This is a new provision under the Policing and Crime Act 2009. Anyone found guilty of selling alcohol to children on 2 occasions within 3 months faces a £10,000 fine and can have their licence suspended for up to 3 months.



improving  
the quality  
of life for all

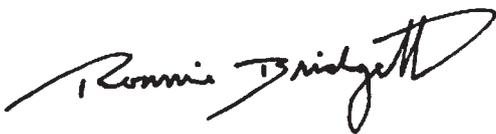
Also, our Guidance to licensing authorities was revised in January to take account of the new provisions under section 33 of the Policing and Crime Act 2009 which enables Councillors, in their capacity as elected members of the relevant authority, to act as "interested parties" and call for reviews and make representations on licensing applications. We also propose giving licensing officers the same powers and are currently awaiting a suitable legislative vehicle through which to deliver this change. We believe that both these changes will make it easier for licensing authorities to bring problem premises to review.

Furthermore, our Department announced on 4 February that local authorities are to be given the power to impose blanket bans on the sale of alcohol after 3am in entire streets or city centres affected by alcohol-related anti-social behaviour and disorder. When a council proposes to use this new power, it will first invite views from everyone affected, including local residents, the police and licence holders and, if necessary, hold a public hearing before making a final decision.

Finally, regarding your request to be able to charge more for late night licences to pay for additional policing, I can confirm that we have no plans to charge premises with late night licences a higher fee. It should, we feel, be remembered that not all late night premises require more policing.

I hope my letter is helpful.

Yours sincerely

A handwritten signature in black ink, reading "Ronnie Bridgett". The signature is written in a cursive, flowing style with a large, sweeping initial 'R'.

Ronnie Bridgett  
Licensing Policy Advisor  
Public Engagement and Recognition Unit (PERU)

# LICENSING COMMITTEE

## (LICENSING ACT 2003 FUNCTIONS)

## Agenda Item 28

Brighton & Hove City Council

**Subject:** *Reducing Alcohol Related Harm to Children and Young People – CYPOSC referral*

**Date of Meeting:** 4 March 2010

**Report of:** *Director of Environment*

**Contact Officer:** Name: Tim Nichols Tel: 29-2163  
E-mail: [tim.nicols@brighton-hove.gove.uk](mailto:tim.nicols@brighton-hove.gove.uk)

**Wards Affected:** All

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report details the findings of the Scrutiny Panel established to examine the issue of Reducing Alcohol Related Harm to Children and Young People. The report and its appendices can be found in **Appendix 3**.
- 1.2 **Appendix 1** of this report sets out the recommendations and findings of the review, along with a draft response for the Committee to consider.
- 1.3 The report makes 11 recommendations, 5 of which are directly the responsibility of Licensing and Trading Standards, (the remaining recommendations are to the Children and Young People's Trust and the Police).
- 1.4 The report has already been discussed at the CYPT Board and responses to the recommendations specifically relevant to the CYPT are also included in **Appendix 1** to help contextualise debate, relevant extracts from the minutes are also attached as **Appendix 2**.

#### 2. RECOMMENDATIONS:

- 2.1 That the Committee notes the evidence, findings and recommendations of the Environment & Community Safety Overview & Scrutiny Committee and its scrutiny panel, in relation to Reducing Alcohol Related Harm to Children and Young People.
- 2.2 That the Committee agrees the response to recommendations 1, 2, 3, 4, 6 and 11 (those specific to Licensing and Trading Standards) as set out in **Appendix 1**.

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

- 3.1 The review was instigated by the Children and Young People's Overview and Scrutiny Committee (CYPOSC) on the 28 September 2008. Scrutiny panels

undertake short focused enquiries into specific areas of interest, making recommendations to decision makers.

3.2 The terms of reference for the panel were to:

*“Examine the costs of, social and economic outcomes of, and reasons for the higher than average, and worsening, levels of alcohol related harm suffered by children and young people in Brighton and Hove.*

*Such a panel will specifically, but not exclusively, examine the impact of the Licensing Act 2003 on the availability to and consumption of alcohol by those aged under 18 in the city and, seeking evidence from, amongst others, Sussex police, premises license holders, the council’s own public safety officers and our partners in the NHS, will determine what steps the council could take to reduce levels of alcohol-related harm to children in the city.*

*Further, the Panel will examine reasons why the problems of alcohol-related harm appear to be worst in the east of the city.”*

3.3 The Panel held five evidence gathering meetings in public, talking to a number of witnesses including representatives of NHS trusts, the Police, alcohol retailers, Trading Standards and Licensing, local schools, local authority drugs and alcohol services and the Youth Council.

3.4 CYPOSC endorsed the report at the 17 June, 2009 Committee and it was subsequently tabled at the Children and Young People’s Trust on the 7 September 2009.

#### **4. CONSULTATION:**

4.1 In preparing this response consultation has been carried out with CYPT and scrutiny colleagues and the police.

4.2 The scrutiny review itself undertook extensive consultation with interested parties.

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

5.1 Financial Implications:

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 at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime. Any changes to licensing policy following this report would be met from existing Environmental Health and Licensing or Trading Standards revenue budgets.

*Finance Officer Consulted: K. Brookshaw*

*Date:18 January 2010*

## 5.2 Legal Implications:

Protection of children from harm is a licensing objective. Licensing authorities should maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under s.154 of the Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. For example, where as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given. Relevant offences under the 2003 Act include: unaccompanied children prohibited from certain premises, sale of alcohol to children, persistently selling alcohol to children, sale of liqueur confectionary to children under 16, purchase of alcohol by or on behalf of children, consumption of alcohol by children, delivering alcohol to children, sending a child to obtain alcohol, prohibition of unsupervised sales by children.

*Lawyer Consulted: R. Sidell*

*Date: 30 December.2009*

## 5.3 Equalities Implications:

Protection of children from harm is a licensing objective. The protection of children from harm includes the protection of children from moral, psychological and physical harm.

## 5.4 Sustainability Implications:

In the context of many licensed premises such as pubs, restaurants, café bars and hotels, it should be noted that the Secretary of State recommends that the development of family-friendly environments should not be frustrated by overly restrictive conditions in relation to children.

## 5.5 Crime & Disorder Implications:

Conditions, where they are necessary, should reflect the licensable activities taking place on the premises and can include: where alcohol is sold, requirements for the production of proof of age cards or other age identification before sales are made, to ensure that sales are not made to individuals under 18 years (whether the age limit is 18 or 16 as in the case of the consumption of beer, wine and cider in the company of adults during a table meal); limitations on the hours when children may be present; limitations on the presence of children under certain ages when particular specified activities are taking place; limitations on the parts of the premises to which children may have access; age limitations; limitations or exclusions when certain activities are taking place; requirements for accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and full exclusion of people under 18 from the premises when any licensable activities are taking place.

5.6 Risk and Opportunity Management Implications:

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

5.7 Corporate / Citywide Implications:

The statement of licensing policy is a statutory requirement which enables the council, as licensing authority, to administer and enforce licensing objectives – including the protection of children from harm in premises licensed for the sale of alcohol. The 2003 Act and Licensing Guidance intends 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 a restriction or there are good reasons to restrict entry or to exclude children completely. Licensing authorities, the police and other authorised persons are recommended to focus on enforcing the law concerning the consumption of alcohol by minors.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Draft response to report recommendations.
2. Extract from the minutes of the CYPT Board meeting – 7<sup>th</sup> September.
3. The Scrutiny Panel report and its appendices.

### **Documents In Members' Rooms**

1. None.

### **Background Documents**

1. None.



**GENERAL LICENSING RESPONSE RE CONSIDERING ISSUES RAISED BY RECOMMENDATIONS WITHIN STATEMENT OF LICENSING POLICY REVIEW DURING 2010.**

**RECOMMENDATION 1: The Panel welcomes and commends the increased emphasis of Licensing enforcement on off-sales (and on public place drinking), as it shows a commitment to identifying and tackling current problems rather than simply adhering to traditional modes of enforcement. The Panel hopes that this will provide a platform for the further development of Licensing enforcement, both in terms of closer partnership working, and in terms of a continuing concentration on the actual rather than the popularly perceived problems of underage drinking.**

**Licensing response:**

Trading standards and the police undertake ongoing enforcement operations around under-age sales and test purchasing. Sussex Police, BCRP and RUOK are currently undertaking work concerning proxy purchases and counterfeit ID as part of the partnership support work with Community Safety and Trading Standards.

**CYPT response**

Licensing and trading standard services are working closely with the CYPT to address issues of underage sales across all licensed premises and are continuing enforcement around underage sales and proxy purchasing.

**RECOMMENDATION 2: City partners (co-ordinated by Trading Standards Officers) should draw up a Best Practice Guide on avoiding selling alcohol to U18s with a view to the guide being disseminated to independent retailers.**

**Licensing response:**

Trading standards have a programme of business support for local businesses to avoid under-age sales.

The Local Better Regulation Office cite Brighton & Hove City Council Trading Standards “improving compliance through business support” in its document: “Better Regulation: Supporting Businesses Towards Recovery” June 2009.

**CYPT response**

Trading Standards Officers have agreed to deliver training to licensed premises and to develop education leaflets and awareness tools with Health Promotions Advisors.

**RECOMMENDATION 3: Encourage (particularly via the Brighton & Hove Licensing Committee) all off-sales to adopt the 'Challenge 25' scheme.**

**Licensing response:**

In determining applications and reviews, applications can only be dealt with on their individual merit. Use of schemes like Think 21 and Challenge 25 are appropriate on a case by case basis

**RECOMMENDATION 4: Licensing Committee to request assurances that new and re-assessed licensees will not discount sales below cost, engage in irresponsible multiple discounting or sell products strongly associated with hazardous drinking practices.**

**Licensing response:**

Licensing authorities may not standardise conditions promoting fixed prices. Where appropriate, voluntary industry codes of practice can be encouraged. Applications must be dealt with on individual merits. A clear causal link between price discounting and disorder may lead to the imposition of conditions prohibiting irresponsible promotions.

Policing and Crime Act 2009 will have key implications for Licensing Authorities. Originally it proposed a mandatory code and local discretionary conditions. Although the local element of the code has been removed from the legislation, the Home Office is still analysing the results from the formal consultation and has yet to publish a summary. The mandatory element of the code has been retained, and the Home Office may choose to move some of the proposed elements of the local discretionary conditions into the mandatory part. This may impact on discounting.

**RECOMMENDATION 5: CYPT should consider its substance misuse services in terms of a potential re-deployment of resources from drugs to alcohol-related projects in instances where drug issues may have been advanced to the detriment of similarly serious alcohol-related problems. CYPT should also consider whether there is value in lobbying NHS Brighton & Hove and central Government to review their resource allocation in regard to alcohol-related services for children and young people.**

**CYPT response**

ru-ok?, Brighton & Hove's specialist substance misuse service for under-19s, is currently funded via the Local Area Agreement to address both drug and alcohol related issues, with the CDRP (Crime and Disorder Reduction Partnership) providing funding for a specialist Alcohol Worker post. However, all workers within the service will engage with young people who have alcohol related issues as a matter of course. During 2008-09, 38% of young people working with ru-ok? identified alcohol as their primary problematic substance and 34% identified alcohol as their secondary problematic substance.

As part of the local alcohol strategy, and in line with national policy, Brighton and Hove NHS has recently commissioned an Alcohol Brief Intervention service, which will offer early preventative advice, information and support to people aged 16 and

over. CRI, the adult substance misuse service provider, has this tender and is working closely with the ru-ok? service to establish how the work with under-18s will take place.

There has also recently been an increase in capacity in the Health Promotions team, with an additional worker employed to focus primarily upon alcohol. This has led to an increase in the level of Health Promotions work around alcohol that is targeted at young people.

Recommendation 2.2 of this response proposes a way forward to address this issue.

**RECOMMENDATION 6: CIA (Cumulative Impact Area) boundaries to be re-examined with a view to extending them to other areas of the city which might benefit from CIA powers (e.g. extension around Preston Park and up to Elm Grove).**

#### **Licensing response:**

The cumulative impact area boundaries and supporting evidence is reviewed on an annual basis and was last reviewed by this committee on 24 April 2009. The statement of licensing policy is reviewed on a three year cycle next due in 2010. The CIA is recommended for review as part of the statement of licensing policy, informed by:

1. Sussex Police report of public place violent crime 09/10
2. Environmental health noise statistics for 09/10
3. This CYPOSC report: Reducing alcohol related harm to children and young people.
4. Health impact assessment of licensing report
5. Consolidation of licensing enforcement policy (following Home Office & DCMS advice on problem premises) and dealing with films not BBFC certified.
6. EU Services Directive (cross border trade in services between countries in the EU allowing on line applications for some licences within Europe)
7. New Licensing Guidance 10 December 2009.

**RECOMMENDATION 7: When engaged with young drinkers, police officers need to ensure that they are not over-confrontational and that the rationale for their actions is widely understood. This may best be achieved by engaging with young people in contexts other than those of front-line policing (particularly by visiting schools)**

#### **Police response**

Police engage with young drinkers primarily through operation Park. This is an initiative aimed very much at preventing alcohol misuse and anti-social behaviour in young people. It adopts a multi agency approach and refers young people to our partner agencies for support when appropriate. Officers are also aware of the need to educate young people at the same time as policing them. Op Park is a successful operation and only a very small proportion of those stopped get stopped

on successive occasions. In conjunction with this operation the police work with the ASB team to make home visits to discuss issues with parents as well.

Alongside this operation, police work through the Neighbourhood Schools Officers and Safer Schools Partnership Officers to identify and address problems with alcohol at school. The Safer School Partnership takes a strategic overview of this.

The issue of engagement with young people is a bigger one than this and the Neighbourhood Teams are looking at ways of better improving communication with this group. The Operational Targeted Youth Support meeting (chaired by the police) should take this recommendation on board to look at ways of addressing this point. It should be noted that there are occasions where policing needs to be slightly more confrontational in order to resolve the problem faced at the time.

#### **CYPT response**

The ru-ok? service is currently working with schools and the police liaison office for the West Area to develop alcohol education, in partnership with the Healthy Schools Team. The IYSS (Integrated Youth Support Service) and police meet regularly to develop joint working in relation to the Youth Crime Action Plan and delivery of services. This recommendation may need to go forward to this group, through the IYSS Area Manager who is linked into the Youth Crime Action Plan.

**RECOMMENDATION 8: Alcohol education should address the long term physical impact of U18 alcohol use, not just safety/legal issues.**

#### **CYPT response**

The Healthy Schools Team are continuing to support schools to address the health impact of alcohol as part of PSHE (Personal, Social, Health and Economic Education) and work is being undertaken with General Practitioners and Accident & Emergency departments to support their staff in addressing the health impact of alcohol with young people.

**RECOMMENDATION 9: Develop and deliver an information pack on alcohol targeted at parents and carers, and facilitate the involvement of parents/carers in creating and maintaining this material.**

#### **CYPT response**

In the national Alcohol Action Plan, the Government stated that it will produce an advice and guidance leaflet for parents and carers. The CYPT is currently awaiting this leaflet to distribute locally. As part of a successful bid to address youth disorder, the CYPT will be working with city-wide partners this summer to develop a leaflet for parents, carers and those who buy alcohol for young people about the dangers and consequences of underage alcohol consumption and proxy purchasing.

**RECOMMENDATION 10: Survey teenagers for their views and seek to develop alternative activities for young people to engage with as alternatives to illegal drinking in public places.**

**CYPT response**

Under the current restructure of the CYPT, an audit of youth provision across the city is being undertaken which young people and youth advisors will feed into.

**RECOMMENDATION 11: The council should request changes to statute relating to the powers of local Licensing Committees (as detailed in point 16.3 above) in line with the powers granted by the Sustainable Communities Act (2007).**

**Licensing response:**

There is a difference between how applications, variations and reviews are dealt with by licensing panels.

During progress of a recent Bill, some condition making measures were removed. Amendments to the Bill that was enacted as the Policing and Crime Act 2009 changed licensing provisions, with the effect that members of the licensing authority may in future be able to make representations or seek a review in their own right. They would not be required to live in the vicinity or have to have been asked to represent someone who does. As the bill progressed, amendments were also tabled that appeared to remove the discretionary power, originally in the bill, for local authorities to impose conditions on two or more premises in their districts. The Home Office's proposed code practice on selling alcohol responsibly was subject to consultation in 2009. The Secretary of State may be able to make up to nine new mandatory conditions for all premises licence holders although the final composition of these is unknown currently. The strengthening of local councillors' powers to seek a review is seen as a more effective remedy for irresponsible, disorderly premises. This is subject to continued national policy development.



**Children and Young People Overview and  
Scrutiny Committee (CYPOSC)**

**Reducing Alcohol  
Related Harm  
To Children And Young  
People  
Ad Hoc Panel**

**Overview and Scrutiny**

**Brighton & Hove City Council**

Date : June 2009

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# A Introduction

This section explains the decision to establish an ad hoc panel, as well as providing general background to issues relating to underage drinking (in both national and local terms) and to the 2003 Licensing Act.

## 1. Establishment of the Ad Hoc Panel

**1.1** At its 24 September 2008 meeting, the Children and Young People's Overview and Scrutiny Committee (CYPOSC) considered the 2008 Annual Report of the Brighton & Hove Director of Public Health: "Brighten Up! Growing Up in Brighton & Hove 2008". The 2008 report (which doubles as a Joint Strategic Needs Assessment for city services) focuses on children's health issues.

**1.2** CYPOSC members decided that the committee should investigate some aspect of this public health agenda in greater depth, and after discussion it was determined that the committee's focus should be on the subject of young people and alcohol.

**1.3** More specifically, it was proposed that an ad hoc should be established to:

"Examine the costs of, social and economic outcomes of, and reasons for the higher than average, and worsening, levels of alcohol related harm suffered by children and young people in Brighton and Hove.

Such a panel will specifically, but not exclusively, examine the impact of the Licensing Act 2003 on the availability to and consumption of alcohol by those aged under 18 in the city and, seeking evidence from, amongst others, Sussex police, premises license holders, the council's own public safety officers and our partners in the NHS, will determine what steps the council could take to reduce levels of alcohol-related harm to children in the city.

Further, the Panel will examine reasons why the problems of alcohol-related harm appear to be worst in the east of the city."

**1.4** Committee members agreed to adopt this wording as the ad hoc Panel's Terms of Reference.

**1.5** Councillors Juliet McCaffery and Ann Norman agreed to sit on the Panel alongside Councillor Duncan. Councillor Norman was subsequently appointed as Chairman of the Panel.

- 1.6 Panel members held a scoping meeting, where they were advised by the Director of Public Health and by officers from the council's Children and Young People's Trust (CYPT).
- 1.7 The Panel subsequently held a series of evidence gathering meetings in public. Witnesses included police officers, Trading Standards officers, officers representing the council's Licensing team, CYPT officers, public health professionals from NHS Brighton & Hove, a consultant paediatrician, head-teachers, and representatives of the major supermarket and off-licence chains.<sup>1</sup> The Panel also invited a number of independent alcohol retailers to give evidence. However, none of these potential witnesses agreed to appear before the Panel.
- 1.8 Panel members also met on two occasions with members of the Brighton & Hove Youth Council in order to elicit young people's views on this issue.

## **2. The 2008 Annual Report of the Director of Public Health**

- 2.1 The 2008 Annual Report of the Director of Public Health makes several references to alcohol-related issues. In particular the report states that:

“It appears that children in Brighton and Hove drink slightly more than their national counterparts and some key alcohol indices among 14-15 year olds in Brighton and Hove show high levels of drinking. Drinking is on the increase and a substantial number of children drink more than fourteen units, the recommended weekly maximum for adult women.

While boys drink more than girls, the culture of binge drinking appears to be more common among girls who are much more likely than boys to get drunk. Overall a quarter of boys and a third of girls report getting drunk in the previous week and in the east of the city the figures for drinking and getting drunk are much higher.

Mental and behavioural disorders due to alcohol were the highest cause of admission to hospital compared to other mental health disorders in 2005/6 and 2006/7.

The number of ambulance calls related to drinking among young people has been steadily increasing and between 10 and 25 children and young people aged less than 18 years attend A&E with alcohol related problems every month.”

