





**Brighton & Hove
City Council**

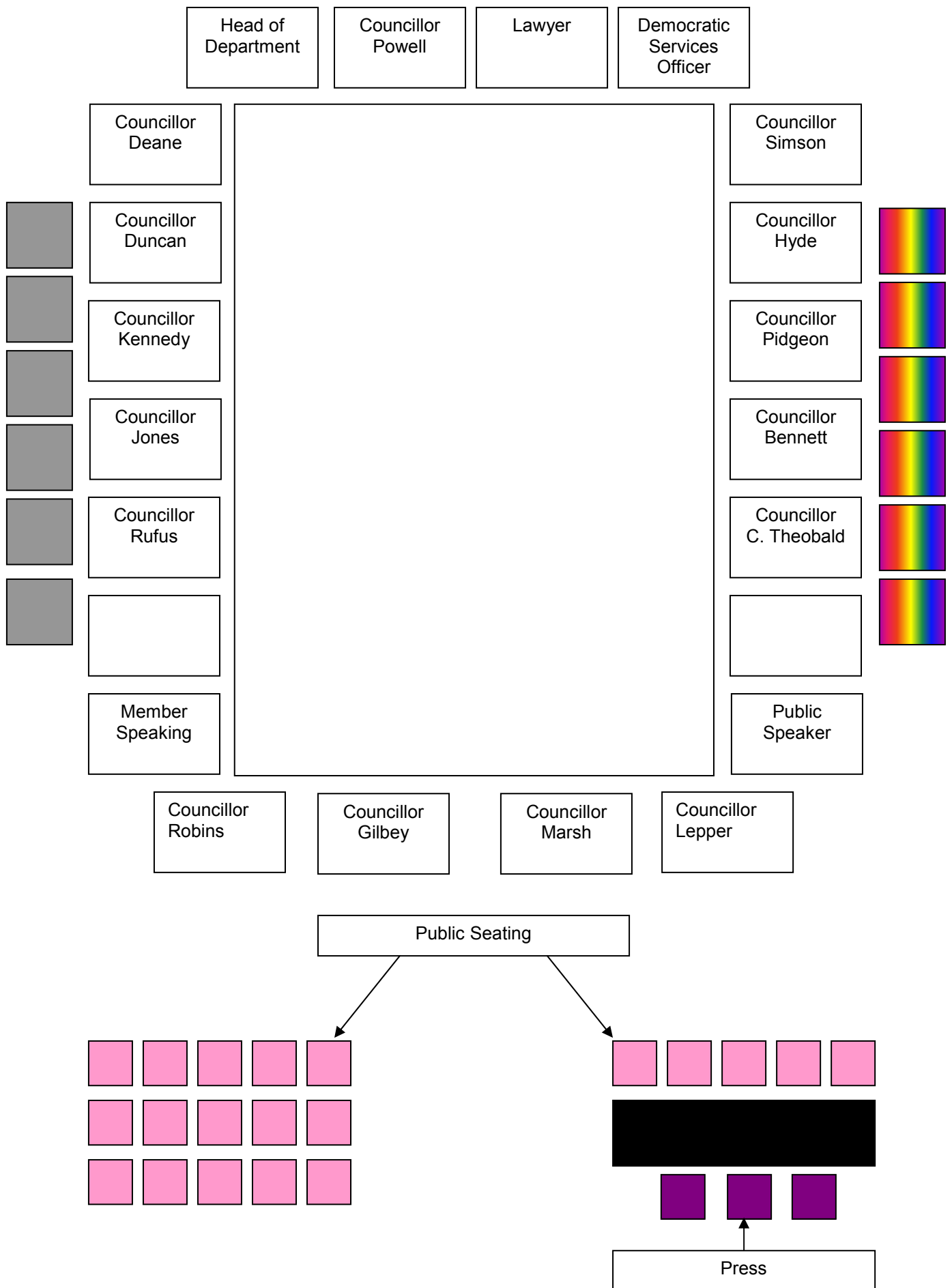
Licensing Committee

(Licensing Act 2003 Functions)