- 2.2 In an attempt to address these problems, the Director of Public Health proposed that:

“The CYPT and the PCT [i.e. NHS Brighton & Hove] should take further action to tackle the increasing levels of drinking among young people,

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<sup>1</sup> A full list of witnesses is contained in Appendix 1 to this report.

especially the apparent culture of binge drinking among young girls. This should be explored as part of the Joint Strategic Alcohol Needs Assessment currently underway.

The CYPT should work with the ambulance service and A&E Services in order to ensure appropriate treatment and referral for children and young people presenting with alcohol related conditions. This work should be coordinated with the Joint Strategic Alcohol Needs Assessment.”

### **3. Background**

#### **3.1 Population statistics**

- Brighton and Hove has a rather lower proportion of children aged less than 16 years (16.65%) than the average for the South East (19.93%) and for England and Wales (20.16%).
- In mid-2005 there were an estimated 255,022 residents in Brighton and Hove, of whom 53,500 were aged between 0-19 years.
- Population trends and projections suggest that the proportion of children in the city is set to rise somewhat in the next few years, with a concomitant increase in demand for children’s services.
- The east and central areas of Brighton & Hove have proportionately more children and young people than the west.
- Brighton and Hove has relatively high levels of deprivation, higher than both regional and national averages. In the more deprived parts of the city (e.g. in parts of East Brighton) up to 45% of children live in families with parents/carers who are out of work.

#### **3.2 Alcohol statistics and further information**

- Nationally the proportion of pupils aged 11-15 years who had drunk alcohol in the last seven days fell from 26% in 2001 to 21% in 2006.
- However, those young people who did drink were generally drinking more than hitherto: boys drank an average of 12.3 units per week and girls 10.5 units per week. Girls are more likely to get drunk than boys.
- Of the young people who did drink, 49% consumed more than four units on the days they drank; 22% consumed three or four units; and 28% consumed an average of two units or fewer.
- Half of the young people who drank claimed that they purchased their own alcohol.

- 20% of young people said they had been drunk in the last four weeks and 35% had deliberately tried to get drunk.

### **3.3 Local statistics**

- In Brighton & Hove, 11% of boys and 14% of girls claim that they purchase alcohol from off licences. Children in the east of the city are most likely to purchase alcohol from an off license and drink it in a public place<sup>2</sup>.
- Underage drinking in public spaces (e.g. parks) is very common across Brighton & Hove. Young people who consume alcohol in public spaces are often implicated in anti-social behaviour. They are also at risk of becoming victims of crime, physical injury (i.e. via accidents or assault) or of being exposed to other harmful substances (e.g. illicit drugs). Young people drinking in public spaces often do so in large groups, and this increases the risk of anti-social behaviour and poses serious problems for policing.
- It is estimated that there are 12-20 young people who present at Brighton Accident & Emergency (A&E) each month with overdoses or injuries directly caused by alcohol, and of these, 4-5 young people are consequently admitted for treatment<sup>3</sup>. The number of young people presenting at A&E with conditions indirectly related to excessive alcohol consumption (e.g. people who engage in risky behaviour and consequently suffer injuries because they are drunk) is almost certainly far higher than this, although these statistics are not necessarily collated.

## **4 The Licensing Act (2003)**

- 4.1** The ad hoc Panel Terms of Reference proposed by Councillor Duncan (see **point 1.3** above) make reference to the 2003 Licensing Act. It may therefore be helpful to give a brief explanation of aspects of the Act and of how it has been incorporated into local licensing policy.
- 4.2** The Licensing Act (2003) represented a major revision and rationalisation of licensing law, replacing the 22 existing Acts which determined licensing issues (including the 1964 Licensing Act – the principle vehicle for alcohol licensing).
- 4.3** The 2003 Act introduced flexible opening hours for licensed premises (subject to their impact upon local residents), simplified the licence application process (by replacing the existing six types of licence with

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<sup>2</sup> This information has been extracted from the Annual Report of the Director of Public Health, Brighton & Hove City NHS Teaching Primary Care Trust (Chapter 2 & 5).

<sup>3</sup> This information is from the Health Impact Assessment (April 2009)

one general licence), and transferred the responsibility for granting licences from magistrates to local authority Licensing Committees.

- 4.4** In addition to simplifying a previously very complex area of law, the 2003 Act sought to make significant changes to national licensing policy. In essence, the architects of the Act argued that the *status quo* position of tight restrictions on the number and opening hours of licensed premises was generally ineffective in controlling problems associated with the excessive consumption of alcohol, and in some instances might actually exacerbate the difficulties it sought to mitigate. For example, it can be argued that imposing an 11pm closing time on pubs and bars effectively creates ‘flash-points’ in town centres where several thousand people leaving premises at the same time can overwhelm local services, police etc. Staggering closing times may mean that some people spend longer drinking, but it also means that the police, taxi services etc. are required to cope with a regular trickle of people coming and going rather than with an 11pm deluge.
- 4.5** Similarly it can be argued that restricting the number of licensed premises does little to limit drinking, as people will readily travel to purchase alcohol. Restrictions therefore inconvenience the public and local retailers whilst doing little to mitigate the impact of excessive drinking.
- 4.6** These arguments are by no means universally accepted, with critics contending that extended opening times may reduce flash-points, but only at the expense of prolonging noise nuisance and anti-social behaviour (e.g. instead of having an hour or so when people noisily returned home from a night’s drinking, there are now people creating a disturbance all night long, as groups of drinkers come and go throughout the night). Similarly, whilst some aspects of the growth in licensed premises may not impact upon drink-related problems, others (such as the increase in late night off-licences) may have a deleterious effect (i.e. people who might formerly have stopped drinking when they ran out of alcohol can now continue drinking for as long as they please, with obvious consequences for themselves and their neighbours).
- 4.7** Brighton and Hove City Council’s response to the 2003 Licensing Act is embodied in the council’s “Statement of Licensing Policy 2003”<sup>4</sup>. This sets out the council’s licensing objectives in light of the 2003 Act. The Licensing Authority 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.

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<sup>4</sup> See the Licensing Act 2003, Brighton & Hove City Council, Statement of Licensing Policy, Environmental Health and Licensing Service.

- 4.8** The revised Brighton & Hove Licensing Policy came into force in January 2005, and will be under constant review until January 2011.
- 4.9** The Licensing Committee is limited in its ability to consider the impact of the granting of new licences, being authorised to consider any potential impact upon the very local vicinity, but not broader issues of harm (e.g. impact on a wider or more distant geographical area).
- 4.10** In terms of the current ad hoc panel, the obviously pertinent licensing objective is: Protection of Children from Harm. The Licensing Policy addresses this by:
- Including the moral, psychological and physical harm which may be connected with licensed and club premises (e.g. exposure at a young age to strong language and adult entertainment and films) as a factor to be considered in relation to license applications.
  - Insisting that licensees show awareness that under 18s are frequently involved in drink related disorders, and have a robust policy for checking customers' ages in place.
  - Demanding that all staff responsible for selling alcohol receive information and advice on the licensing laws in relation to children and young people in licensed premises.
- 4.11** In order to limit underage drinking and related problems, the Licensing Committee supports the following measures:
- a) (Under powers established by the Confiscation of Alcohol (Young Persons) Act 1997) the Police acting to remove alcohol from young people on the street;
  - b) The Police and Trading Standards using Police Cadets to carry out test purchasing (e.g. employing U18s to attempt to purchase alcohol from on and off-sales);
  - c) The promotion of proof of age schemes;
  - d) The development of in-house, 'mystery shopper' schemes carried out by businesses (i.e. to check whether staff are willing to sell to U18s);
  - e) Possible CRB checking of staff providing catering for events with unaccompanied children.
- 4.12** Licensing enforcement entails close partnership working involving Sussex Police, the East Sussex Fire & Rescue Service and Brighton & Hove City Council.

- 4.13** Where licensees are found to sell consistently to U18s (or to serve intoxicated people etc.), the licensing authority will take action under its statutory powers. In general, offenders are not prosecuted; the Licensing Committee has the power to attach conditions to, to suspend or to revoke licenses, and typically employs these measures rather than using the courts (prosecution is time-consuming, expensive, and often less effective than revocation/suspension). Any action taken against licensees must be proportionate; balancing the undesirability of selling to U18s with the need to support local businesses.

## **B Recommendations**

This section of the report describes in more detail the particular problems faced by Brighton & Hove in relation to young people and alcohol, and makes some recommendations in terms of how city services might be improved.

### **5 On-sales and Off-sales**

- 5.1** The majority of adults probably associate underage drinking with evenings spent in on-sales premises: pubs and bars. However, in recent years this has changed considerably, with fewer under 18s (U18s) drinking in pubs and many more drinking in public places or at home. There has been a particularly noticeable growth in the phenomenon of ‘park drinking’ – with often very large groups of teenagers gathering in parks on Friday and Saturday nights to socialise and consume alcohol, with consequent problems of anti-social behaviour.<sup>5</sup> There are several possible explanations for this shift:

- 5.1(a) Better on-sales enforcement.** Recent years have seen the introduction of ‘test purchasing’ by the police working in partnership with Trading Standards Officers (TSO). Test purchasing involves employing U18s (police cadets) to attempt to buy alcohol from licensed premises. This method of enforcement is often more effective than alternatives (which may essentially consist of observing premises in the hope of witnessing staff serving or refusing to serve customers who are clearly U18). Test purchasing for alcohol is a relatively recent development as, until 2003, it was illegal to employ people under the age of 18 for this purpose (as it is against the law for U18s to buy alcohol, not just against the law to sell it to them). If fewer U18s are drinking in pubs and bars then, it may be because bar staff are more reluctant to serve them than they were a few years ago, as there is a far greater risk of being caught out.<sup>6</sup>

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<sup>5</sup> To a degree this shift is seasonal, with park drinking very popular in the summer months and drinking in on-sales more popular over the winter.

<sup>6</sup> See evidence from Tim Nichols (point 23.9, 16.02.09).

**5.1(b) Pricing.** There has always been a difference between on and off-sales (off-licence and supermarket) pricing of alcohol. However, recent years have seen this gap grow to the point where it is almost invariably considerably more expensive to drink in a pub or a bar than to purchase alcohol from off-sales. Since U18s are, on average, fairly unlikely to have very much disposable income, this price differential may be a significant factor in determining where they choose to drink.

**5.1(c) 'Fashion'.** In addition to pressures 'pushing' young drinkers out of pubs and bars, it may be the case that other locations for drinking have attractive elements which act as a 'pull'. For instance, the phenomenon of park drinking may be influenced by high on-sales prices or a decreasing tolerance for U18s in pubs, but it may also be a product of active choice: young drinkers simply prefer congregating outside in large groups to using pubs and bars.

**5.2** Whatever the reasons for the change in drinking habits, it seems to be the case that most of the alcohol that U18s drink is not now obtained from on-sales.<sup>7</sup> But, if they are not purchasing from pubs and bars, where do young people get alcohol? The Panel heard that the principle sources are: U18s purchasing from off-sales; 'proxy-purchase' (over 18s buying from off-sales on behalf of U18s); theft (from off-sales or from the family home); and parents (i.e. parents knowingly providing their children with alcohol).<sup>8</sup>

**5.3** In terms of the role the statutory agencies play in enforcement, the key factor here is probably U18 purchase from off-sales.<sup>9</sup> Is the shift of underage drinking from on to off-sales a significant one? It can be argued that it is, and that there are some worrying implications to such a move:

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<sup>7</sup> It is estimated that approximately 5% of U18 drinking is via on-sales purchase by underage drinkers; 15% via off-sales purchase by underage drinkers. The remaining 80% of alcohol consumed by U18s is not purchased illegally – i.e. it is supplied by parents, by over 18s 'proxy-purchasing', or by theft. (Evidence from Inspector Andrew Kundert, Licensing Inspector, Brighton & Hove Police: point 4.15, 27.02.08). See also evidence from Tim Nichols and Cllr Carol Theobald: points 23.2 and 23.3, 16.02.09. Not everyone working in the field would regard these estimates as accurate.

<sup>8</sup> It is difficult to be sure where alcohol consumed by U18s originates, as inebriated teenagers (the obvious source of this information) may not be very lucid, and may also be inclined to lie in order to protect friends or family (evidence from Andrew Kundert and Anna Gianfrancesco: point 5.2(b), 27.11.08).

<sup>9</sup> 'Proxy-purchase' is also an enforcement issue, but this is very difficult to regulate as the obvious targets for enforcement here are the adults who agree to buy alcohol for children rather than the on or off-sales retailers (although retailers do have a duty to be observant and to refuse sales where it is apparent that proxy-purchase may be taking place). The group of potential proxy-purchasers is obviously much larger and more diffuse than that of retailers. Neither is it really possible to do anything equivalent to test purchasing here – i.e. by employing U18s to ask adults to buy alcohol on their behalf – as, legally speaking, this would be considered to amount to entrapment: meaning that no adult caught in such a 'sting' could subsequently be prosecuted (see point 5.2(a), 27.11.08).

- 5.3(a)** Traditionally, U18s drinking in pubs would be informally ‘monitored’ by bar staff and by adult drinkers, with young drinkers who were disruptive being refused service. There need be nothing particularly altruistic about this monitoring – it would generally just be a case of adult drinkers only tolerating U18s who kept a low profile and did not annoy them; but the effect may well have been to provide quite a powerful lever to moderate alcohol consumption and behaviour amongst young drinkers in pubs. In contrast, young people drinking in parks or other public places are not monitored in any way, save by their peers.
- 5.3(b)** Large groups of U18 drinkers would not typically have been tolerated in pubs as such groups are bound to be noisy and attract unwanted attention (i.e. from TSO and the police). Thus even publicans who were willing to sell to U18s would probably balk at selling to large groups. Again, there is no such lever to control the size of groups gathering in parks – and there are clear links between the size of a group of drinkers and the likelihood of public disorder.
- 5.3(c)** On-sales prices have always been higher than those in off-sales, particularly so for spirits. Since U18 drinkers are not, on average, likely to have a lot of spare cash, drinking in pubs may mean that young drinkers consume with a degree of moderation and that they drink beer, cider etc. rather than spirits (generally seen as less risky behaviour as it is rather harder to drastically over-consume beer than it is vodka etc). Off-sales prices can be much cheaper, particularly for spirits (which are also far more portable than large volumes of relatively low alcohol beer), thereby encouraging greater and more hazardous consumption.
- 5.3(d)** U18s drinking in pubs would be exposed to the behaviour of adult drinkers, and (assuming that the adult behaviour they saw was relatively benign) might therefore learn to drink sensibly by observation. U18s drinking with their peers have no such role models to draw upon.
- 5.3(e)** Pubs and bars and the areas around them are generally relatively heavily policed, both by the police force and by bar security staff, council officers etc. Clearly, this degree of policing is in reaction to the dangers inherent in adult drinking environments – pubs would not warrant this level of security if they were safe places to be. However, it can certainly be argued that on-sales are still much safer places to congregate than parks or the beach, which have no comparable networks of security in place.
- 5.4** In a number of ways then, it can be argued that U18 drinking in on-sales may be preferable to U18s obtaining alcohol from off-sales (or from the parental home etc.) and congregating in large groups in parks

or the like.<sup>10</sup> Given that a certain level of U18 drinking is probably inevitable, it might in fact be preferable if this drinking took place in pubs rather than other, objectively more risky, environments.

- 5.5** Clearly, U18 drinking is illegal in most contexts, and it would not be possible at a local level, even if it was considered desirable, for underage drinking in pubs and bars to be officially tolerated. However, licensing enforcement inevitably involves prioritising certain elements of the licensing regime over others, as with any service which is required to manage finite resources. Panel members believe that the dangers posed by U18 drinking in relation to off-sales (and subsequent consumption of alcohol in public places) considerably outweigh the typical dangers of U18 drinking in on-sales, and that licensing enforcement should be prioritised accordingly.<sup>11</sup>
- 5.6** However, enforcement of off-sales is led by TSO, whilst on-sales enforcement is, in the most part, carried out by the police. It would therefore be difficult, if not impossible, to switch focus and resources from one type of enforcement to the other in a wholesale manner. The point is rather that, when working in partnership to develop strategies around U18 drinking, TSO and the police should take into account the differential impact of off and on-sales drinking as set out above, and plan accordingly.
- 5.7** In fact, there is considerable evidence that this is already happening, with, for instance, the recent concentration on park drinking via the 'Operation Parks' initiative.<sup>12</sup> The Panel commends this forward thinking and effective partnership working and trusts that city licensing enforcement agencies will continue to focus on the aspects of U18 drinking which are of most pressing concern.
- 5.8** **RECOMMENDATION 1: The Panel welcomes and commends the increased emphasis of Licensing enforcement on off-sales (and on public place drinking), as it shows a commitment to identifying and tackling current problems rather than simply adhering to traditional modes of enforcement. The Panel hopes that this will provide a platform for the further development of Licensing enforcement, both in terms of closer partnership working, and in**

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<sup>10</sup> These arguments do rather assume a relatively civilised pub environment - the traditional 'local' where adults meet to drink in a sensible manner. Whether or not such pubs ever formed the majority of on-sales, it's certainly questionable whether they do so in the present day; and the argument for the civilising influence of city-centre 'vertical drinking establishments' is perhaps not quite so clear-cut as that for backstreet 'locals'.

<sup>11</sup> This assumes that on-sales premises tolerate moderate levels of U18 drinking rather than that they permit U18s to drink and act irresponsibly. On-sales which effectively facilitate anti-social behaviour by U18 drinkers (by allowing large groups to congregate, by serving people who are already drunk etc.) should remain a licensing enforcement priority.

<sup>12</sup> See evidence from Andrew Kundert: point 4.11, 27.11.08.

**terms of a continuing concentration on the actual rather than the popularly perceived problems of underage drinking.**

## **6 Best Practice in Off-Sales**

- 6.1** During the course of the Scrutiny review, Panel members spoke with Trading Standards officers, with the council's Head of Licensing, with police officers responsible for licensing and with representatives of some of the city's largest alcohol retailers. The Panel learnt of a number of initiatives designed to ensure that U18s are unable to purchase alcohol from off-sales.
- 6.2** Measures in place include comprehensive training of till staff; systems for recording incidents when customers have been refused service; store by store analysis of refusals to identify potential discrepancies<sup>13</sup>; the deployment of security guards to support and reassure till staff; close co-working with TSO and the police; support for voluntary I.D. card schemes; and support for initiatives which require till staff to request identification from customers who appear to be younger than 21 or 25 (depending on the scheme in use).
- 6.3** Whilst there may sometimes be a significant gap between the theory and the practice of some of these measures, it is clear that a great deal has been done to try and avoid selling alcohol to U18s. The retailers who adopt these types of safeguards should be commended for their responsibility, as should TSO and the local police force who have done a considerable amount of work in terms of persuading and requiring city retailers to adopt best practice.
- 6.4** However, it seems to be the case that those firms adopting the measures outlined above are generally the large regional and national off-licence chains and supermarkets. Whilst these firms are responsible for a very significant part of the city off-sales market, this market also includes several hundred independent retailers.
- 6.5** Indeed, it would seem that independent off-sales have proliferated since the Licensing Act (2003) relaxed the terms under which alcohol licences are granted.<sup>14</sup> Many of these retailers are not specialist off-

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<sup>13</sup> See evidence from Sue Dixon and Chris Denman (Area Manager for Threshers): points 17.3, 17.5, 10.02.09.

<sup>14</sup> In essence the 2003 Licensing Act demands that Local Authority Licensing Committees work on the presumption that a licence should be granted unless there is good reason to oppose it (and members of the public willing to protest). Therefore, applicants for licences do not have to prove that their business will not damage the community; rather, anyone opposing a license application has to 'prove' that there will be damage.

sales, but rather generalist shops which sell alcohol as a sideline alongside newspapers, groceries etc. This may mean that independent retailers are not always as well-trained about, or as focused on, issues of underage selling as might be wished.

- 6.6** Whilst there is no doubt that the great majority of independent off-sales retailers are honourable businesses which do not set out with any intention of selling alcohol to U18s, it is also clear that it can be very difficult for small business to adopt and enact the best practice evolved by the large off-sales chains. The kind of systemised approach which seems to have worked very well for Somerfield or Tesco may not be readily adopted by a small family concern, with limited capacity to pay for training, extra security, CCTV etc.
- 6.7** The Panel recognises that TSO is very active in this area, working in partnership with independent retailers to improve their practice, rather than simply assuming the role of licensing enforcer. However, Panel members believe that there would be value in taking an extra step here by compiling a best practice guide on how to avoid selling alcohol to U18s. This guide could then be distributed to all new licence applicants and could also become an important tool for the Local Authority Licensing Committee – e.g. when considering what action to take against retailers who have sold to U18s, the Licensing Committee might request that a licence holder adopted some or all of the recommendations contained within the best practice guide.
- 6.8** Although all the information contained in such a guide might already be transmitted to independent retailers via a number of avenues, there is considerable value in having it compiled and available in one place, as this would mean that retailers could not then plead ignorance of any elements of the best practice advice. A best practice guide would therefore be a tool to complement the work of TSO and the local Licensing Committee; it would not be a substitute for the face-to-face work with retailers that TSO excels in, but would augment this work.
- 6.9** **RECOMMENDATION 2 – City partners (co-ordinated by TSO) should draw up a Best Practice Guide on avoiding selling alcohol to U18s with a view to the guide being disseminated to independent retailers.**

## **7 ‘Think 21’ and ‘Challenge 25’**

- 7.1** It is evident that relatively few off-sales retailers deliberately sell to U18s. Ethical issues aside, the potential downsides of doing so outweigh any benefits in terms of increased sales.<sup>15</sup> However, the

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<sup>15</sup> This is perhaps particularly the case for the national chain retailers, which risk attracting adverse publicity if they are found to have sold alcohol to U18s. (See evidence from Sue Dixon, Head of Security, First Quench Retailing [Thresher]: point 17.4, 10.02.09; and evidence from Tony Rickwood, Tesco Store Manager [Portslade]: point 18.5, 10.02.09.)

issue is not quite as simple as resolving not to sell to U18s, as it can be very difficult for staff to determine which customers are underage and which are not.

- 7.2** In consequence, a number of measures have been adopted by retailers (see **point 6.2** above). Perhaps the most interesting of these are the 'Think 21' and 'Challenge 25' initiatives. Under the 'Think 21' scheme, till staff are instructed to challenge any customer who they believe may be under 21. When challenged, customers must show I.D. before being allowed to proceed with their purchase. Think 21 is heavily advertised in participating stores, with prominent checkout notices explaining that the scheme is in operation. Think 21 is designed to remedy a common problem in dealing with U18 alcohol sales: the fact that staff often struggle to accurately identify customers' ages. By setting the 'bar' at several years above the legal drinking age, the Think 21 scheme should ensure that only customers who look 21 or over will be served without an age check. The assumption is that, whilst many younger teenagers may pass for 18, relatively few will pass for 21, and that the number of inadvertent sales to U18s will consequently be reduced.
- 7.3** 'Challenge 25' is essentially Think 21 but with a higher age bar. Again, the intention is to counter ambiguities associated with making visual assessments of customers' ages, and setting a bar at 25 means that even fewer U18s are likely to get served. The introduction of Challenge 25 is perhaps testament to how difficult it can be to assess customers' ages, as it was seemingly felt that Think 21 allowed for too much ambiguity, with staff still struggling to differentiate between 16 and 21 year olds.
- 7.4** Panel members consider that these age-based schemes are an excellent idea, particularly Challenge 25. Retailers adopting this scheme should be in a position where they rarely if ever inadvertently sell alcohol to an U18.<sup>16</sup> These initiatives may also make it easier for staff to challenge customers who are under age, since they make it less likely that individuals will take offence at being singled out by till staff (i.e. it's not just you who's being asked for I.D.; it's everyone who looks under 25).

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<sup>16</sup> Since Challenge 25 and Think 21 rely upon customer I.D., there is an issue of the integrity of I.D. schemes to be considered here. Passports and driving licenses provide a very secure proof of identity, but few young people would wish to carry passports around with them at all times, and not everyone is a driver. This means that it is often necessary to fall back on less formal I.D. schemes. These schemes can be excellent, but people are much more likely to tamper with or forge this kind of I.D. than they are driving licenses or passports, and the police are often reluctant to prosecute this type of fraud (see evidence from Tim Nichols, Head of Environmental Health and Licensing, Brighton & Hove City Council – point 23.4, 16.02.09).

**7.5** Almost all the major chain off-sales retailers now employ or are planning to adopt the Challenge 25 scheme.<sup>17</sup> However, it is still not widely used by independent retailers, even though it is arguably smaller businesses (or at any rate those that genuinely wish to avoid selling to U18s) which stand to benefit most from the initiative. Panel members therefore believe that Challenge 25 should be more widely encouraged, particularly in the context of the Licensing Committee granting new licences and reviewing existing licenses (i.e. in circumstances where a licensee has been found to have sold to U18s). Whilst it may not be possible for the Licensing Committee to impose the adoption of this or similar schemes, there might be considerable value in encouraging licensees to adopt this best practice.

**7.6** **RECOMMENDATION 3 – Encourage (particularly via the Brighton & Hove Licensing Committee) all off-sales to adopt the ‘Challenge 25’ scheme.**

## **8** **Discounting**

**8.1** It may be possible, through good partnership working and effective licensing enforcement, to limit the amount of alcohol U18s obtain from off-sales. However, it seems inevitable that under age drinking, including U18 purchasing from off-sales, will continue to be a problem to some degree. It is therefore necessary to enquire whether there are other factors relating to off-sales which may encourage U18s to use them or to indulge in particularly hazardous drinking practices?

**8.2** One factor that Panel members were particularly interested in was the price of alcohol (which is typically much cheaper in off than in on-sales), and whether price and various discounting practices affect the amount that young people drink.

**8.3** In terms of price, some witnesses argued that pricing makes little difference to levels of consumption or to alcohol-related anti-social behaviour. One witness pointed out that France and many other European countries have very low alcohol prices, but also relatively few difficulties with excess underage drinking or alcohol-related behaviour problems. There is therefore no simple and universal correlation between the cost of alcohol and its negative impact<sup>18</sup>.

**8.4** Other witnesses argued that price is an important factor in determining levels of consumption.<sup>19</sup> This seems to be a view which is gathering strength nationally, with several recent calls for a national minimum (per unit) price for alcohol to combat drink related problems.

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<sup>17</sup> See evidence from Sue Dixon: point 18.6, 10.02.09.

<sup>18</sup> See evidence from Sue Dixon: point 18.10, 10.02.09.

<sup>19</sup> See evidence from Tim Nichols: point 23.18, 16.02.09.

- 8.5** This argument is a complex one, but perhaps rather simpler in terms of U18s than for adult drinkers. Since U18s may be assumed, on average, to have relatively little disposable income, it seems reasonable to suppose that they will be particularly sensitive to drink pricing – i.e. with relatively little money to spend on alcohol, higher pricing is likely to see them buy less, and lower pricing more, alcohol.<sup>20</sup>
- 8.6** Off-sales also commonly practice discounting on multiple sales: for instance offering ‘2 for 1’ or ‘2 for £10’ deals. The obvious risk here is that these offers encourage customers to buy and then drink more alcohol than they actually require. Of course, this type of discounting need not inevitably lead to excessive drinking: an adult customer might take advantage of a 2 for 1 offer by putting aside some of their purchase for a later date. However, U18 drinkers are unlikely to have anywhere to store unneeded alcohol; everything they buy, they are going to drink. It seems likely therefore, that discounting on multiples may encourage excessive drinking in young and under age drinkers, even if it does not do so for most adults.
- 8.7** There are few if any local levers in relation to drink pricing, as alcohol duties are set nationally.<sup>21</sup> However, the local Licensing Committee can request that applicants for new licences or licensees whose licences are being re-considered following incidents of underage selling should consider voluntarily adopting certain measures.<sup>22</sup> These might include some or all of the following:

(i) retailers agree not to discount sales below cost (‘loss-leading’)<sup>23</sup>

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<sup>20</sup> A potential complicating factor to bear in mind here is the type of alcohol which people purchase. If alcohol is made more expensive in an attempt to curb drinking, there is a danger that drinkers with little money will opt to buy very strong cider/lager or cheap spirits rather than purchasing average strength beer, ‘alco-pops’ etc (i.e. that they will switch to drinks which offer the best value in terms of units of alcohol). However, there are particular problems associated with consuming these very potent drinks (i.e. that it is much easier to drink excessive amounts of spirits/strong lager than it is of weaker drinks), and these risks need to be born in mind when considering the relationship between the price of alcohol and its consumption by young people.

<sup>21</sup> The only context in which minimum prices could be set locally would be if it were possible to prove a “clear causal link” between pricing/drinks promotions and anti-social behaviour. However, it is almost impossible to legally prove such a link (see evidence from Tim Nichols: point 23.10, 16.02.09).

<sup>22</sup> It appears that the Government is considering granting Local Authorities some powers to compel licensees to adopt more responsible pricing policies. (See . Clearly, the Panel would encourage the use of such powers when and if they become available. In the meantime, the Licensing Committee should seek to persuade licensees to voluntarily adopt good selling practices.)

<sup>23</sup> ‘Loss-leading’ in a strict sense refers to the practice of retailers discounting a line below its actual cost in order to attract customers (who then buy other products in addition to the discounted ones, and/or remain loyal to the retailer after prices have risen again). However, it is not clear that many major retailers actually loss-lead alcohol, instead preferring to negotiate

(ii) retailers agree not to discount for multiples<sup>24</sup>

(iii) retailers agree not to stock certain types of drink<sup>25</sup>

**8.8 RECOMMENDATION 4 – Licensing Committee to request assurances that new and re-assessed licensees will not discount sales below cost, engage in irresponsible multiple discounting or sell products strongly associated with hazardous drinking practices.**

## **9 Drugs and Alcohol issues**

**9.1** Alcohol is often linked with drugs in terms being a health problem, often under the umbrella of ‘substance misuse’. This grouping is quite understandable, and may often make good sense. However, it can be argued that the drugs element of substance misuse has received a disproportionate degree of attention over the past few years, to the detriment of alcohol services.

**9.2** In part, any over-emphasis of drugs issues has been a reaction against their under-emphasis for very many years – recent improvements in drugs services have often been the result of professionals and campaigners working tirelessly to create an understanding of the damage that drugs can do and the legitimacy of seeing them as a social problem requiring public solutions rather than a minority issue which should elicit censure rather than sympathy. This has led to a number of measures, including the ‘ring-fencing’ of funding for some drugs projects, which were necessary to ensure that drugs-related issues were adequately addressed in the face of a good deal of institutional and public scepticism.

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deals with suppliers which guarantee them a supply of some products at a heavily discounted price and others at the standard commercial rate (i.e. the supplier rather than the retailer takes the ‘loss’; suppliers are often willing to do this if the retailer agrees to buy enough additional products at full price, as this allows them to off-set a loss on one line with profits on others). Although this might have the same end result as loss-leading, this practice does not actually involve retailers selling anything at a loss and would therefore not be subject to any informal agreement on loss-leading. (Smaller retailers probably do very little loss-leading of any type, as they are unlikely to be able to balance the loss with a profit from other areas of their business. This is obviously particularly the case for dedicated off-licences, which cannot sell alcohol at a loss when they do not stock a range of other products to be sold at a profit.)

<sup>24</sup> Such an agreement would have to be sensibly applied, as some discounting of multiples is established practice for off-sales retailers not associated with U18 drinking – i.e. for wine merchants who typically offer a discount for customers buying 12 bottles or more. There seems no reason for intervening in this practice, unless it is considered likely that U18 drinkers are abusing fine wines.

<sup>25</sup> Most obviously, strong lager and cider (i.e. 6% plus) and very cheap spirits.

- 9.3** However, now that there is a broad recognition of the value of doing drugs-related work, this prioritising of drugs issues may, in some instances, be of detriment rather than of value, particularly when it means that local substance misuse budgets are inflexibly geared towards drugs issues when there might be greater value in moving some funding into alcohol based projects. This may be of particular relevance to preventative educational projects, where there may be as much to be gained in warning people of the dangers of excessive drinking as of warning about drug use.<sup>26</sup>
- 9.4** Whilst there may have always been an argument for better funding of alcohol services, the issue has moved up the agenda in recent years, as the health and social impacts of excessive drinking from an early age have become clearer.<sup>27</sup> However, there may still be something of a lag between recognising the gravity of alcohol-related harm and funding services designed to ameliorate this harm.
- 9.5** In some instances, there may be little which can be achieved at a local level, as ring-fencing has been imposed nationally (particularly in terms of NHS budgets). However, where there is a degree of local autonomy in terms of substance misuse budgets, Panel members believe that serious consideration should be given to whether alcohol services are being funded as well as they could or should be. Since the Panel's remit is to consider the impact of excessive alcohol on children and young people, this recommendation is directly addressed to children's rather than adult services, although the issue is just as relevant for adults.
- 9.6** The Panel is not necessarily proposing any general shift of budgets from drugs to alcohol. In most instances, continuing support for drugs-based education or treatments may be absolutely vital. In many cases, it may be that what is needed is better central funding for drugs and alcohol services (perhaps particularly in terms of public health/preventative services). In some other cases though, it may be that an inflexible approach, either due to structural inflexibilities (i.e. ring-fencing) or for attitudinal reasons, means that substance misuse funding is not spent in the most effective possible manner.
- 9.7** **RECOMMENDATION 5 – CYPT should consider its substance misuse services in terms of a potential re-deployment of resources from drugs to alcohol-related projects in instances where drugs issues may have been advanced to the detriment of similarly serious alcohol-related problems. CYPT should also consider whether there is value in lobbying NHS Brighton & Hove and central Government to review their resource allocation in regard to alcohol-related services for children and young people.**

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<sup>26</sup> See evidence from Tim Nichols: point 23.12, 16.02.09.

<sup>27</sup> See evidence from Dr Oli Rahman, Barbara Hardcastle and Inspector Andrew Kundert: points 5.5-5.6, 27.11.08.

## **10 Cumulative Impact Area (CIA)**

- 10.1** The Licensing Act (2003) introduced a presumption in favour of granting licenses to sell alcohol (as well as relaxing opening time restrictions). The reasoning behind this is essentially that excess alcohol consumption is not generally causally linked to the number of on and off-sales premises in an area (i.e. people will still buy as much alcohol if the number of licensed premises is restricted, it will just be more inconvenient for them to do so), and that artificially restricting the supply of alcohol is likely to have little positive effect on drinking behaviour, but may have a negative impact (e.g. having an 11pm closing time creates a 'flash-point' for anti-social activity).<sup>28</sup>
- 10.2** However, even if this argument generally holds true, there are local circumstances which may contradict it. This is especially the case for urban areas, where particular localities may become the focus of local and even regional drinking activity. Brighton is a prime example of such a special case – the city is a magnet for tourists visiting the night time economy (pubs, clubs, restaurants etc.), as well as having an unusually young demographic, bolstered by the city's two universities (lots of residents in their twenties and thirties – the people most likely to binge drink in pubs and bars). Furthermore, as Brighton is a seaside resort, it is inevitable that people will tend to gravitate towards the beach and its environs for their entertainment rather than utilising the wider city.
- 10.3** The result is that there is an extremely high concentration of licensed on-sales premises around Brighton sea-front, with lots of additional public drinking from a proliferation of off-sales in and around the beach area.
- 10.4** Although the night time economy is hugely advantageous to the city in terms of the income and the employment it generates, there are also very major problems associated with such a massive concentration of drinking in such a small area. These problems most obviously relate to public order and anti-social behaviour as there is a well established correlation between having very large groups of drunk people in one place and experiencing problems with disorder. In such circumstances, the concentration of on and off-sales can be said to 'cause' crime and disorder problems, with any increase in the number of licenses likely to exacerbate the problem. Thus, although a concentration of drinking in one part of a city may not lead to any absolute increase in alcohol consumption (as people might have drunk just as much had they done so in other areas of the city), it can lead to an increase in crime and anti-social behaviour (as drunk people concentrated in very large

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<sup>28</sup> The Panel heard evidence from the council's Head of Environmental Health and Licensing that the 2003 Licensing Act had been effective in facilitating better management of the city's night time economy. With the potential for closing-time 'flash-points' reduced via more flexible licensing, the police and the council have been able to significantly reduce incidents of public place violent crime (evidence from Tim Nichols: point 23.13, 16.02.09).

groups tend to create many more problems than drunk people dissipated over a larger area).

- 10.5** In response to these particular issues, the council established a 'Cumulative Impact Area' – CIA (sometimes known as a 'Cumulative Impact Zone'). A CIA is essentially an area in which the normal presumptions of the 2003 Licensing Act are reversed, so that new applicants for licenses must prove that their premises will not adversely impact upon the local community (rather than having their licence granted unless a detrimental impact can effectively be argued). The intention is to limit the creation of new licensed premises within this area and thus maintain some control over alcohol and public order associated problems.<sup>29</sup>
- 10.6** The Brighton & Hove CIA extends from Rock Gardens in the east of Brighton to Preston Street in the west, and stretches north to Western Road/Edward Street. Areas abutting selected CIA boundaries may be subject to some, but not all the CIA controls.<sup>30</sup>
- 10.7** Clearly, it would run counter to the intentions of the 2003 Licensing Act to have a CIA that extended over a very large part of the city (unless there was a very high concentration of licensed premises throughout), but this does not mean that the current boundaries of the local CIA are, or should be, set in stone. Panel members believe that the large number of licensed premises in the Hanover/Elm Grove and London Road areas, together with the increasing problems of public drunkenness, noise nuisance and anti-social behaviour in these localities, may justify the extension of the CIA northwards to Elm Grove to include the Hanover and London Road areas south of this line.
- 10.8** Furthermore, the serious problems posed by park drinking and its associated anti-social behaviour (in addition to a rapid growth in off-sales premises in the area) justifies extending the CIA to include Preston Park and potentially other city parks.
- 10.9** The problems in these areas may not always be as acute as in the current CIA (although in terms of say, serious drink-related anti-social and criminal behaviour in the London Road area, it can be argued that they are just as serious), but it would not be necessary to employ all the powers of the CIA in every instance to gain a considerable benefit from extending the CIA boundaries in the ways suggested.
- 10.10 RECOMMENDATION 6 – CIA boundaries to be re-examined with a view to extending them to other areas of the city which might**

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<sup>29</sup> See evidence from Councillor Carol Theobald, Chairman of Brighton & Hove Licensing Committee: point 23.6, 16.02.09.

<sup>30</sup> For more information see: The Licensing Act 2003 – Brighton & Hove City Council: Statement of Licensing Policy (available to download at: [http://www.brighton-hove.gov.uk/downloads/bhcc/licence\\_applications/Licensing\\_Policy\\_A4\\_2008.2.pdf](http://www.brighton-hove.gov.uk/downloads/bhcc/licence_applications/Licensing_Policy_A4_2008.2.pdf))

**benefit from CIA powers (e.g. extension around Preston Park and up to Elm Grove).**

## **11 Policing Underage Drinking**

- 11.1** Fewer underage drinkers frequent pubs and bars than was the case a generation ago, but this does not necessarily mean that U18 drinking has decreased. Rather, there seems to have been a displacement of activity to other locations, most notably to parental homes and to parks and other public places.
- 11.2** U18s drinking in parental homes should have their behaviour observed and moderated by adults (although clearly a good deal of drinking goes on when parents are away or otherwise unaware of what is happening). Drinking in parks and other public places is a more pressing problem, in part because it involves U18s consuming alcohol without adult supervision or intervention (unlike much home drinking and drinking in on-sales – see **points 5.3(a)** through **5.3(e)** above). In part also, park drinking tends to involve very large numbers of young people congregating in one place to get drunk, with obvious public order implications.
- 11.3** There are two issues of concern here: the danger posed by young people acting in an anti-social manner; and the potential risk to young people themselves (e.g. that they may accidentally hurt themselves, or that they may be targeted by other U18s or by older people – inexperienced drinkers who are intoxicated in a public place are an obvious target for assault etc.).
- 11.4** Policing park drinking also poses specific challenges for the police force. U18 drinking is, of course, illegal in most contexts, but in practical terms it may not always be possible or even desirable for the police force to stop all such drinking. The degree to which the police do intervene, and the point of intervention, are key to managing park drinking effectively.
- 11.5** The specific problem here may be described as the escalatory nature of drinking in large groups, which means that gatherings which are entirely peaceable when everyone is sober are almost certain to become disordered when drink is involved. From a policing perspective, this means that it may be necessary to intervene pre-emptively before trouble starts, rather than reactively once problems emerge – particularly as it is generally easier to communicate with sober people than drunk ones.
- 11.6** However, this may mean that teenagers who are drinking illegally, but are not otherwise engaged in any risky or anti-social behaviour, find

themselves targeted by police officers and ordered to disperse etc. This can obviously cause resentment, particularly if young people do not understand why they are attracting police attention when they are not themselves acting anti-socially.