Title:	Licensing Committee (Licensing Act 2003 Functions)
Date:	6 March 2014
Time:	3.00pm
Venue	*Committee Room1, Hove Town Hall * Please Note Change from Usual Venue
Members:	Councillors: Powell (Chair), Deane (Deputy Chair), Simson (Opposition Spokesperson), Lepper (Opposition Spokesperson), Bennett, Duncan, Gilbey, Hyde, Jones, Kennedy, Marsh, Pidgeon, Robins, Rufus and C Theobald
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

	The Town Hall has facilities for wheelchair users, including lifts and toilets
	An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter and infra red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.
	<p>FIRE / EMERGENCY EVACUATION PROCEDURE</p> <p>If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions:</p> <ul style="list-style-type: none"> • You should proceed calmly; do not run and do not use the lifts; • Do not stop to collect personal belongings; • Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and • Do not re-enter the building until told that it is safe to do so.

Democratic Services: Meeting Layout



AGENDA

21. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest:
 - (a) Disclosable pecuniary interests not registered on the register of interests;
 - (b) Any other interests required to be registered under the local code;
 - (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

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

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

- (c) Exclusion of Press and Public: To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 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.

22. MINUTES OF THE PREVIOUS MEETING

1 - 6

Minutes of the meeting held on 21 November 2013 (copy attached)

23. CHAIR'S COMMUNICATIONS

24. PUBLIC INVOLVEMENT

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

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

- (a) **Petitions:** to receive any petitions presented by members of the public to the full Council or at the meeting itself.
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on 27 February 2014;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on 27 February 2014.

25. MEMBER INVOLVEMENT

7 - 8

To consider the following matters raised by Members:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion. Notice of Motion put at Full Council on 12 December 2013 in relation to Fixed Odds Betting Terminals (copy attached)

26. LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS UPDATE

9 - 18

Report of the Head of Regulatory Services(copy attached)

Contact Officer: *Tim Nicholls* Tel: 29-2550
Ward Affected: *All Wards*

27. WORK OF THE LICENSING AUTHORITY – LICENSING & GAMBLING 1/11/12-31/1/14

19 - 50

Report of the Head of Regulatory Services (copy attached)

Contact Officer: *Jim Whitelegg* Tel: 29-2163
Ward Affected: *All Wards*

28. SCHEDULE OF APPEALS

51 - 52

Report of the Head of Law – To receive a schedule containing details of appeals lodged during the period since the last meeting (copy attached)

Contact Officer: *Rebecca Sidell* Tel: 29-1511
Ward Affected: *All Wards*

29. ITEMS TO GO FORWARD TO COUNCIL

To consider items to be submitted to 27 March 2014 Council meeting for information.

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

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

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

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

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

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

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

Date of Publication - Wednesday, 26 February 2014

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

Agenda Item 22

Brighton & Hove City Council

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.30PM 21 NOVEMBER 2013

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Powell (Chair), Deane (Deputy Chair), Simson (Opposition Spokesperson), Lepper (Opposition Spokesperson), Gilbey, Hyde, Kennedy, Marsh, Robins, Rufus and C Theobald

Apologies: Councillors Bennett, Duncan, Jones and Pidgeon

PART ONE

10. PROCEDURAL BUSINESS

10a Declaration of Substitutes

10.1 There were none.

10.b Declarations of Interest

10.2 There were none.

10.c Exclusion of the Press and Public

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

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

11. MINUTES OF THE PREVIOUS MEETING

11.1 RESOLVED – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 27 June 2013 be agreed and signed as a correct record.

12. CHAIR'S COMMUNICATIONS

12.1 The Chair had no communications.

13. PUBLIC INVOLVEMENT**13a Petitions**

13.1 There were none.

13b Written Questions

13.2 There were none.

13c Deputations

13.3 There were none.

14. MEMBER INVOLVEMENT**14a Petitions**

14.1 There were none.

14b Written Questions

14.2 There were none.

14c Letters

14.3 There were none.

14d Deputations

14.4 There were none.

15. SENSIBLE ON STRENGTH

15.1 The Committee considered a report from the Head of Regulatory Services, which provided information on the Sensible on Strength campaign. The report was introduced by Mr T Nichols, Ms S Cornell and Ms D Lynsdale.

15.2 Councillor Hyde was concerned that those who didn't agree to take part would benefit by selling more alcohol. Officers said that was a possibility, but traders and police would monitor sales and take action where appropriate.

- 15.3 Councillor Marsh referred to a recent programme on BBC Radio 4 regarding street drinking in Brighton and asked if the Chair or officers had been asked to take part, and noted that the presenter had spoken to street drinkers in the city who'd said they didn't think the policy would work. The Chair said she had been away and hadn't been able to take part, but the Deputy Chair had been approached. Councillor Deane confirmed she had been approached and had pre-recorded an interview along with Chief Superintendent Kemp of Sussex Police. Unfortunately the length of show had been cut and her comments had had to be omitted, however the full programme could be listened to on the BBC Website.
- 15.4 Councillor Gilbey noted that 40% of traders had signed up for the campaign and asked whether they were mostly in the city centre or the outskirts. Officers said they had started by contacting traders in St James Street. Initially they had been worried about agreeing to the changes, but they had found that they had suffered fewer thefts and had attracted more customers since the changes. The authority was working with the Police and Equinox on this campaign. Other areas covered were London Road, Preston Road, Whitehawk and the St Peter's Church area.
- 15.5 Councillor Robins asked whether this was aimed just at street drinkers or whether pubs and clubs would be involved too as the impact on public health should be considered for everyone. Officers confirmed that at the moment the focus was on street drinking, but the authority would also be looking at the benefit to the public health of the whole city.
- 15.6 Councillor C Theobald said she had spoken to one trader who had seen a reduction in drunk customers and so was happy with the changes.
- 15.7 Councillor Lepper welcomed the campaign and noted that a similar scheme in Ipswich had been a great success and shops had found their business had improved.
- 15.8 Councillor Deane said it was important to stress that this was a voluntary scheme and was focused on off licence trade. It was good that traders had already seen benefits.
- 15.9 Councillor Simson thought the campaign would also benefit those who drank excessively at home, not just those who drank on the streets.

15.10 **RESOLVED –**

- (1) That the Committee noted the report
- (2) That the Sensible on Strength campaign be formally launched.

16. GOVERNMENT PROPSALS ON PERSONAL LICENCES

- 16.1 The Committee considered a report from the Head of Regulatory Services, which informed the Committee about Government proposals on personal licences. The report was introduced by Mr T Nichols.
- 16.2 Councillor Simson referred to paragraph 3.5(i), and asked how someone could be 'authorised' by a DPS to sell alcohol. Mr Nichols said it wasn't clear whether authorisation needed to be put in writing. A Licensing Panel would need to decide whether a DPS needed to actually be on the premises at the time of a sale, and it could

vary depending on the size of a premises e.g. whether it was a supermarket or a small convenience store.

- 16.3 Councillor Marsh asked how the authority would address the changes. Mr Nichols said that if the reforms were brought in, a report would be brought to the Committee and training provided for members.
- 16.4 Councillor Lepper was concerned that the changes to the regulations were reducing the powers of the Local Authority. Councillor Simson said that the changes might not be as onerous as at first thought and could in fact improve the current system.
- 16.5 RESOLVED** – That the report be noted.

17. FURTHER ENTERTAINMENT DEREGULATION CONSULTATION

- 17.1 The Committee considered a report from the Head of Planning and Public Protection, regarding proposal to further deregulate Regulated Entertainment. The report was introduced by J Whitelegg.
- 17.2 Councillor Robins asked why Greco-Roman and freestyle wrestling were exempt. Mr Whitelegg said he wasn't sure, but believed it was down to the types of hold used.
- 17.3 Councillor Simson asked if Recorded Music would cover discos, and was advised it would.
- 17.4 Councillor Deane asked that if the authority no longer had control of audiences up to 500, whether there was any other method such as environmental control which could be used. Mr Whitelegg said that planning permission and environmental health legislation would still apply.
- 17.5 Councillor Simson asked how a licence could be reviewed if there were no conditions attached to it. Mr Whitelegg said that the Licensing Objectives would still apply; the changes only applied between 08:00 to 23:00 and therefore a licence would be required before or after those times. Mr Whitelegg added that it would still be possible to add conditions to the licence if problems arose. The solicitor drew the committee's attention to paragraph 7.7 of Appendix 1, which covered that point.
- 17.6 Councillor Simson said that some changes were good such as the deregulation for schools, hospitals etc but some such as increasing the audience limit to 500, and changes to recorded music weren't, and asked what the response to the consultation should be. Mr Nichols said the Committee could agree or not agree to respond to the consultation or to give authority to officers to respond. Councillor Lepper suggested that the Committee give delegated responsibility to Mr Nichols to respond to the consultation. The Chair agreed with that suggestion.
- 17.7 Councillor Deane said that any deregulation would impact on other agencies such as the Police, Health etc and suggested that any response be made in collaboration with the other parties. Mr Nichols said that was an option which he hadn't considered, but it could be done.