- 11.7** It is clearly undesirable for young people to develop a bad relationship with the police force, perhaps particularly in terms of teenagers who might not otherwise be negatively involved with the police (as is presumably the case with many park drinkers); but it also is evident that the police cannot permit very large groups of young people to congregate and get drunk without taking some sort of pre-emptive action in mitigation of the problems which are likely to arise as the drinking progresses.
- 11.8** There may not be any easy solution to this problem, but young witnesses to the Panel did point out that it was as much the attitude of police officers as their intervention *per se* that young people often found disconcerting, with needlessly aggressive or confrontational approaches adopted in situations where a friendly attitude might have been more appropriate and effective.<sup>31</sup>
- 11.9** Young people's perception of events are important, but they do not necessarily provide an objective evidence base, and Panel members have no actual evidence that police interventions with young drinkers are typically needlessly confrontational or aggressive (clearly there are situations when police interventions will quite properly be very assertive).<sup>32</sup> However, given the circumstances surrounding park drinking, it is obviously important that policing is conducted with a degree of sensitivity, and that, whenever possible, pre-emptive action is explained and contextualised in a friendly and non-confrontational manner. If this is not done, the danger is not only that young people may become needlessly alienated from the police force in general, but that very vulnerable young people may be reluctant to use the police force as a resource when they feel threatened by the behaviour of others (particularly in the context of U18 drinking in parks etc.).
- 11.10** Clearly, it is far easier to recommend in the abstract that the police act in a friendly manner than it is in actuality, when the situation may require that a robust attitude to potential disorder be taken. One partial solution may be to encourage the police force to reach out to young people – most obviously via schools – in order to explain why they manage park drinking as they do. This type of explanation may be a

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<sup>31</sup> See evidence from Youth Council representatives (Appendix ???).

<sup>32</sup> The Panel heard that the police adopt a variety of approaches to park drinking, and may sometimes choose not to intervene in situations where young people are not engaged in anti-social behaviour (evidence from Andrew Kundert: 4.13, 27.11.08). One problem here may be that some young people define anti-social behaviour rather differently than do older people (particularly in terms of what constitutes an unacceptable level of noise), so that teenagers may feel they are doing nothing wrong in situations where their behaviour is actually causing a nuisance to local residents.

good deal more effective in the context of a classroom than at the point where a crowd is being dispersed, and might make at least some park drinkers more amenable to taking directions from the police.

**11.11 RECOMMENDATION 7 – When engaged with young drinkers, police officers need to ensure that they are not over-confrontational and that the rationale for their actions is widely understood. This may best be achieved by engaging with young people in contexts other than those of front-line policing (particularly by visiting schools).**

## **12 Education on the Health Risks of Underage Drinking**

**12.1** The police and the licensing authorities have an important role to play in combating excessive underage drinking by limiting the retail supply of alcohol to U18s and by ensuring that when young people do drink in public, they do not get in situations which are risky for themselves or for others. However, other groups of people may have just as much influence on what young people do – these include schools and, perhaps most importantly, parents.

**12.2** The Panel heard that U18 drinking is not generally a very high profile issue for schools. Although schools do provide some education and training on alcohol-related issues, there is relatively little drunkenness in and around school premises, so the issue is not one of direct concern to most head teachers. Similarly, whilst some students do have serious issues with alcohol which intrude upon their school lives, such students are very likely to drink as a reaction to serious emotional problems: these are therefore best characterised as behavioural issues which manifest in drinking rather than drink problems *per se*. Most students, even if they are involved in alcohol-related anti-social behaviour outside school hours, are unlikely to show the effects in school to any great degree.<sup>33</sup>

**12.3** The issue of hazardous drinking by young people who have serious emotional or other problems is an important one, but is largely beyond the remit of this ad hoc panel. Schools should monitor attendance and achievement records so as to be aware of pupils who may fall into this category (pupils with serious drink problems are likely to do poorly in school and to attend on an irregular basis).

**12.4** Panel members do believe that more could be done in terms of schools educating young people about the implications of excessive alcohol use. As noted in **point 11.10** above, there may be an opportunity for the police to engage with pupils in schools to explain in strategic terms why they manage U18 drinking in public places as they do. It may also be the case (as argued in **Part 9** of this report), that some of the time

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<sup>33</sup> See evidence from Tim Barclay, Head Teacher, Hove Park School: point 11.2, 22.01.09.

and resources which schools currently devote to drugs issues might be better allocated on alcohol-related education.

- 12.5** The strand of alcohol education which might most usefully be developed relates to the health impact of U18 drinking. This is not an area which is currently very comprehensively covered, with the focus of alcohol-related education falling on the legal status of U18 drinking and the risks posed by hazardous consumption in terms of safety (accidents, criminal behaviour, teenage pregnancy etc.).
- 12.6** However, several witnesses made the point that there should be a greater focus on the long term health impact of excessive drinking. One health sector witness pointed out that if alcohol was a drug it would be banned due to its harmful side effects.<sup>34</sup> There is a growing body of evidence on the damage that alcohol can have on the developing body (i.e. excessive drinking is always problematic, but it can be far more so for adolescents than for adults, as teenagers' bodies are still in the process of developing the systems necessary to safely process alcohol).<sup>35</sup> Long term health problems associated with teenage drinking include an increased risk of early onset dementia<sup>36</sup>, serious liver damage, some cancers, heart disease, and foetal alcohol syndrome (as a result of excessive drinking in early pregnancy).
- 12.7** Clearly, effective public health education is not quite so straightforward as informing people about the dangers of the activities they indulge in and then watching their behaviour change. In particular, people do not always link their current behaviour with long term health risks, which is why it may sometimes be more effective to flag up relatively minor issues (i.e. that smoking gives you bad breath rather than that it gives you lung cancer). However, the situation with underage drinking seems to be rather different, as it is readily apparent that some of the long term health risks of excessive drinking are not very well known at all. There might therefore be considerable value in establishing these risks, even if it were unlikely that increased knowledge would necessarily lead to reduced risk taking in the short term.
- 12.8** There are also considerable short term problems with excessive U18 drinking. These can include the direct effects of over-consumption of alcohol (i.e. 'alcohol poisoning'), as well as indirect consequences of drinking, such as an increased likelihood to have accidents, to become injured in fights, to have unprotected sex, become pregnant etc.

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<sup>34</sup> See evidence from Anna Gianfrancesco, Service Manager, RU-OK: 5.6(b), 27.11.08.

<sup>35</sup> See evidence from Dr Oli Rahman, Consultant Paediatrician, Brighton & Sussex University Hospitals Trust: point 5.5(a), 27.11.08.

<sup>36</sup> See point 5.5(b), 27.11.08.

**12.9** It is not necessarily always clear what effect U18 drinking has on pregnancy rates, attendance at Accident & Emergency (A&E) etc. as statistics may not be collated or may not be particularly reliable.<sup>37</sup> However, the Panel did hear that a significant number of young people do present at A&E with alcohol-related problems, placing an additional strain on an already over-stretched system.

**12.10 RECOMMENDATION 8 – Alcohol education should address the long term physical impact of U18 alcohol use, not just safety/legal issues.**

### **13 The Role of Parents**

**13.1** It is evident that parents and carers play a key role in combating excessive teenage drinking, not least because parents appear to be the source of so much of the alcohol that U18s consume. In some instances, drink may be taken from the parental home without parents' permission or knowledge, but it seems often to be the case that parents are complicit in their children's drinking. There may be several reasons for this:

**13.1(a)** Parents may see little or no harm in their children drinking – either because they are unaware of the health and public order impact of U18 drinking, because they feel the risks are exaggerated, or because they feel the risks are not really applicable to their children (who, they believe, drink and act with relative moderation).

**13.1(b)** Parents have their concerns, but would rather their children socialise with their peers (even if this involves alcohol) than risk them becoming socially isolated.

**13.1(c)** Parents have concerns, but recognise that they cannot effectively bar their children from drinking, and would prefer to maintain some control over consumption rather than have none at all (e.g. parents may give their children a moderate amount of alcohol rather than risk them obtain an unregulated quantity from off-sales or friends; parents may chaperone parties at which U18 drinking is permitted rather than have their children drink without being monitored etc).<sup>38</sup>

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<sup>37</sup> Traditionally, A&E attendances were only fully recorded if they resulted in an admission/treatment, and only then in terms of the actual admission criteria. Thus, someone who had fallen down and damaged their leg whilst drunk might not have their attendance recorded as alcohol-related, whilst someone who had passed out as a result of drinking heavily would (assuming that both patients received treatment rather than being diagnosed as not requiring urgent attention). This is now changing, with a greater emphasis on recording more information about A&E admittances (although not necessarily attendances), particularly from 'at risk' groups (such as U18s, people with disabilities, mental illnesses etc.). See point 5.4(b), 27.11.08. Panel members welcome this move to a more thorough recording system.

<sup>38</sup> See evidence from Chris Own, Healthy Schools Team Manager: point 11.5, 22.01.09.

- 13.1(d)** Parents are unsure what common practice is with regard to U18 drinking, so may not know how to deal with children who tell them that their friends are permitted to drink and that they risk being ‘the odd one out’. (The ambiguous status of U18 drinking is a key factor here, as parents have always been complicit in U18 drinking to the degree that they were effectively aware that their children were frequenting pubs, even if they never overtly granted them permission to do so. What may have changed in recent years is the degree to which parents are actively complicit in their children’s drinking – i.e. actually buying them alcohol rather than tacitly permitting them to drink in pubs.)
- 13.1(e)** Parents may be willing to accept the risks (as they understand them) of U18 drinking since it provides them with respite from their teenage children, particularly in situations where alternative social activities are limited.
- 13.2** Some of these problems seem rooted in a lack of information – parents can feel very isolated, particularly when the modern environment is very different to the situations that they have personal knowledge of (e.g. parents who grew up experiencing relatively moderate U18 drinking in pubs may not have much understanding of the problems caused by binge drinking and drinking in parks).
- 13.3** There is therefore an obvious need for information specifically targeted at parents, information which objectively sets out the actual dangers of U18 drinking – in terms of long and short term health risks, public disorder, teenage pregnancy, safety etc. As well as providing this basic information, any pack should include links to be more detailed resources and should also link to organisations which provide long term support to children and families with serious and ongoing alcohol-related issues.
- 13.4** There is an equally obvious need for advice to parents and carers on how to deal with the (considerable) pressure that children can bring to bear to allow them to drink, and on what a sensible approach to U18 drinking should actually look like (i.e. whether it ought to proscribe alcohol entirely, or allow teenagers to drink moderately in chaperoned situations etc). Rather than consisting of prescriptive advice from the authorities, this support might be better arranged by encouraging parent forums and similar representative bodies to develop their own resource packs, thereby utilising ‘on the ground’ knowledge of the current manifestations of U18 drinking.
- 13.5** There may be an opportunity to involve some of the city’s various community groups, residents’ associations etc. in such work
- 13.6** **RECOMMENDATION 9 – Develop and deliver an information pack on alcohol targeted at parents and carers, and facilitate the**

**involvement of parents/carers in creating and maintaining this material.**

## **14 Activities For Young People**

- 14.1** Part of the problem that parents and the authorities face in terms of discouraging U18 drinking is that there may be relatively few alternative outlets available to young people, particularly at the times (e.g. Friday and Saturday nights) when they are most needed. Therefore, U18 drinking may be as much a reaction to there being nothing to do as it is a 'positive' choice.
- 14.2** Clearly, it is possible to overstate this argument: drinking alcohol is a central aspect of British culture, and many young people will surely choose to get drunk even if there are alternative activities available. However, the availability of alternatives to park drinking must surely have some impact on the numbers of young people engaged in these activities, particularly as it seems to be the case that park drinking, for many of the young people involved, is actually as much about having a shared space to socialise as it is about getting drunk.
- 14.3** It is important that activities are developed as direct alternatives to U18 drinking. There is relatively little point, for instance, in offering things to do if they are not available on Friday and Saturday nights when the great bulk of park drinking takes place, or in offering activities which appeal to an entirely different 'market' than does park drinking (e.g. activities which appear very structured and controlled by adults, when a good deal of the appeal of park drinking seems to be that it is unregulated and 'controlled' by young people).
- 14.4** One way of ensuring that these activities actually match what young people want is to ask teenagers for their opinion. This could take the form of a poll/survey of 13-18 year olds (or similar) organised via schools. This would also have the benefit of explicitly involving young people in the design of services, and could form part of an educational programme aimed at explaining the democratic process and local decision making.
- 14.5** **RECOMMENDATION 10 – Survey teenagers for their views and seek to develop alternative activities for young people to engage with as alternatives to illegal drinking in public places.**

## **15 East Brighton**

- 15.1** When the Scrutiny Panel was established, an element of its remit was to establish whether the problems of excessive under age drinking were a constant across the city or whether they were concentrated in any specific areas. The Director of Public Health's Annual Report (2008/9) had stated that there was a higher level of problems in East

Brighton than in other parts of the city, and it was determined that this warranted further investigation.

- 15.2** Witnesses were asked about this issue, but no one thought that there was anything singular about the east of the city which might explain a higher incidence of U18 drinking problems, save for the generally higher levels of deprivation in this area.
- 15.3** It was however noted that East Brighton alcohol-related problems do not just impact upon this area of the city, as both the perpetrators and the victims of alcohol-related crime in the city centre are disproportionately likely to live in East Brighton.<sup>39</sup>
- 15.4** Panel members debated whether to include a recommendation for better funding for U18 alcohol services in East Brighton in recognition of the particular problems faced in this part of the city. However, whilst some members argued for such an approach, others felt that area based funding had not been an unqualified success in past years, and that although the allocation of funding might fruitfully track deprivation, this should be on a targeted basis rather than an area level.
- 15.5** Therefore, whilst the Panel notes the higher incidence of problems involving young drinkers in the east of the city, and Panel members recognise the correlation between alcohol problems and family deprivation, the Panel has not chosen to make a recommendation in this instance.

## **16 Scrutiny Panel Recommendations and the Sustainable Communities Act**

- 16.1** The Sustainable Communities Act (2007) seeks to make the statutory framework of government more amenable to local and community influence, by encouraging local authorities (via the Local Government Organisation) to report back to Central Government in instances where it is felt there would be value in introducing new statutory powers or varying existing powers.
- 16.2** When compiling this report, panel members were initially minded to recommend that the local Licensing Committee sought to impose certain conditions on licensees in instances where a licensee had been shown to have sold to U18s, or where an application for a new license was made in an area with particular alcohol-related problems (e.g. in the vicinity of a city centre park; in an area with many existing licensed premises etc.).
- 16.3** The conditions envisaged by the Panel included licensees being required to refrain from selling alcohol below its cost price (loss-leading), from discounting multiples (e.g. '2 for 1' offers), and from

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<sup>39</sup> Evidence from Tim Nichols: point 23.14, 16.02.09.

selling certain drinks strongly associated with hazardous drinking (e.g. strong cider, cheap spirits). They also included requiring licensees to adopt best practice in terms of under age drinking (e.g. adopting the 'Challenge 25' scheme).

- 16.2** However, on taking advice, it became clear that it is generally not the case that local Licensing Committees are able to impose such conditions on aspirant licensees, and not always the case that they can impose this type of condition on licensees facing suspension/revocation.
- 16.3** In this report, the Panel has therefore recommended that the Licensing Committee asks for a commitment from licensees that they follow the types of best practice enumerated above.
- 16.4** However, panel members believe that local problems with young people and alcohol could be much more effectively managed if Licensing Committees had the ability to compel licensees to adopt sensible approaches to selling in situations where there was an established problem – either with the particular premises itself or in the local area.
- 16.5** Therefore, the Panel would like to recommend that a proposal to allow Licensing Committees considerably more latitude in terms of imposing conditions on licensees be included amongst this council's submissions to the Local Government Association in relation to the Sustainable Communities Act (2007).
- 16.6** **RECOMMENDATION 11 – The council should request changes to statute relating to the powers of local Licensing Committees (as detailed in point 16.3 above) in line with the powers granted by the Sustainable communities Act (2007).**

## **Appendix 1: Dates of public meetings and witnesses who attended plus dates of private meetings** (witnesses are employed by Brighton & Hove City Council unless otherwise indicated)

### **Monday 27 October 2008**

Private Scoping meeting with the following officers:

- Dr Tom Scanlon – Director of Public Health
- Lydia Lawrence - Public Health Development and Improvement Manager
- Anna Gianfrancesco – Service Manager, RU-OK
- Chris Owen – Healthy Schools Team Manager

### **Wednesday 26 November**

Private meeting – to plan the questions for the witnesses

### **Thursday 27 November 2008**

- Barbara Hardcastle – Brighton & Hove City Teaching Primary Care Trust (PCT)
- Andrew Kundert – Brighton & Hove Licensing Inspector, Sussex Police
- Dr Oli Rahman – Consultant Paediatrician, Brighton & Sussex University Hospitals Trust
- Anna Gianfrancesco – Service Manager for RU-OK

### **Monday 15 December 2008**

Private De-brief meeting

### **Thursday 22 January 2009**

- John Peerless– Head of Trading Standards Office
- Tim Barclay – Head Teacher, Hove Park School
- Chris Owen – Healthy Schools Team Manager
- Eric Price –Trading Standards Licensing Manager, Somerfield

### **Saturday 31 January 2009**

Brighton & Hove Youth Council meeting

### **Tuesday 10 February 2009**

- David Soloman – Store Manager, Tesco Express (Droveyway, Hove)
- Tony Rickwood –Store Manager, Tesco (Portslade)

- Chris Denman- Area Manager for Threshers and the Local
- Sue Dixon - Head of Security for First Quench Retailing (formally known as the Thresher Group)

**Monday 16 February 2009**

- Cllr. Carol Theobald- Chairman of Licensing Committee
- Tim Nichols – Head of Environment & Licensing

**Wednesday 11 March 2009**

A private meeting was arranged with Youth Council representatives

**Friday 20 March 2009**

Private meeting to discuss the recommendations.

**Tuesday, 12 May 2009**

Private meeting to discuss the first draft of the report.

**Tuesday 26 May 2009**

Private meeting to discuss the second draft of the report.

## **Appendix 2: Minutes of the meetings**

- a) Thursday 27 November 2008: 2-4pm, Committee Room 1, Brighton Town Hall
- b) Thursday 22 January 2009: 2-4.30pm, Council Chamber, Hove Town Hall
- c) Saturday 31 January 2009: 12pm, Brighton Youth Centre (the Chairman was invited to speak at the Brighton & Hove Youth Council Meeting and to listen to Youth Council representatives' views)
- d) Tuesday 10 February 2009: 9.30-12.30pm, Banqueting Suite, Hove Town Hall
- e) Monday 16 February 2009: Committee Room 2, Hove Town Hall
- f) Wednesday 11 March 2009: 5pm - Private meeting the Chair and a Youth Council Representative

**BRIGHTON & HOVE CITY COUNCIL**

**CHILDREN & YOUNG PEOPLE'S OVERVIEW & SCRUTINY AD-HOC  
PANEL - REDUCING ALCOHOL RELATED HARM TO CHILDREN &  
YOUNG PEOPLE**

**2.00pm 27 NOVEMBER 2008**

**COMMITTEE ROOM 1, BRIGHTON TOWN HALL**

**MINUTES**

**Present:** Councillors Mrs Norman (Chairman), Duncan and McCaffery

**Other Members present:** Councillors

**PART ONE**

**1. PROCEDURAL BUSINESS**

**1A Declarations of Substitutes**

1.1 Substitutes are not permitted on Ad-hoc Scrutiny Panels.

**1B Declarations of Interest**

1.2 There were none.

**1C Exclusion of Press and Public**

1.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act 1972 (as amended).

- 1.4 **RESOLVED** - That the press and public be not excluded from the meeting.

## **2. MINUTES**

- 2.1 This was the first panel meeting and there were therefore no minutes from a previous meeting to be approved.

## **3. CHAIRMAN'S COMMUNICATIONS**

- 3.1 The Chairman welcomed the witnesses giving evidence at this meeting, and noted that the panel's Terms of Reference were:

To make practical recommendations by examining the costs of social and economic outcomes of, and reasons for the increasing levels of alcohol related harm suffered by children and young people in Brighton and Hove.