17.8 The Committee discussed the matter and agreed that delegated authority be given to Mr Nichols, Head of Regulatory Services, to respond to the Consultation.

17.9 RESOLVED –

(1) That the report be noted

(2) That the Head of Regulatory Services submit an appropriate response to the consultation to reflect concerns raised by the Committee.

18. SCHEDULE OF REVIEWS

18.1 Councillor Kennedy asked why B&W Stores was still trading and selling alcohol. Mr Nichols advised that if there were an appeal the licence could continue, and it would then depend on the outcome of the hearing. The solicitor advised that the hearing was scheduled for 24th and 25th February 2014.

18.2 **RESOLVED** – That the Review Table be noted.

19. SCHEDULE OF APPEALS

19.1 The Committee were advised that a further appeal from Southern Cooperative Ltd, Portland Road, Hove, had been received since the agenda had been published

19.2 **RESOLVED** – That the Schedule be noted.

20. ITEMS TO GO FORWARD TO COUNCIL

There were none.

The meeting concluded at 5.40pm

Signed

Chairman

Dated this

day of

NOTICE OF MOTION

LABOUR & CO-OPERATIVE GROUP

FIXED ODDS BETTING TERMINALS

FROM COUNCIL 12 DECEMBER 2014

“This council notes:

1. The prevalence of Fixed Odds Betting Terminals (FOBTs) in betting shops often referred to in the media as “the crack cocaine of gambling”.
2. That, unlike fruit machines in pubs, bingo halls and amusement arcades where cash stakes are limited to £2, gamblers can bet with cash or via a debit card up to £100 every 20 seconds on FOBTs, more than four times as fast as the rate of play in casinos.
3. That in 2012, over £1.5bn was lost on FOBTs across the UK. More profit was made from FOBTs than from the National Lottery, when according to the most recent British Gambling Prevalence Survey, 56% of the population play the Lottery, but just 4% play FOBTs.
4. Empirical evidence that suggests FOBTs are the most addictive form of gambling.
5. Research carried out by Geofutures, which found there to be four times as many betting shops in areas of high unemployment than in areas of low unemployment.
6. Research carried out by 2CV in Newham, which found that the average bet per spin on FOBTs is £17, and the average amount of cash inserted into the machine is £55 per session, with one in five putting in over £100 a time.
7. Nationally, more than 80% of turnover in betting shops and more than half of profits are derived from FOBTs. Less than 20% of stakes in betting shops are over the counter.
8. A recent economic analysis undertaken by Landman Economics, commissioned by the Campaign for Fairer Gambling, which assessed the impact of FOBTs on local economies and across the wider economy. The report concluded that every £1bn spent on FOBTs produces a net reduction of 13,000 jobs, compared to if spent in the wider consumer economy. The projected doubling of revenue from FOBTs by 2023 could cost a further 23,000 jobs across the economy.

9. Concern that the Government has not addressed the issues caused by FOBTs, and the announcement made by Maria Miller MP, Secretary of State for Culture Media and Sport, on 10th October 2013 in response to the Triennial Review of gaming machine stakes and prizes, where the stakes on FOBTs were unchanged.
10. The position in the Republic of Ireland where the Government has introduced legislation to outlaw FOBTs in betting shops.

This council believes that the increase in FOBTs is causing significant problems and believes that the Government should either use the existing legislative framework, or introduce legislation to outlaw B2 casino games in betting shops.