To examine the impacts of the Licensing Act 2003 on the availability to and consumption of alcohol by those aged under 18, in the city.

These recommendations will be made by inviting and gathering evidence from Sussex Police, Council Officers, PCT, NHS and off sales licensed premises.

## **4. EVIDENCE FROM WITNESSES**

- 4.1 The Chairman asked the witnesses to introduce themselves and explain how their work connected with the issue of alcohol use and young people.
- 4.2 Members then asked each witness a series of questions.
- 4.3 Barbara Hardcastle (BH), Brighton & Hove City Teaching Primary Care Trust: PCT told members that she was employed by Brighton & Hove City Teaching Primary Care Trust (PCT), and was responsible for developing and compiling a Joint Strategic Needs Assessment (JSNA) for alcohol services, covering both adult and children's services.
- 4.4 BH noted that Brighton & Hove's performance lagged behind national/regional averages in many aspects of alcohol related health, including having one of the worst performances in England in terms of male deaths from chronic liver disease.
- 4.5 In terms of children and alcohol, BH told members that national trends showed that the numbers of young people drinking were stable or declining slightly, but that those young people who did drink tended to be drinking more.

- 4.6 In Brighton & Hove, BH noted that young people's drinking rates are slightly above the national averages. It seems that more girls than boys are engaged in 'binge-drinking', and that drinking rates are highest in the east of the city (and lowest in the west).
- 4.7 Dr Oli Rahman (OR), Consultant Paediatrician, Brighton & Sussex University Hospitals Trust informed members that he was a consultant paediatrician working at the Royal Alexandra Children's Hospital. Dr Rahman also works closely with colleagues in the Royal Sussex County Hospital Accident & Emergency (A&E) department.
- 4.8 OR told members that it was difficult to gauge the proportion of young people attending A&E with alcohol related conditions, as, whilst admissions obviously linked to alcohol use would be coded as such, other admissions might not be, even if alcohol was probably a contributory factor (e.g. an alcohol-related fall resulting in injury might just be recorded as a fall).
- 4.9 In addition, OR informed the panel that the great majority of A&E attendances do not result in admission to hospital (i.e. patients are discharged without treatment or are treated without requiring admission as in-patients). Recording the role of alcohol in attendances which do not result in admission can be very challenging.
- 4.10 Inspector Andrew Kundert (AK), Licensing Inspector, Brighton & Hove Police told the panel that he was the Licensing Inspector for Brighton & Hove, and that the Brighton & Hove police force was committed to reducing levels of public place violence and anti social behaviour – both of which were alcohol (and licensing) related matters.
- 4.11 AK noted that, whilst in previous years the police had concentrated on the city's 'night time' economy, there had been a more recent focus on other areas where alcohol related disorder was an issue, particularly in terms of the effective policing and management of young people drinking and socialising in parks and green spaces.
- 4.12 AK told the panel that three localised initiatives had recently been combined to form 'Operation Parks' which sought to address problems associated with the phenomenon of groups of young people meeting up to drink in city parks (particularly on Friday and Saturday nights).
- 4.13 AK noted that effective policing of this issue required a variety of approaches: if young people were not engaging in anti social behaviour, there might be no police intervention; if there was anti-social behaviour, the police might seek to disperse those on the periphery of incidents and to target 'ring-leaders' (e.g. to escort them home to their parents/guardians).

- 4.14 AK informed the panel that it was not always clear whether groups of young people were drinking or not, as young people would typically 'disguise' alcoholic drinks in soft drinks bottles.
- 4.15 AK told members that (in very approximate terms) around 5% of underage drinking involved underage drinkers purchasing alcohol in pubs and bars; approximately 20% involved alcohol purchased by underage drinkers from shops and off licenses. However, around 75% of alcohol was not purchased illegally – i.e. it was bought by parents, by 'proxy buyers' (over 18s buying alcohol at the request of under 18s), was stolen etc.
- 4.16 AK informed the panel that a good deal of work was done to try and ensure that under 18s were not able to purchase alcohol from either on or off sales. The police work closely with Trading Standards to arrange 'test purchasing' (under 18s will try to purchase alcohol in closely monitored operations). Test purchasing is not at random; it is targeted at businesses where there is intelligence of selling to minors.
- 4.17 AK told members that the citywide 'fail' rate for test purchasing was currently around 20% (i.e. one in five test purchasers was actually served alcohol). This is a very encouraging rate.
- 4.18 AK informed members that if business do fail test purchasing, they will be re-tested. Persistent offenders may have their alcohol licences suspended or revoked.
- 4.19 Anna Gianfranceso (AG), Service Manager, RU-OK? told the panel that she was the Service Manager for RU-OK?, the Children & Young People's Trust specialist substance misuse service, and that she was also heavily involved in the local implementation of the new national alcohol strategy.
- 4.20 AG informed members that she worked closely with the police, and had developed a Care Pathway for young people referred from the police. She is currently seeking to develop a similar pathway to channel referrals from A&E, and eventually hopes to combine the pathways.
- 4.21 AG noted that targeting alcohol use amongst young people was a fairly recent initiative, as drugs misuse had traditionally been prioritised.
- 4.22 AG told the panel that Operation Parks had been very successful in terms of reducing young people drinking in public. However, it was not clear whether this reduction in public drinking actually indicated lower levels of drinking (i.e. it might be the case that young people were simply drinking at home rather than in public places).
- 4.23 AG noted that there had been recent national guidance on alcohol education in schools and that she would pass this guidance on to the panel members.

- 4.24 AG told members that Operation Parks had not identified a large number of 'repeat offenders' in terms of young people drinking and behaving anti-socially in public: fewer than 20% of people escorted home by police are subsequently picked up again.

## 5. FURTHER QUESTIONS

- 5.1 Panel members then jointly asked the witnesses a series of questions. The witness responses are detailed below.

5.2(a) In answer to a question as to whether action was taken against adults supplying children with alcohol, members were told (by AK) that Operation Parks had tried to address the issue of 'proxy purchasing'. For example, an operation had been arranged in which under 18s tried to persuade passing adults to purchase alcohol from off-licenses on their behalf. However, such an initiative could not realistically lead to prosecution, as the act of encouraging adults to purchase alcohol for under 18s would probably be viewed as a form of entrapment by the courts.

5.2(b) AK and AG added that it was often difficult to ascertain where an underage drinker had obtained alcohol, as drunk people might not be very lucid, and might lie to protect friends or retailers. However, there was now more focus on tracking back the supply of alcohol, and city partners would share this type of information if they were successful in obtaining it.

5.2(c) John Peerless (JP), Head of Trading Standards, Brighton & Hove City Council, told members that an initiative had been planned for under age drinking in Moulsecoomb, which would have included trying to ascertain the origin of the alcohol being consumed – possibly via an analysis of litter.

This scheme would also have sought to encourage off-licenses not to sell to people who looked under 21.

The council failed to get Government funding for this initiative, but does still intend to undertake it at some point.

5.2(d) AG noted that schemes seeking to restrict sales to under 21s had been effective in other localities.

5.3(a) In response to a question about whether the recent proliferation of off licences had led to an increase in drink-related problems, AK replied that the city Cumulative Impact Zone (CIZ) assumed that there was indeed such a causal link.

AK noted that the CIZ had been very successful, particularly in terms of empowering local communities (i.e. individuals felt that their representations were taken seriously and could have a practical effect).

- 5.3(b) BH added that there had in fact been a very large increase in the number of off-licenses in recent years.
- 5.4(a) In answer to a question regarding repeat A&E attendances, OR told members that very few young people repeatedly attended A&E for alcohol-related issues (unless they were self-harming).
- 5.4(b) OR also noted that A&E record keeping was not perfect in this respect, and that whilst incidents where drink was the primary cause of injury would almost certainly be recorded as alcohol-related, incidents where drink was only a potential contributory factor might not be recorded. Efforts were being made to improve recording, although this needed to be carefully handled as there were issues of patient confidentiality to take into account.
- 5.5(a) In response to a question regarding the physical damage caused by excessive drinking in young people, OR told members that teenagers' bodies were still developing which might mean that they were less able to process alcohol than adults.
- 5.5(b) BH noted that there was growing evidence that excessive drinking from an early age would lead to an increase in alcohol related-dementia in the future.
- 5.6(a) In answer to a question regarding the relative threat posed by alcohol or drugs, OR told members that a significant number of teenage drink or drug hospital admissions were drink related (unless self-harm was a factor).
- 5.6(b) AG added that alcohol could be very dangerous and certainly would not be licensed if it was not so socially established.
- 5.6(c) AK noted that alcohol was a major contributory factor in most public disorder offences, as well as many Domestic Violence incidents.
- 5.6(d) OR added that drunkenness also created major problems for A&E services, particularly at weekends.
- 5.7(a) In answer to questions concerning prosecution of licensees, JP told members that prosecution was rare, as it was a relatively ineffective method of taking action. This was generally the case in Brighton & Hove and across Sussex, where a consistent strategic approach had been adopted by a number of authorities.

- 5.7(b) AK added that the police in Brighton & Hove would generally seek to take action through the city Licensing Committee (e.g. seeking suspension or revocation of a license) rather than via prosecution.
- 5.7(c) JP also noted that most local businesses do not wish to sell to under 18s and are keen to work together with the police and the local authority. Suspension or revocation of the licenses of co-operating businesses is rarely a sensible option.
- 5.7(d) AK noted that suspension was quite rarely used, and questioned whether the Licensing Committee would welcome attempts to employ this power more widely, particularly in situations where a premises had only failed one or two times.
- 5.8 In response to a query about supermarkets, JP told members that supermarkets could be a source of alcohol for under 18s. Supermarkets have a specific problem in that their scale means that it can be difficult for them to properly train and monitor staff (in contrast with small off-licenses where the person making sales may well also be the licensee). Trading Standards have done a lot of work with large local alcohol retailers such as Somerfield and Threshers and are now involved in these organisations' staff training.
- 5.9(a) Asked what could be done to improve the situation in Brighton & Hove, AK noted that one possibility was to take action against under age drinkers buying alcohol rather than focusing entirely on those selling alcohol (as both selling and buying are offences).
- AK also told the panel that it was important to recognise that Brighton & Hove was much safer than formerly – much has been done to tackle alcohol-related anti social behaviour and violence.
- 5.9(b) AG noted that young people replicate adult behaviour, and that children are bound to see adults drinking to excess. This is particularly so given the effects of the smoking ban in pubs and a general modern attitude amongst adults of not being ashamed of being inebriated in public. Adult attitudes to drinking need to change if there is to be any realistic hope of changing children's behaviour.
- 5.9(c) JP added that messages to children about alcohol harm needed to be consistent – which they currently are not.
- 5.9(d) OR suggested that children should be given much more credit for being able to understand information about how their own behaviour might impact upon their health, and that providing an honest assessment of the risks associated with excessive drinking might be effective.

## **6. ANY OTHER BUSINESS**

6.1 There was none.

The meeting concluded at 4.00pm

Signed

Chair

Dated this

day of

**BRIGHTON & HOVE CITY COUNCIL**

**CHILDREN & YOUNG PEOPLE'S OVERVIEW & SCRUTINY AD-HOC  
PANEL - REDUCING ALCOHOL RELATED HARM TO CHILDREN &  
YOUNG PEOPLE**

**2.00pm 22 JANUARY 2009**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Mrs Norman (Chairman), Duncan and McCaffery

**Other Members present:** Councillors

**PART ONE**

**7. PROCEDURAL BUSINESS**

**7a. Declaration of Substitutes**

7.1 No substitutes are permitted on Ad-hoc Scrutiny Panels

**7b. Declarations of Interests**

7.2 There were none.

**7c. Declaration of Party Whip**

7.3 There was none.

**7d. Exclusion of Press and Public**

7.4 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted

and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

- 7.5 **RESOLVED** – That the press and public be not excluded from the meeting.

## **8. MINUTES OF THE PREVIOUS MEETING**

- 8.1 RESOLVED** – That the minutes of the meeting held on the 27 November 2009 be agreed.

## **9. CHAIRMAN'S COMMUNICATION**

- 9.1 The Chairman announced that Mark Whitby (Head of Advisory Centre for Education - ACE) had been obliged to send his apologies for this meeting. Mark Whitby will be invited to attend the next meeting of the panel.
- 9.2 John Peerless (Head of Trading Standards) kindly agreed to give evidence at this meeting at late notice.

## **10. EVIDENCE FROM JOHN PEERLESS (JP)- HEAD OF TRADING STANDARDS OFFICE (TSO)**

- 10.1** JP told members that the council was currently being evaluated on its approach to regulating alcohol sales to children. A copy of the report would be forwarded to the panel when it was published.
- 10.2** JP informed the panel that work on limiting alcohol sales to under 18s altered significantly in 2001, when changes to licensing law permitted 'test purchasing' (using under 18s to try and purchase alcohol).
- 10.3** JP noted that the TSO has a very broad remit and limited resources (amounting to 15 Full Time Equivalent officers). The Brighton & Hove TSO considers under-age drinking to be a city priority and has allocated its resources accordingly. In the past few years the local TSO has developed initiatives such as 'Too Young to Buy' and 'Think 21', and has promoted the use of an identity card scheme for young people.
- 10.4** JP told members that a major piece of work had been undertaken in 2004 in which local authorities, working together with the Home Office Alcohol Standards Unit, had developed a campaign to encourage co-working between regulators of licensed premises. Test purchasing conducted as part of this work showed very high levels of non-compliance for both on and off licences. Partly as a result of this, local authorities have subsequently been strongly encouraged to incorporate work to limit under-age drinking as part of their core business, rather than relying upon time-limited initiatives. Experience suggests that a good rate of compliance is reliant upon constant reinforcement: as soon as a time-limited initiative ends, rates of non-compliance soar.
- 10.5** Non-compliance rates are still around the 35% mark. Problems are particularly associated with newly licensed premises or those with a very high turnover of staff, managers or licensees. The TSO attempts to 'risk assess' newly licensed premises, offering advice on how best to train staff so as to minimise sales to under 18s.

- 10.6** JP told members that eliminating off sales to under 18s would not stop under-age drinking as there are several sources of alcohol: co-ordinated action from other services is required for any initiative to be successful.
- 10.7** TSO initiatives to counter under age drinking are not always effective, as targeting a particular location can result in displacement of drinking activity to neighbouring areas. Informal intelligence networks used by teenage drinkers (via texting, Face Book etc) are often very efficient. To some degree this may be a resource-related issue, as displacement might be less of a problem if a greater geographical area could be targeted by TSO, although better planning and co-working between agencies rather than extra resources *per se* might produce good results.
- 10.8** JP confirmed that prosecution of licensees is very rarely considered, as the licence review/revocation process is far more effective. JP stressed that this approach is intended to help retailers sell alcohol responsibly: it is not meant to be punitive.
- 10.9** In answer to a query about the spread of problems across the city, JP told members that the TSO had not encountered any particular problems in East Brighton. However, if there was a spike in figures in the East of the city, it probably reflected other problems encountered here, as problematic under age drinking could often be a symptom/result of other problems.
- 10.10** JP informed the panel that the way forward for his work may well lay in encouraging local partners to work together to tackle under age drinking. JP referred to ongoing work in Moulescoomb, which he identified as embodying good practice in this area.

**11. EVIDENCE FROM CHRIS OWEN (CO)- HEALTHY SCHOOLS TEAM MANAGER & TIM BARCLAY (TB)-HEAD OF HOVE PARK SECONDARY SCHOOL**

- 11.1** CO presented to the Panel “A summary of the learning opportunities delivered by schools and local data about school age children and young people”

TB explained what is done in his school in terms of drug and alcohol education, how this programme is reviewed in the light of emerging data from students, surveys etc.

- 11.2** TB noted that there are two distinct groups of underage drinkers: the first group can be characterised as ‘risk takers’ – individuals who use alcohol (and who may display other types of risky behaviour) due to underlying emotional/social problems. The second, much larger, group uses alcohol as a way of bonding with their peers/in a celebratory

manner etc. Many young people feel a sense of empowerment and safety in large groups, and this includes groups of people sitting in parks etc. drinking. This is not necessarily about a lack of facilities, youth clubs etc.

- 11.3 CO noted that the behaviour of young people frequently mirrors that of their elders, and that adult culture currently features many patterns of drinking which are reflected in teenage behaviour.
- 11.4 Recent years have seen a reduction of young people drinking in licensed premises, and this drinking has been displaced to parks etc where it can be much more visible and can lead to problems of disorder.
- 11.5 CO told members that many parents were uncertain how to deal with the issue of underage drinking – e.g. unsure whether the best approach was to try and proscribe their children’s drinking or to supply a limited amount of alcohol in the hope that this would encourage a relatively sensible approach to alcohol.
- 11.6 In answer to a question on the impact of alcohol on educational attainment, TB told the panel that there was not necessarily a link between ‘Friday night drinking’ and attainment, but that people with more serious drink problems could see their attainment fall (however this is a complex issue as excessive alcohol use is often a ‘symptom’ of other social or emotional problems rather than a discrete problem).
- 11.7 TB added that schools do lots of work with students in terms of advising on how best to deal with the stress associated with exams, and this may include advice on sensible drinking.
- 11.8 CO noted that schools may simply not be aware of problems associated with their students’ drinking as very few students actually attempt to drink in the school environment, and contact with students out of school is generally limited.

CO informed members that children of parents with problematic drinking are another group the Panel needs to be mindful of.

## **12. EVIDENCE FROM ERIC PRICE(EP) -SOMERFIELD TRADING STANDARDS LICENSING MANAGER**

- 12.1 EP told the panel that almost all Somerfield stores (859) have an alcohol license, and that the company is committed to implementing licensing law. Somerfield uses comprehensive training and re-training; till prompts for staff, maintains a ‘refusal record’ for under age sales, has a ‘three year rule’ (i.e. staff will ask for ID from anyone who doesn’t look 21), and supports ‘citizen cards.’

- 12.2** EP noted that, prior to 2003, retailers were less aware of the level of their sales to under 18s, as it was not legal to conduct test purchasing. Very few if any complaints were received from the general public about sales being made to under age persons. Since test purchasing became widespread, it became clear that there was an industry wide problem with staff failing test purchases. An industry group, the Retail of Alcohol Standards Group was formed to seek ways to drive down under age sale. Great improvements were then made.
- 12.3** In recent years retailers have had to think very hard about how best to deal with this problem – this is far more involved than simply having a policy in place. Issues to be dealt with include: staff problems with identifying under 18s; staff reticence Re: challenging customers; dealing with groups of under 18s.
- 12.4** Somerfield does a lot of data analysis, looking at situations where staff actually challenge customers, and at the results of its own internal test purchasing (although it cannot use 18s for this).
- 12.5** Larger stores tend to be better performers; perhaps because young people buying alcohol are more conspicuous in this type of environment (most customers in big stores tend to be doing a large weekly shop, whereas smaller stores tend to have a higher percentage of shoppers buying only a few items).
- 12.6** In terms of the London Road, Brighton store, there are obvious problems associated with the siting of this store: on a very busy bus route, near to the level and to several nearby housing estates etc.
- 12.7** Measures introduced at the London Road store include: an increased use of door supervision (particularly reassuring for counter staff); only using over 18 counter staff; marking alcohol so that it can be traced back to the shop (although none ever has been); employing a new store manager who has a track-record of supporting staff; collaborating with TSO on training of staff. These measures have turned the situation around in this store – the store has passed its last three test purchases, and the working culture has significantly improved.
- 12.8** In response to a question regarding alcohol sales to adults, EP told members that Somerfield was increasingly concerned with facilitating sensible drinking via providing information on units, safe drinking practices etc.
- 12.9** In answer to a question about what more could be done locally to tackle the problem of underage drinking, EP told the panel that the key was to involve all elements of the community in initiatives – including police, schools, TSO etc.

**13. ANY OTHER BUSINESS**

- 13.1 It was agreed to contact St. Neots for further information on their partnership working, as mentioned by Eric Price.
- 13.2 Members agreed to find out young people's views through attending a school or sixth form college

The meeting concluded at 4.00pm

Signed

Chair

Dated this

day of

## **Notes from the Brighton and Hove Youth Council meeting on the 31-01-09**

1. Present: Councillor Ann Norman (Chair) and Youth Council Representatives (YCR) and Superintendent Grenville Wilson (from Sussex Police)
2. Councillor Ann Norman was asked to speak at the Youth Council meeting and was present to here Superintendent Grenville Wilson speak too.
3. Questions were asked by the YCR's why the Police disperse small groups of youths in parks when they are not being disruptive or loud. The Superintendent explained that the Police tend to work on dispersing small groups early on in the evening before any anti-social behaviour can start; working on prevention rather than waiting for situations to escalate and then dealing with the issues then.
4. A YCR privately told Councillor Norman that young people enjoyed meeting up in groups, as they felt safer and by dispersing the groups they felt more vulnerable and that young people did not see anything wrong with sitting around in small groups. They felt the dispersal technique was unfair especially when they are not causing any trouble.
5. Another YCR privately said that when she was at a party, where lots of additional young people turned up to the party (than previously planned); a Police van came to the location with dogs to disperse the large crowd and that this was seen as a very heavy handed approach and they had been dealt with unfairly.
6. Another YCR privately said that the Police do ask young people to empty their drinks. Some young people take offence to this as some young people do not drink alcohol and therefore have to empty out their soft drinks.
7. A YCR privately said how young people who do not drink alcohol tend to look after their friends that do drink alcohol.
8. A YCR privately said about a positive experience she had with the Police and how she and her friend, (who had been drinking alcohol,) had been treated as individuals and how the policewoman showed that she was concerned for their safety.
9. What upset young people the most was how most of the Police approach these situations by not explaining what they are doing and why they are doing it and not treating each young person as an individual but as a group as a whole.

**BRIGHTON & HOVE CITY COUNCIL**

**CHILDREN & YOUNG PEOPLE'S OVERVIEW & SCRUTINY AD-HOC  
PANEL - REDUCING ALCOHOL RELATED HARM TO CHILDREN &  
YOUNG PEOPLE**

**10.00am 10 FEBRUARY 2009**

**BANQUETING SUITE, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors , Duncan and McCaffery

**Other Members present:** Councillors

**PART ONE**

**14. PROCEDURAL BUSINESS**

**14a. Declaration of Substitutes**

14.1 No substitutes are permitted on Ad-hoc Scrutiny Panels

**14b. Declarations of Interests**

14.2 There were none.

**14c. Declaration of Party Whip**

14.3 There was none.

**14d. Exclusion of Press and Public**

14.4 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

14.5 **RESOLVED** – That the press and public be not excluded from the meeting.

## **15. MINUTES OF THE PREVIOUS MEETING**

15. That the minutes of the meeting held on the 22 January 2009 need to be approved and signed by the Chairman.

## **16. CHAIRMAN' S COMMUNICATIONS**

- 16.1 Apologies have been sent from the Councillor Ann Norma (Chairman).

## **17. EVIDENCE FROM WITNESSES**

- 17.1 Evidence from **Sue Dixon (SD), Head of Security for the First Quench Retailing** (formally known as the Thresher Group) and **Chris Denman (CD), Area Manager for Threshers and the Local**

- 17.2 SD told members that there were 1500 branches with 4 different brand names: Threshers, Wine Rack, the Local & Hadows in Scotland; of which there were 30 stores in Brighton & Hove.

- 17.3 SD informed the panel around a million people were challenged annually and a third of these were refused. All refusals were recorded on the tills and in books and this information was collated and analysed to identify anomalies.

CD explained that any anomalies were investigated and compared with company and store averages. A “compliant” Store Manager generally meant that refusals would be lower in these stores, as young people would not shop at these branches.

- 17.4 SD informed members that the company derives no benefit from under 18 sales as it would damage their reputation which would not exceed potential income.

- 17.5 SD told members that new staff completed an induction, filled out a booklet, watched a DVD which covered mechanisms to prevent underage selling of alcohol and had to be signed off by their Manager before being authorised to use the tills. These inductions and training materials were developed by working with Trading Standards.

- 17.6 SD informed members that identification is asked for, when any customer looks younger than 21: “Challenge 21”. This is being moved to “Challenge 25”. This makes identification of under 18's easier for staff. Accepted forms of ID are Passport, Driving Licence and any other accredited ID. Test purchases are carried out with over 18's and over a 100 test purchases are carried out nationally per month; from this the company can identify problem areas and target their work on these.

CD confirmed that all Brighton and Hove stores were working to Challenge 25 already

- 17.8 It was advised that Partnership working with local authorities, the Police and Trading Standards was the best way forward. It was noted that enforcement has a role but dealing with issues at an early stage is better and to act on any intelligence to deal with the matter swiftly worked best.
- 17.9 In answer to a question as to how many challenges Brighton and Hove had, it was estimated at around 25/30 per store, per week and challenges were higher in the summer. The exact figures would be forwarded onto the panel.
- 17.10 In relation to a question on what happens to the information about refusals, it was explained that the District Manager and Licensing Manager collate and investigate the information on a store basis.

CD added that store visits are arranged to stores that have anomalies and an investigation would take place by speaking with staff. All stores within each area are visited on a 6 weekly basis.

- 17.11 In response to a question as to where under 18's were sourcing their alcohol and whether proxy sales were the problem, it was advised that staff are trained on proxy purchasing by looking at unusual buying patterns and that staff shouldn't sell if they are suspicious of proxy sales being undertaken.

The Panel were informed that shoplifting was an issue and it was thought that 60% of alcohol consumed by underage drinkers came from homes.

- 17.12 In answer to a query about what information in stores is available for parents, it was noted that stores have been involved in local area schemes where leaflets were put into customers' bags. However it was noted that more education was required.
- 17.13 Tony Rickwood - Portslade Tesco's Store Manager commented that there were many instances of staff overhearing parents asking their children what alcohol they would like their parents to purchase for them. In these experiences the retailer would refuse these sales.
- 17.14 CD informed the panel that refusals do vary from store to store. Stores with higher footfall have higher refusals and smaller "community" stores have lower refusals. Under 18's do not shop at their local stores as there is more chance that they will be refused as the Retailer will probably know their parents.
- 17.15 In response to a question as to whether there are more refusals in the east of Brighton (as underage drinking is worst in the east of city), it was noted that this hadn't been identified.

- 17.16 In response to a question from a Youth Council representative as to whether it would be possible to scan an universal ID card which could total up the amount of alcohol purchased and flag up if the individual was over a guidance level and the possibility that proxy sales may be occurring, TR explained that technically it would not be possible to collate this type of data from the different retailers.
18. Evidence from **David Solomon (DS), TESCO Express, Store Manager -Droeway, Hove** and **Tony Rickwood (TR), TESCO, Store Manager – Portslade**
- 18.1 DS informed members that TESCOs had a vigorous induction training programme, which included “Think 21”, a buddy system, plus training updates, refresher training, till prompts (with the date of birth information), a DVD and also regular team meetings.
- TR handed out training materials that all staff including managers had to complete and noted that there was more comprehensive training for the Licensees at each store. There were “Quarterly Due Diligence Reviews” that a Designated Premises Supervisor completed which reviewed their stores compliance.
- 18.2 The panel noted how managers backed staff with the “you say no and we say no policy” when a transaction was refused.
- 18.3 DS informed the panel how the non-compliance is identified with test purchases, and explained how these stores are targeted for up skilling. It was also very important to work with the Police, Trading Standards and the community and advertise the no selling of alcohol to under 18’s policy around the store.
- 18.4 TR explained how there were very robust systems in place and that he had worked hard to engage with the local Police, to increase store visits which had an impact on reducing theft.
- 18.5 TR told members how it was not in TESCO’s interest to sell alcohol to under 18’s.
- 18.6 In answer to a question on how young staff challenge under 18’s, TR informed the panel that staff under 18 had to have a supervisor authorise any alcohol sales they made. This then prevents under 18 store staff selling to their under 18 friends. TR explained how TESCO is moving to the “Think 25” scheme.
- SD informed members that all retailers were moving to the “Think 25” scheme, expect Waitrose. However independents would not necessarily follow.
- 18.7 In response to a question as to whether there was an increase in sales since the Licensing Act 2003 was implemented, SD told members that

the Act had meant that a tighter regime was in operation and it was hard to determine as this is a very high profile topic and is in the press regularly.

- 18.8 TR informed the panel how there had been a significant improvement in compliance since legislation made individual staff vulnerable to prosecution as well as the retail company.
- 18.9 In answer to a question whether cheap alcohol had increased the levels of drinking, TR felt that people weren't buying more cheap alcohol.
- 18.10 TR informed the panel that by increasing the cost of alcohol it would not have any affect as customers wouldn't trade down to cheaper drinks and that when the VAT had been reduced recently; there wasn't an increase in alcohol sales.

SD noted that alcohol was cheap in France and there were no major issues there.

- 18.11 In answer to a question why young people were drinking more, TR informed the panel that alcohol is increasingly difficult for young people to get from retailers and that more adults were purchasing it for them.

SD questioned whether young people were drinking more or whether anti-social behaviour had increased.

- 18.12 In response to questions as to whether shoplifting was an issue, SD told members that it was a problem as there was little legal deterrent (fixed penalty notice for a first offence). Retailers find it challenging to balance attractive store layouts with crime prevention measures.

Shoplifting varies with different areas and different products.

TR informed the panel how alcohol is purchased with weekly shopping on a regular basis.

- 18.13 In answer to a question on whether there is information for parents about not purchasing alcohol for their underage children, TR responded he could not recall any such information and that parents had a lack of understanding on the subject.
- 18.14 In answer to a question on what recommendations would they make TR responded that the local Police are the key and their support to retailers was invaluable.

Members noted that SD recommended partnership working as retailers were committed to eliminating sales to under 18's and that any intelligence could be dealt with swiftly. Additionally direct links with the retailers Central Office would be useful for more proactive working. It

was also pointed out that enforcement does have a negative impact on retailers.

TR informed members that Trading Standards could do with engaging with Retailers more in the future.

**18. ANY OTHER BUSINESS**

19.1 No other business was discussed.

The meeting concluded at 11.00am

Signed

Chair

Dated this

day of

**BRIGHTON & HOVE CITY COUNCIL**

**CHILDREN & YOUNG PEOPLE'S OVERVIEW & SCRUTINY AD-HOC  
PANEL - REDUCING ALCOHOL RELATED HARM TO CHILDREN &  
YOUNG PEOPLE**

**2.00pm 16 FEBRUARY 2009**

**COMMITTEE ROOM 1, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Mrs Norman (Chairman), Duncan

**Other Members present:** Councillors C Theobald

**PART ONE**

**19. PROCEDURAL BUSINESS**

**20a. Declaration of Substitutes**

20.1 No substitutes are permitted on Ad-hoc Scrutiny Panels.

**20b. Declarations of Interests**

20.2 There were none.

**20c. Declaration of Party Whip**

20.3 There was none.

**20d. Exclusion of Press and Public**

20.4 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

20.5 **RESOLVED** – That the press and public be not excluded from the meeting.

## **20. MINUTES OF THE PREVIOUS MEETING**

- 21.1 That the minutes of the meeting held on the 10 February, 2009 need to be approved and signed by Chairman.

## **21. CHAIRMAN'S COMMUNICATIONS**

- 22.1 Chris Parfitt (Youth Lead on Alcohol) and Mark Whitby (Head of Advisory Centre for education (ACE)) send their apologies.

## **22. EVIDENCE FROM WITNESSES**

- 23.1 Evidence from **Councillor Carol Theobald (CD), Chairman of the Licensing Committee** and **Tim Nichols (TN), Head of Environment and Licensing**

23.2 CT informed the panel that there was ongoing work in schools educating pupils on the affects that alcohol has and that generally, under 18's do not obtain their alcohol from licensed premises.

23.3 TN told members that this was a national problem and that most of the alcohol is obtained from homes, off sales and proxy purchasing.

23.4 TN informed the panel that the Council supports proof of age schemes, but levels of fraud are very high. Police are also reluctant to prosecute under 18's for using false ID. The Licensing Committee is currently enacting the recent national guidelines to deal with problem licensees.

23.5 CT informed the panel that Challenge 25 was very useful, as were out of school activities. She also stated that refusal log books should be kept as evidence relating to underage sales.

23.6 CT confirmed that the Cumulative Impact Area (CIA) had also been introduced to stop further new drinking establishments from opening.

23.7 TN told members that under age drinking is a national priority and a Health impact Assessment (HIA) is being funded by the Primary Care Trust (PCT) and being undertaken by the Council. It was noted that Licensing was not to blame for this problem, and that marketing, pricing and availability were more the reason.

23.8 TN informed the panel that there was a 40% failure rate for test purchasing and it was difficult to decrease this (Subsequently TN said the current rate was 20%).

23.9 TN advised the panel that underage drinking in on licences has moved to parks in recent years as the on licenses are regulated heavily. In the past when Licenses were less heavily regulated publicans tended to tolerate underage drinking providing they didn't drink to access.

- 23.10 In answer to a question as to whether there was a case to charge above a minimum level for alcoholic drinks, TM told members this would be unlawful. For any action to be taken it needs to be demonstrated that there was a “clear causal link” between price promotions and antisocial behaviour. It was noted that it was particularly difficult to establish that link and also to word such restrictions. TN referred to the “*Guidance: Department for `Culture, Media & Sport, sections 10:38 & 10:40 of the Licensing Act 2003`*”
- 23.11 TN advised the panel that it was important to be mindful of economic conditions and that most licensees were trying to earn an honest living, however it maybe useful to publicise revocations and suspensions in the future.
- 23.12 TN told members that he was looking forward to the publication of the Health Impact assessment (HIA) and possible changes to the NHS drinking and drug budgets. It was suggested that spending on preventative education might be better allocated on alcohol rather than drugs.
- 23.13 In answer to a question as to whether the Licensing Act 2003 had any impact on the worsening health figures, TN responded that the reverse was true; there had been a long term rise in consumption and disease relating to alcohol and the Licensing Act 2003 was a reaction to the situation rather than a cause. Since the Licensing Act 2003 there were declining rates of public place violent crime. The Police should also be credited for this. The Licensing Act 2003 has given city centres the ability to spread out “closing time” public disorder.
- 23.14 In relation to a question why binge drinking amongst young people was worst in the east of the city, TN responded that the analysis of information from the Police show a disproportionate volume of the postcodes from offenders and victims are in the BN25 and BN26 areas.
- 23.15 In response to a question whether it was possible to restrict the proliferation of off sales premises, TN responded that the Licensing Act 2003 assumed that most of these off sales premises are operating an honourable business; applications are granted automatically unless representations have been made. The Review Panels have more power than the initial License and have a choice of options which are to suspend/revoke the license, remove the premised licensee or take no action. Residents, Trading Standards Officers and the Police can be heard and it is more likely that the Panel would make a more effective decision based on evidence than refuse a new application.
- 23.16 In answer to a question whether smaller stores were selling to under 18’s, CT responded that there was a case where by a non-english speaking relative, who had received no training was covering a shop when the store failed a test purchase. The shop had been to the Review Panel before with a similar problem and the Owner had not

acted upon the advice given by the Review Panel in the first occasion; at the next the Review Panel the decision was taken to revoke the license.

TN told members that sales to underage drinkers was spread out throughout different off and on sales as there were national off licences, franchises, single operators, pubs and bars have all been subjects for reviews.

23.17 In answer to a question how Licensing laws could be tightened TN answered that the recently issued government guidance gave the Review Panel power to restrict the trading hours, or even use CCTV to record sales.

23.18 In response to a question on whether increasing the tax on alcohol would reduce underage drinking TN advised that this would reduce access for young people, should focus on off sales, stores and supermarkets and Government could hypothecate the money to alcohol treatment services and out of school activities.

### **23. ANY OTHER BUSINESS**

24.1 It was agreed to contact any Representatives from the Youth Council who had given their contact details.

24.2 It was agreed to collate written questions for Chris Parfitt (Youth Lead on Alcohol) and Mark Whitby (Head of ACE) and ask them for written statements.

24.3 The meeting with the youth offender is arranged for Thursday, 19 February and the Chairman will be attending this.

The meeting concluded at 3.00pm

Signed

Chair

Dated this

day of

## **BRIGHTON & HOVE CITY COUNCIL**

### **CHILDREN & YOUNG PEOPLE'S OVERVIEW & SCRUTINY AD-HOC PANEL - REDUCING ALCOHOL RELATED HARM TO CHILDREN & YOUNG PEOPLE**

**4.00pm 11 MARCH 2009**

#### **MINUTES**

**Present:** Councillors Mrs Norman (Chairman),

**Other Members present:** Councillors

#### **PART ONE**

#### **24. EVIDENCE FROM WITNESS**

##### **25.1 Evidence from a Youth Council Representative (YCR)**

25.2 YCR told the Panel Member how the view of not being able to drink needs to be changed, as it makes young people want to drink and break the rules.

Her experience of her first alcoholic drink was that it was “not an amazing thing”, and she still didn’t enjoy the taste of it and would drink wine with a sweet fizzy drink to make it more palatable.

The YCR told how there was alcohol always in her parent’s house and how her parent would give wine with a mixer to drink on occasions.

25.3 It was confirmed that peer pressure was one of the reasons why young people drank.

25.4 The YCR told how house parties are popular places for young people to drink. There were varying amounts of alcohol at these parties, more being available if parents were not present. If parents were present they did supervise these parties and tended to water down the alcoholic drinks by providing punches.

At a recent party, the YCR informed the member how some young people arrived already drunk.

The YCR informed the member how at her next party her father will invite his friends to the party to help supervise. Some young people

regularly sleep at certain friends' parents' houses as these parents do not "tell" on them. The next morning the young person has slept off most of their hangover and "is not that much of a wreck" when they return home.

- 25.5 YCR informed the member how teenagers copied adults, parents and their older friends and how they had seen parents having a drink of alcohol after they had a stressful day and copy this; or it's the weekend and they learn how alcohol is consumed to celebrate this. As a result of this, young people get stressed over their exams and can turn to alcohol to relax.
- 25.6 In answer to a question whether parents are aware how much their children drink, the YCR answered, that they say to their parents they drank "smart" levels of alcohol, but didn't mention the additional amounts consumed on top of this too.
- 25.7 When asked where else young people were getting alcohol from other than parents supplying it, the YCR informed that their 18 year old friends purchased it for them.

The YCR told how she could remember that last year her friends bought bigger bottles of spirits but this year, due to the credit crunch parents have less disposable income to give their children and as a result of this, young people were purchasing smaller bottles of spirits as they found the bigger bottles too expensive to purchase.

- 25.8 The YCR recommended that adverts similar to the smoking ones would be affective, showing how it could ruin young people's lives in different ways, for example how it can "mess up your exams".
- 25.9 In response to a question whether young people were aware of what the adverse affects of underage drinking were, the YCR said she wasn't aware of these and she would recommend that these be advertised. She confirmed that in schools there is some Personal Social Health Education (PSHE) which touches on the safety issues when drunk, but not information on the negative affects of drinking alcohol.
- 25.10 The YCR advised the member that she felt it was very dangerous to be drinking on the streets and that more controlled places would be suitable, such as clubs perhaps?
- 25.11 YCR confirmed that a friend had problems at home and some young people did not want to discuss these experiences with anyone so they tended to deal with these on their own, without asking for help and drank alcohol to forget these problems. However, the YCR informed how she had a supportive group of long standing friends and they would try and help anyone they could and have been successful in

doing this, by guiding their friend away from alcohol, studying more and getting them to mix with the right crowd.

25.12 The YCR informed the member how teachers did not understand the pressures that young people were under.

The meeting concluded at 5.00pm

Signed

Chair

Dated this

day of

## Appendix 3: Digest of recommendations

- **RECOMMENDATION 1-** The Panel welcomes and commends the increased emphasis of Licensing enforcement on off-sales (and on public place drinking), as it shows a commitment to identifying and tackling current problems rather than simply adhering to traditional modes of enforcement. The Panel hopes that this will provide a platform for the further development of Licensing enforcement, both in terms of closer partnership working, and in terms of a continuing concentration on the actual rather than the popularly perceived problems of underage drinking.
- **RECOMMENDATION 2 –** City partners (co-ordinated by TSO) should draw up a Best Practice Guide on avoiding selling alcohol to U18s with a view to the guide being disseminated to independent retailers.
- **RECOMMENDATION 3 –** Encourage (particularly via the Brighton & Hove Licensing Committee) all off-sales to adopt the ‘Challenge 25’ scheme.
- **RECOMMENDATION 4 –** Licensing Committee to request assurances that new and re-assessed licensees will not discount sales below cost, engage in irresponsible multiple discounting or sell products strongly associated with hazardous drinking practices.
- **RECOMMENDATION 5 –** CYPT should consider its substance misuse services in terms of a potential re-deployment of resources from drugs to alcohol-related projects in instances where drugs issues may have been advanced to the detriment of similarly serious alcohol-related problems. CYPT should also consider whether there is value in lobbying NHS Brighton & Hove and central Government to review their resource allocation in regard to alcohol-related services for children and young people.
- **RECOMMENDATION 6 –** CIA boundaries to be re-examined with a view to extending them to other areas of the city which might benefit from CIA powers (e.g. extension around Preston Park and up to Elm Grove).
- **RECOMMENDATION 7 –** When engaged with young drinkers, police officers need to ensure that they are not over-confrontational and that the rationale for their actions is widely understood. This may best be achieved by engaging with young people in contexts other than those of front-line policing (particularly by visiting schools).
- **RECOMMENDATION 8 –** Alcohol education should address the long term physical impact of U18 alcohol use, not just safety/legal issues.

- **RECOMMENDATION 9** – Develop and deliver an information pack on alcohol targeted at parents and carers, and facilitate the involvement of parents/carers in creating and maintaining this material.
- **RECOMMENDATION 10** – Survey teenagers for their views and seek to develop alternative activities for young people to engage with as alternatives to illegal drinking in public places.
- **RECOMMENDATION 11** – The council should request changes to statute relating to the powers of local Licensing Committees (as detailed in point 16.3 above) in line with the powers granted by the Sustainable communities Act (2007).

## Appendix 4: Background papers

'Brighten Up! Growing Up in Brighton & Hove 2008': Annual Report of the Director of Public Health (and Joint Strategic Needs Assessment, Children and Young People. Brighton and Hove City Council and Brighton & Hove City Teaching Primary Care Trust, 2008.

'Are the kids driving you mad?': Positive Parenting Programme leaflet. Brighton & Hove Children & Young People's Trust.

Draft Alcohol Needs Assessment for Children and Young People: Brighton & Hove City Primary Care Trust (Draft 4), November 2008.

'Drug Education: An Entitlement For All': A report to Government by the Advisory Group on Drug and Alcohol Education, 2008.

Government Response to the report by the Advisory Group on Drug and Alcohol Education: Department for Children, Schools and Families.

Health Impact Assessment of the introduction of flexible alcohol hours in Brighton & Hove: Brief for consultants 2007 v2. Brighton & Hove City Council, 2007.

Licensing Act 2003: Statement of Licensing Policy. Environmental Health and Licensing Service, Brighton & Hove City Council.

Report of stakeholder responses to the Health Impact Assessment of the Introduction of Flexible Alcohol Hours in Brighton and Hove, 6th April 2009.

Setting Targets for Core, Enhanced and Intensive Services (presentation on drug use among vulnerable young people): from 'Crime & Drugs Analysis & Research,' Home Office, September 2007.

"Safe, Sensible, Social: the next steps in the National Alcohol Strategy." Department of Health, Home Office, Department for Education and Skills and Department for Culture, Media and Sport, 2007.

Scrutiny Review of Alcohol Misuse amongst Children & Young People. East Sussex County Council, March 2008.

Sustainable Communities Act 2007 : A Guide for Communities and local Government.

Young People and Alcohol, Overview and Scrutiny Review, Lancashire County Council, February 2008.



**BRIGHTON & HOVE CITY COUNCIL**  
**CHILDREN & YOUNG PEOPLE'S TRUST BOARD**

**5.00pm, 7 SEPTEMBER 2009**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:**

Councillors: Brown (Chairman), Bennett, Fryer, Hawkes (Opposition Spokesperson) and Alford

**Brighton & Hove Primary Care Trust:**

Denise Stokoe, Darren Grayson and Dr Louise Hulton

**South Downs Health:**

Andy Painton, Simon Turpitt and Mo Marsh

**Non-Voting Co-optees:**

David Standing, Community & Voluntary Sector Forum

Gail Gray, Community & Voluntary Sector Forum

Andrew Jeffrey, Parent Forum

Eleanor Davies, Parent Forum

Priya Rogers, Youth Council

Rose Suman, Youth Council

Graham Bartlett, Sussex Police Authority

**PART ONE**

**24. RESPONSE TO THE REPORT OF THE CHILDREN AND YOUNG PEOPLE'S OVERVIEW AND SCRUTINY COMMITTEE REPORT: REDUCING ALCOHOL RELATED HARM TO CHILDREN AND YOUNG PEOPLE**

24.1 The Board considered a report of the Director of Children's Services, which provided a response to the report of the Children and Young People's overview and Scrutiny Committee Report relating to reducing alcohol related harm to children & young people. The report proposed further action in respect of the CYPT response to the issue of young people and alcohol (for copy see minute book).

24.2 The Assistant Director, Strategic Commissioning and Governance, noted that the one of the functions of this report was to acknowledge the work carried out by CYPOSC. The Assistant Director pointed out that this was the first time that a report from the CYPOSC had been received at the Children and Young People's Trust Board and noted the importance of cementing the relationship between the two bodies.

- 24.3 Councillor Marsh and her colleagues in the NHS and PCT noted the various implications completed in the 'Financial and Other Implications' section of the report. They drew attention to the relevance of including and referencing health implications alongside all the other information provided therein. It was felt that this information would contribute to a more integrated approach in relation to the Board's work and would recognise the contribution that the different partnerships brought to it. They sought clarification about how this information could be integrated in the future.
- 24.4 The legal adviser noted the comments. She advised that this matter needed to be resolved elsewhere, outside the Board's remit.
- 24.5 Darren Grayson, PCT, noted that this particular report had alluded to health considerations in the information contained in its appendix. He accepted, however, that because the Board was committed to the health and well being of young people, a clearer expedition of this issue should be a matter of course on all the reports that were considered at this Board. He volunteered to work with the Director of Children's Services to take this matter forward.
- 24.6 Graham Bartlett, Sussex Police, noted that the Operations Parks, which dealt with a combination of youth related disorders, had seen a decrease in the number of interventions among the youth by 5%. He noted that this had been a result of the engagement work carried out with all partners together with parents and other agencies.
- 24.7 Members drew attention to the possibility of children drinking either with their parents or with their parents' knowledge. They also sought clarification as to whether there were any statistics available about the damage caused to health as a result of drinking practices.
- 24.8 The Service Manager, RuOK, reported that officers were aware of the possibility raised above. She noted that one of indicators shown in the information collected from surveys her team conducted was that a youth was more likely to get alcohol through an adult than through off-license premises. She reported that work was being carried out around proxy-purchasing, which involved a joint work from the Police, the Licensing team and the Trading Standards team, to target adults purchasing alcohol for children and under age individuals.
- 24.9 In terms of the statistics about health damage caused by drinking, Darren Grayson stated that he was aware that the NHS collected information relating to alcohol misuse. He noted, however, that he did not have all the details about that practice.
- 24.10 Councillor Fryer noted the scope of Recommendation 10 and welcomed the practice of asking young people about their views about these matters. She also enquired whether there was any research available, which taught about responsible drinking and promoted its benefits.
- 24.11 The Service Manager, RuOK, Indicated that she was aware of such reports in the USA; she was, however, unaware of such research nationally.
- 24.11 The Board welcomed the report.

24.12 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Board accepted the following recommendations:

- (1) That the recommendations of the report from CYPOSC be noted.
- (2) That the work of the CYPOSc Committee be acknowledged.
- (3) That a further report be requested from the CYPT, setting out proposals for a Youth Alcohol Action Plan as part of the Brighton & Hove Alcohol Strategy.
- (4) That it be agreed that further work, in respect of the recommendations from the CYPOSC which fall beyond the remit of the CYPT, be taken forward through the Local Area Agreement.



# LICENSING COMMITTEE

## (LICENSING ACT 2003 FUNCTIONS)

## Agenda Item 29

Brighton & Hove City Council

**Subject:** *Work of the Licensing Authority during 2009/10*

**Date of Meeting:** **4 March 2010**

**Report of:** *Director of Environment*

**Contact Officer:** Name: Tim Nichols Tel: 29-2163  
Jean Cranford 29-2550

E-mail: [tim.nichols@brighton-hove.gov.uk](mailto:tim.nichols@brighton-hove.gov.uk)  
[jean.cranford@brighton-hove.gov.uk](mailto:jean.cranford@brighton-hove.gov.uk)

**Wards Affected:** All

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report sets out the licensing functions carried out during 2009/10, and informs members of important changes in the law relating to licensing and councillors roles.

#### 2. RECOMMENDATIONS:

- 2.1 That the committee notes the contents of this report.
- 2.2 That Members endorse guidance at appendix 4.

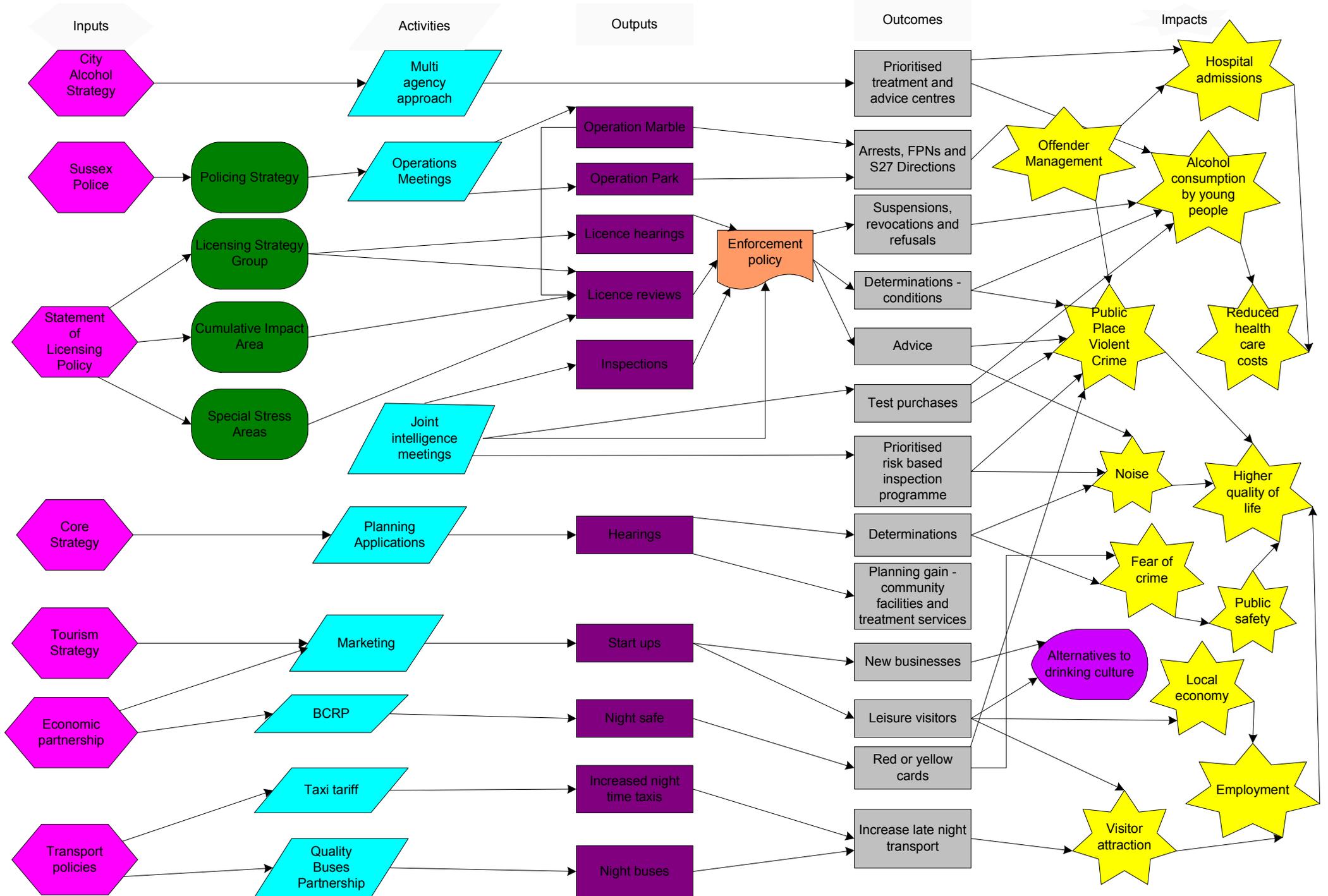
#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The number of premises in Brighton & Hove during 2008/09 (latest figures reported to DCMS) is 1362 made up of 1313 premises licences and 49 club premises certificates. Included in that figure are 55 applications for new licences with 50 applications for new licences being granted (5 refused).
- 3.2 Since 1 April 2009, the council has received 70 applications for new premises licences and 56 applications for variations to premises licences. 67 premises went to panel hearings. 686 Temporary Event Notices have been processed and 489 personal licences have been issued to 03/02/10.
- 3.3 A list of all reviews and appeals carried out during 2009/10 to date can be found at appendix 1 and 2. In addition, details of the number of Licensing Panels and the level of Member involvement in these panels has been included in appendix 3. With the number of panels remaining constant and their make-up only permitted from the Members of the Licensing Committee

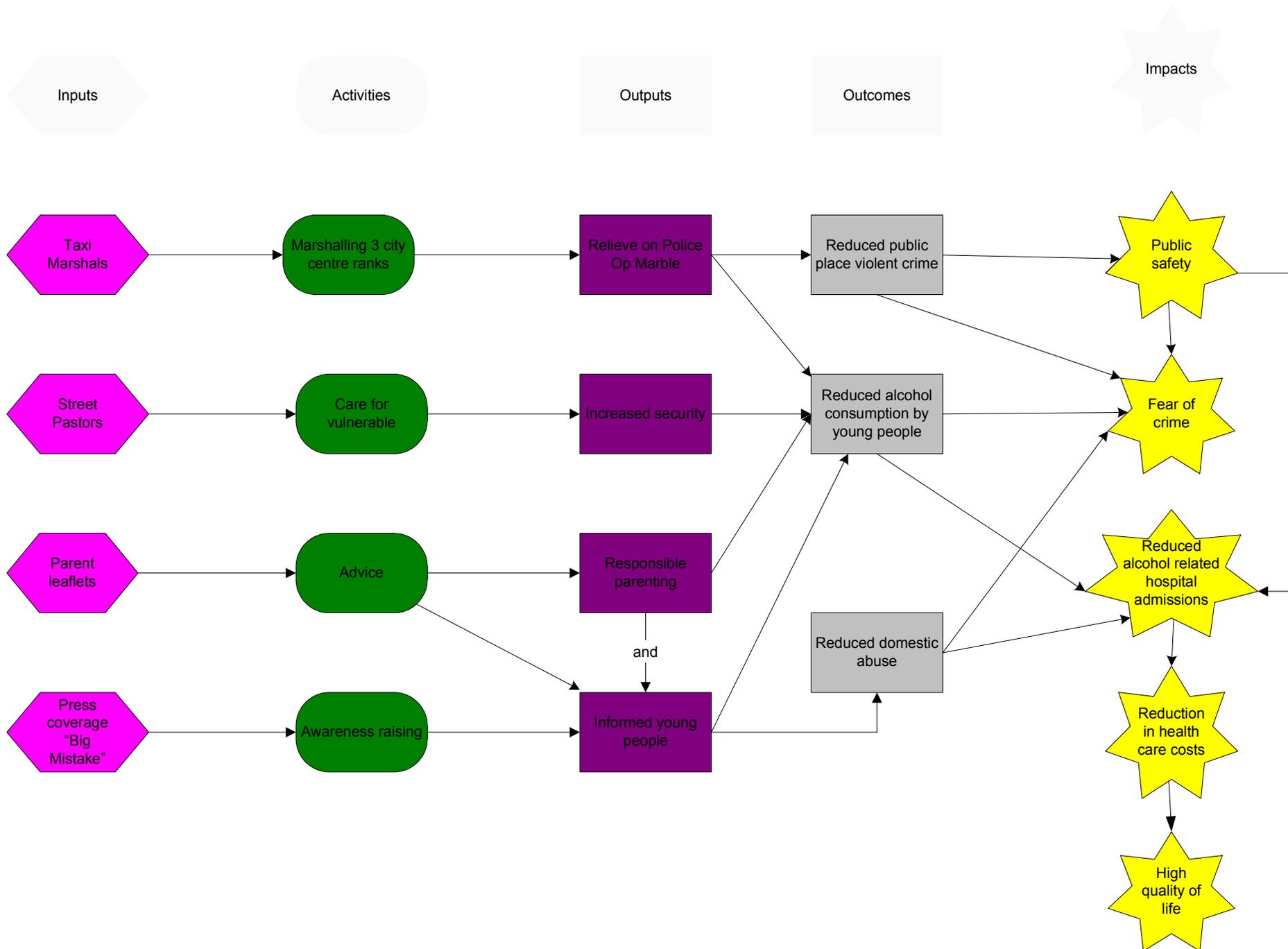
there is a need to be mindful of the impact they can have on a councillor's time when choosing to sit on the Committee.

- 3.4 During 2009/10, Brighton and Hove City Council were successful in achieving a Beacon Award for Managing the Night Time Economy. It also won the Best Partnership Award for managing the night time economy in the Brighton & Hove Public Service Awards. As a result of winning the Beacon Award, Brighton & Hove City Council, along with partners, have hosted 18 visits from other local authorities and responsible authorities including Southampton, Gravesham, Cornwall, Nottingham, Reading and Dorset Police. DCMS/Lacors held their annual away day here in Brighton & Hove when officers gave presentations on licensing and partnership working, and delegates from Abu Dhabi visited Brighton & Hove to view best practice in relation to licensing. Home Office and DCMS officials are due to visit in March 2010. The figures below shows pathways of interventions to tackle alcohol related harm arising from the Beacon work to manage the night time economy and the Crime and Disorder Reduction Partnership's work on the Alcohol Support Programme. These causal chains aim to illustrate an intervention logic for alcohol harm reduction.

# Beacon pathway



# Alcohol Support Programme pathway



### 3.5 **Press interest:**

Licensing issues in Brighton and Hove have been at the forefront of the media during 2009/10. Press interest includes six articles in City News, 32 articles in the Argus, appearances on the TV Shows "Brighton Beach Patrol", GMTV This Morning and BBC TV South Breakfast, articles in the Daily Express, Daily Mail and Metro, a feature on Meridian Tonight, two articles in "The Publican" magazine, write ups in the Leader, radio feature on Heart FM, an article in the Local Government Chronicle and Regeneration and Renewal magazine, as well as items on Twitter and YouTube.

### 3.6 **Licensing regulation will be amended by the Policing and Crime Act 2009 (PCA) the Mandatory Code as follows:**

1. Banning irresponsible promotions.
2. Banning "dentist chairs" where drink is poured directly into the mouths of customers making it impossible for them to control the amount they are drinking.
3. Ensuring free tap water is available for customers - allowing people to space out their drinks and reduce the risks of becoming dangerously drunk.
4. Ensuring all those who sell alcohol have an age verification policy in place requiring them to check ID of anyone who looks under 18 to prevent underage drinking which can lead to anti-social behaviour and put young people at risk of harm.
5. Ensuring that all on trade premises make available small measures of beers, wine and spirits to customers so customers have the choice between a single or double measure of spirits and a large or small glass of wine.

### 3.7 **Implementation timetable.**

The Home Office is aiming to implement the various provisions in the PCA, however various steps have to be taken before the planned dates.

- (a) S33 - Individual members of licensing authorities to be interested parties – 29 January 2010.
- (b) Lap dancing – April 2010 (Home Office needs to draft and consult on guidance as well as resolve the transitional arrangements before implementation).
- (c) S32 Mandatory conditions – April 2010 (again Home Office will need to draw up secondary legislation for the conditions, and S182 guidance will also need to be amended before implementation).
- (d) S28 of the PCA, changing the offence from 3 to 2 or more different occasions (of selling alcohol to children) - 29 January 2010.
- (d) S29 (confiscation of alcohol from under 18's).

- (f) S30 (new offence of persistently possessing alcohol in a public place by under 18's).
  - (g) S31 (extending Directions to Leave to those aged 10 or over) – 29 January 2010.
- 3.8 The European Services Directive came into effect on 28 December 2009. The Council has acted as a “champion”, working alongside other local authorities and in conjunction with DBIS, Lacors and DCMS regarding implementation. The EU Services Directive will mean that anyone within the EU (including the UK) will be able to make fully electronic applications on-line, including making payment.
- 3.9 As a result of the EU Services Directive, some legislation has had to change, including Section 182 Guidance. Basic changes include inclusion of electronic signatures on electronically submitted applications; applicants no longer being responsible for sending applications to responsible authorities for electronic applications (this now falls to local authorities), minor variations and a new process for community premises to apply to remove the requirement for a designated premises supervisor
- 3.10 DCMS has recently consulted on further changes including:
- (a) Proposals to amend the Licensing Act 2003: relevant offences. This is amending the offences which have to be declared by anyone applying for a personal licence under the Licensing Act 2003. Closing date 12 March 2010.
  - (b) Consultation on a proposal to exempt small live music events from the requirements of the Licensing Act 2003 (the Act)  
This consultation seeks views on a proposal to exempt live music events for audiences of not more than 100 people from the requirements of the Licensing Act 2003. Closing date 26 March 2010
  - (c) Consultation on a proposal to amend the Licensing Act 2003 to simplify the procedures for Licensing Statements; Interim Authority Notices; and Temporary Event Notices  
This proposes to simplify the requirements for:
    - The revision of licensing statements;
    - Interim authority notices (IAN) or applications for reinstatement on transfer (RT) following the death, incapacity or insolvency of the licence holder; and
    - The notification period for temporary event notices.
 Closing date 9 February 2010
- 3.11 The Prime Minister earlier announced the facility to make councillors ‘interested parties’. This has now become law and came into force on the 29 January 2010. Section 33 of the Policing and Crime Bill amends section 13(3) of the Licensing Act 2003 to expand the definition of “interested parties” to include all members of licensing authorities. This means that elected Councillors can now make representations or seek a review in

their own right. Further information and guidance concerning this is attached at Appendix 4.

- 3.12 The Home Office are developing transitional arrangements for the licensing of sex encounter venues (lap dancing clubs).
- 3.13 PPS4 is a recently revised planning policy document. The full title is "Planning policy statement 4: planning for sustainable economic growth", and it outlines a formal role for local authority planning departments in managing the development of the night-time economy. The link to the document is below:  
<http://www.communities.gov.uk/publications/planningandbuilding/planningpolicystatement4>
- 3.14 The Council's new Licensing Enforcement Policy was adopted during 2009/10 and includes Department of Culture Media and Sport (DCMS) and Home Office guidance on Problem Premises on Probation.
- 3.15 Reports have been submitted to Environment and Community Safety Overview and Scrutiny Committee (ECSOSC) regarding the night time economy, Children and Young People Overview and Scrutiny Committee (CYPOSC) concerning young people and alcohol related harm, and to Health Overview and Scrutiny Committee (HOSC), Planning and ECSOSC concerning Health Impact Assessment which will then progress to Full Council.
- 3.16 Following the last committee, officers wrote to the Secretary of State and DCMS. Response is appended at 5.

#### **4. CONSULTATION:**

- 4.1 Council's finance officer and legal services.

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

##### **5.1 Financial Implications:**

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 at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime. There are no additional financial implications associated with this report.

*Finance Officer Consulted: Karen Brookshaw*

*Date: 21/01/2010*

5.2 Legal Implications:

Amendments to Licensing Guidance are expected.

*Lawyer Consulted: Rebecca Sidell*

*Date:: 04/02/2010*

5.3 Equalities Implications:

There are no direct equalities implications.

5.4 Sustainability Implications:

There are no direct sustainability implications

5.5 Crime & Disorder Implications:

The Policing and Crime Act 2009 has measures to deal with alcohol related disorder; councillors to be interested parties to call reviews; mandatory conditions; power re confiscation of alcohol from young persons and strengthening persistent under-18 sales offences.

5.6 Risk and Opportunity Management Implications:

The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence and so it is crucial for licensing authorities to execute this duty professionally.

5.7 Corporate / Citywide Implications:

The Licensing Act 2003 should provide a better system of regulation for businesses, greater choice for consumers and, where possible, help areas in need of economic regeneration.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

Appendix 1 – Reviews and expedited reviews

Appendix 2 – Appeals.

Appendix 3 – Member involvement in Licensing Panels 2009/10

Appendix 4 – Advice note

Appendix 5 – DCMS response

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

None

### **Background Documents:**

None

**Item 29: Appendix 1**

**Reviews 1/4/09 – to date**

<b>NAME AND ADDRESS OF PREMISES</b>	<b>Date consideration of closure order received from Magistrates or review received</b>	<b>DATE OF HEARING</b>	<b>DETERMINATION</b>
The Winner, 291 Elm Grove	17.02.09 - Police	16.04.09	Modified hours and added conditions
Three 2 Four 3 - 4 Western Rd	06.04.09 - Police	01.06.09	6 weeks suspension plus modified conditions
Mesopotamia 17 York Place St Peter's & North Laine	06.04.09 - Police	01.06.09	3 months suspension plus modified conditions
One Step 59A London Road St Peter's & North Laine	11.06.09 Police	16.09.09	Suspension of licence for 1 month and additional conditions
One Step 59A London Road Brighton	21.07.09	16.09.09	Suspension of licence for 1 month and additional conditions
Whelan's Lion & Lobster 24 Sillwood Street Brighton BN1 2PS	23.07.09	16.09.09	Adopt conditions agreed between the Environmental Protection officer and the licence holders
Tom's 13 Prince Albert Street Brighton BN1 1HE	23.07.09	18.09.09	Conditions
The New Bush 1 Arundel Road Brighton BN2 5TE	06.08.09	01.10.09	Conditions
The West Hill Buckingham Place Brighton, BN1 3PQ	20.08.09	15.10.09	Advice

Entourage 1 Middle Street Brighton	03.09.09	26.10.09	Suspended Trading hours restricted and conditions
White Horse Camelford Street Brighton BN2 1TQ	14.10.09	07.12.09	Revoked and appealed
Ocean Rooms 1-2 Morley Street Brighton	29.01.10	05.02.10	Revoked

**Expedited Review**

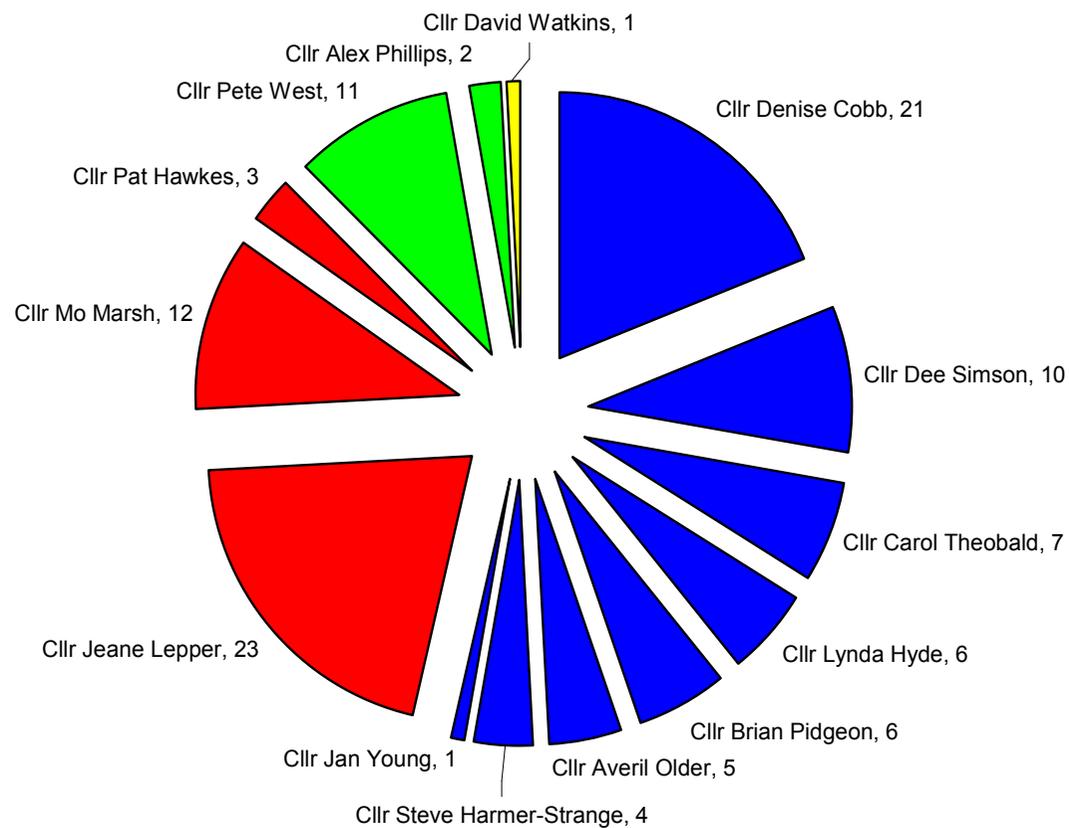
The Ocean Rooms	13.01.10	14.01.10	09.02.10	5 February 10am BTH Council Chamber	Suspended pending full review (see above)
Queens Park	Interim Hearing 15.01.10	9.45a.m.			

**Item 29: Appendix 2**

**Appeals 1/4/09 to date**

<b>Premises</b>	<b>Appellant</b>	<b>PTR</b>	<b>Hearing</b>	<b>Outcome</b>
Tesco Store Ltd, St. James Street, Brighton	Tesco Store Ltd		27/28.04.09	Appeal allowed licence granted with conditions. Council liable for own legal costs
The Black Horse, Montague Place, Brighton	Admiral Taverns		040609	Consent Order: 2 month suspension, removal of DPS, training compulsory
Shop 2 Win Ltd, Western Road, Hove	Shop 2 Win Ltd		No hearing	Appeal withdrawn, decision of the licensing panel effective from 14.9.09
Mesopotamia 17 York Place	Mr Sangoz		30.10.09	Appeal dismissed, licence suspended; may appeal to High Court.
White Horse Camelford Sreet, Brighton	Punch Taverns	28.1.10	15.04.10	
Latin Lounge, West Street Brighton	JOHN MINOR FUNKY BARS LTD	11.2.10	06/05/10	
One Step, Ovest House, West street, Brighton	One step- Arnest Andrawis Maryam Andrawis	11.2.10	26&27/04 /10	

**Panel membership by councillor May 2009 - Jan 2010**



**Licensing Committee Members**

- Cllr Cobb (Chairman)
- Cllr Lepper (Deputy Chairman)
- Cllr Harmer-Strange
- Cllr Hawkes
- Cllr Hyde
- Cllr Kitcat
- Cllr Marsh
- Cllr Older
- Cllr Pidgeon
- Cllr Simson
- Cllr C. Theobald
- Cllr Watkins
- Cllr West
- Cllr Wrighton

### **Councillors as ‘interested parties’ and the licensing function.**

By virtue of Section 33 of the Police and Crime Act, the licensing Act 2003 has been amended to expand the definition of interested parties in section 13(3) to include all elected members of a licensing authority for the area in which the premises is situated. Previously members had the right to make representations both in writing and at a licensing panel on behalf of an interested party such as a local resident if specifically requested to do so by that interested party. They can now make representations or seek a review in their own right. This took effect from the 29<sup>th</sup> January 2010. So elected councillors are not required to live in the vicinity or in the same ward as the licensed premises they are making a representation about, and are not required to have been requested to act by any other person or body.

The purpose of this change was to strengthen powers for ward councillors to deal with disorderly or problem premises and be able to call for a review. However the normal rules about reviews apply namely that the grounds must be relevant to the licensing objectives, and must not be frivolous or vexatious. Any action has to be reasonable and justified so it will be vital that there is evidence to support cases. Any problems should ideally first be reported to and then investigated by appropriate responsible authorities prior to an application for review being made. In addition, review applications must not be **repetitious**. If a review has been held recently and the circumstances at the premises remain the same, the licensing authority could reject the application for review.

The term "member of the licensing authority" refers only to elected councillors, and not officers or other employees of the authority.

The statutory section 182 guidance has been amended to reflect this new provision. It is set out below:-

***Local councillors play an important role in their local communities. They can make representations in writing and at a hearing on behalf of an interested party such as a resident or local business if specifically requested to do so. They can also make representations as an interested party in their own right if they live, or are involved in a business, in the vicinity of the premises in question. Local councillors can also, as elected members of the licensing authority, make representations in their own right if they have concerns about any premises, regardless of whether they live or run a business in the vicinity of those premises. For example, councillors may apply for a review of a licence if problems at specific premises which justify intervention are brought to their attention.***

***8.10 Local councillors are subject to the Local Authorities (Model Code of Conduct) Order 2007 which restricts their involvement in matters, and participation in meetings to discuss matters, in which they have a ‘prejudicial’ interest (i.e. an interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the member’s judgement of the public interest). In cases where a local councillor makes a representation as an interested party, they will be considered to have a ‘prejudicial’ interest in the local authority’s decision on a***

**resulting review and in the local authority's representation to any appeal on this decision.**

**8.11 According to the Model Code of Conduct, councillors with a 'prejudicial' interest must not exercise executive functions in relation to that business and must not seek improperly to influence a decision about that business. Councillors with a prejudicial interest are allowed to attend relevant meetings to make representations, answer questions or give evidence, provided that the public are also allowed to attend for the same purpose, whether under the licensing legislation or otherwise and as long as they withdraw from the meeting immediately afterwards. It must be emphasised that councillors have a duty to act in the interests of all of their constituents. Their role as a community advocate must therefore be balanced with their ability to represent specific interests.**

**8.12 The Code applies to any elected council member whether or not they are a member of the licensing committee. A member of a licensing committee, representing others or acting in their own right, would need to consider carefully at a committee meeting whether they had a prejudicial interest in any matter affecting the licence of the premises in question which would require them to withdraw from the meeting when that matter is considered. For example, where a councillor has made representations in their capacity as an elected member of the licensing authority. In addition, a member with a prejudicial interest in a matter should not seek to influence improperly a decision on the licence in any other way.**

The Standards Board for England advises that, as regulatory matters like licensing are sensitive, so a cautious approach should be made. Clearly a member sitting on a licensing panel cannot represent an interested party or an applicant or act as an interested party in their own right. Furthermore it is essential that licensing decisions are free from the appearance of bias or predetermination. This goes beyond the code of conduct. If members of the licensing committee become known for making representations against applications this could compromise the decision making process. Licensing members should avoid making public statements regarding licensing issues and applications which may give rise to accusations of bias or pre-determination. It is thus a strong recommendation of the monitoring officer that members of the full licensing committee should not get involved as interested parties in individual applications, but should refer the matter to another councillor not on the licensing committee. This separation of roles is to ensure that licensing panels are seen to be neutral and free from bias.

Members sitting on a panel, if approached by lobbyists should refer the matter to another ward member or the licensing officer. Political meetings or whips may not be used on how members on a panel vote and clearly councillors must not be members of a licensing committee if involved on campaigning on a particular application. Ward members need to be careful discussing matters with licensing members to ensure no appearance of bias or pressure and should not contact panel members about particular applications prior to them being heard. The new Act was intended to democratise licensing; however, it is paramount to ensure that hearings are fair.

To ensure licensing members are aware of these issues training is provided prior to sitting on panels, and members may not sit on a panel without being trained. It is intended to provide regular refresher training updates for members. Where the full licensing (Licensing Act 2003 functions) committee is considering a licensing application such as Fat Boy Slim, there must be

no substitution by non-licensing members. Otherwise substitution is permitted on both the Licensing Act and non-Licensing Act function committees.

Where the full Licensing Committee conducts an investigation or review, it may ask people such as the police, the PCT or other public authorities to attend to give evidence at meetings. Those invited to speak should be treated with respect and courtesy and questioning should not be adversarial. As far as possible the process should be a positive and beneficial learning experience for all concerned.

Any questions concerning the Code of Conduct for Members and issues of predetermination or bias should be raised with the Council's lawyers.

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Brighton & Hove City Council  
Bartholomew House  
Bartholomew Square  
Brighton BN1 1JP

Our Ref CMS/131465



25 January 2010

Dear Mr Nichols

#### HEALTH IMPACT ASSESSMENT OF LICENSING

Thank you for your letter of 17 December to Gerry Sutcliffe, which enclosed a copy of the report, "Flexible Alcohol Hours In Brighton And Hove - Health Impact Assessment". I have been asked to reply.

The question of whether health should be included as a licensing objective was debated thoroughly during the passage of the Licensing Bill. The outcome was Parliament decided that it should not be included. The Government has no current plans to legislate to change that position. Any conditions attached to a licence for the promotion of public health, and which could not otherwise be justified in terms of one of the four statutory licensing objectives, would be unlawful.

This does not mean that we are not seriously concerned about the health implications of binge drinking, but licensing law is not the right mechanism to address them. The statutory licensing objectives must be capable of translation into conditions directly within the control of the licensee and failure to adhere to them will attract criminal sanction. Public health inevitably involves personal responsibility on the part of the consumer. For example, where an individual purchases a large quantity of alcohol, the retailer cannot control the pace at or manner in which such purchases are consumed. Responsible consumption of alcohol must therefore be addressed through better public education and through early medical and criminal justice interventions where problems are detected.

On 19 January, the Home Secretary made an announcement about the Government's new



mandatory code for tackling alcohol-related crime and disorder. This will ban the worst types of irresponsible price promotions, help customers to drink less, and strengthen measures for the prevention of underage drinking.

The code will be introduced in two stages. The first three conditions covering irresponsible promotions (e.g. "all you can drink for £10"), a ban on "dentist's chairs (where alcohol is poured directly into the mouths of customers, making it impossible for them to control the amount they are drinking) and the availability of free tap water for customers will come into effect on 6 April. The remaining conditions on age verification and ensuring smaller measures are available will come into effect on 1 October.

The mandatory code is being introduced primarily to address issues of crime and disorder, but may incidentally pay some dividends in terms of public health. However, even the mandatory code must only include conditions that directly relate to the promotion of one or more of the four statutory licensing objectives.

The Government carefully considered the age at which drinking should be permitted as part of its review of the current licensing laws and the decision to keep the age limit for purchase and consumption of alcohol in a public place at 18 was not taken lightly. Our reasoning was set out in the White Paper on licensing reform published in April 2000 which was subject to a full public consultation.

Most alcohol is consumed by people under 18 at private parties, in private homes and with the consent or knowledge of parents. Some is consumed in high risk places owing to the illicit nature of the activity which place young people in jeopardy and sometimes give rise to associated anti-social behaviour. An even higher age limit itself could produce patterns of illicit drinking among younger teenagers and encourage delinquency. The Government's favoured response is through better public education and, in particular, educating children in schools about the misuse of alcohol.

Alcohol duty, as you have stated, is the responsibility of Chancellor of the Exchequer and it is not appropriate for our Department to comment on the matters you raise. I understand that the structure of alcohol duty in the UK must comply with the EU legislation on alcohol duty. EU law does not allow for a distinction to be made between alcohol products packaged in casks, cans or in bottles and they must therefore be taxed at the same rate.

Alcohol duty increases announced at Budget were not designed to tackle problem drinking. In considering changes to alcohol duty rates, Treasury Ministers are primarily concerned with raising revenue to finance public services, which includes tackling child poverty.

Responsibility for what is broadcast on television and radio rests with the broadcasters and the organisations which regulate broadcasting - the Office of Communications (Ofcom), the BBC Trust and the Welsh Fourth Channel Authority (S4C). They are independent of the Government.

The BBC's governing instruments, the Royal Charter and Agreement, place broad obligations on the Corporation in respect of its television and radio services, objectives, programme content and standards. Within this framework detailed decisions on programme content and scheduling are matters for the BBC, reflecting its editorial independence. It is a long-standing principle that the Government does not interfere in programme matters, either on arrangements for scheduling or on content. It is important to maintain the principle of freedom of expression which political interference could undermine.

Public Engagement and  
Recognition Unit (PERU)

I hope my letter is helpful.

Yours sincerely

A handwritten signature in black ink that reads "Ronnie Bridgett". The signature is written in a cursive style with a large, looping initial "R" and "B".

Ronnie Bridgett  
Public Engagement and Recognition Unit (PERU)