At the very least, local authorities should be given the powers to protect the local amenity and wellbeing of communities by (1) stopping the proliferation of betting shops and (2) reducing the maximum stakes and slowing down the speed of play.

This council therefore requests:

1. The Chief Executive writes to the Secretary of state for Culture, Media and Sport to outline the terms of this motion and demand urgent action against FOBTs by the Government; and
2. That the Policy & Resources Committee be asked to ensure the use of the Sustainable Communities Act as a means to reduce the maximum stake on Fixed Odds Betting Terminals to £2 per spin is explored.”

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 26

Brighton & Hove City Council

Subject:	Late Night Levy and Early Morning Restriction Orders update		
Date of Meeting:	6 March 2014		
Report of:	Head of Regulatory Services		
Contact Officer:	Name:	Tim Nichols	Tel: 29-2163
	Email:	tim.nichols@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report sets out to update the Licensing Committee on the proposed policy position of Brighton & Hove City Council as licensing authority concerning the Late Night Levy (LNL) and Early Morning Restriction Orders (EMROs).

2. RECOMMENDATIONS:

- 2.1 That the licensing committee notes the contents of this report.
- 2.2 That licensing committee agrees to implement the Late Night Levy in Brighton & Hove only as a last resort and when relating to the Crime and Disorder licensing objective.
- 2.3 That the licensing committee agrees to implement Early Morning Restriction Orders in Brighton & Hove only as a last resort relating to disorder or nuisance.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Power to impose levy
The Early Morning Restriction Order was an uncommenced power within the Licensing Act 2003, reintroduced by the Police Reform and Social Responsibility Act 2011 (PRSRA) at Part 2, section 119.
- 3.2 The Late Night Levy (“the levy”) is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) as part of “Rebalancing the Licensing Act”. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority’s area, as a means of raising a contribution towards the costs of policing the late-night economy. The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas.

3.3 Test.

The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.

3.4 Rationale

When considering whether to introduce a levy, licensing authorities should note that any financial risk (for example lower than expected revenue) rests at a local level and should be fully considered prior to implementation.

3.5 Officers have run calculations to estimate potential income in order to advise the Council, Sussex Police or Police and Crime Commissioner (PCC), if requested. The Council's costs in administration should be recoverable. However, challenges include:

- Complexity and short term service pressure of setting up and collection.
- Variable factors in predicting income (variations, exemptions, reductions).
- Competing demands on limited funds: policing, taxi marshals, safe space, street pastors, cleansing.
- Fairness: The Home Office said the levy would not target individual premises but is applicable over the licensing authority's administrative area. The levy applies to the whole area of the authority. It cannot be imposed on part of the area only. The local Licensees Association and National Association of Licensed Multiple Retailers opines that LNL will not counter unmanaged home pre-loading and the off trade; possibly aggravating the phenomena. Other main issues include potential increase in antisocial behaviour, unfairness between licensees based on geography and divisive measures that reduce partnership spirit between the trade and responsible authorities. Legal challenge might reasonably be expected.
- Police contribution is not hypothecated. PCC is under no obligation to reinvest police contribution in the area paying the LNL. The PCC policing strategy would determine resource allocation. The police are not statutorily required to apply the funds to the supply of policing during the late night supply period, or to provide extra policing during that period or to reinvest in the same geographical area as collection. The proportion of the net levy receipts are paid by the licensing authority to the local policing body determined by the licensing authority and must be at least 70% of the net levy receipts. There may be perception of injustice with suburban licensed premises subsidising policing city centre problems or urban licensed trade subsidising rural Sussex policing strategy.

3.6 The levy will be payable by the holders of any premises licence or club premises certificate ("holders"), in relation to premises in the authority's area, which authorise the sale or supply of alcohol on any days during a period (the "late night supply period") beginning at or after midnight and ending at or before 6am.

3.7 The licensing authority must consider the desirability of introducing a levy in relation to the matters described in section 125(3) of the Police Reform and Social Responsibility Act 2011. These matters are the costs of policing and other

arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am.

- 3.8 Following consultation with the PCC and Chief Officer of Police, the licensing authority would then decide whether to move to the next stage in the process and consult on its proposal to introduce a late night levy. The consultation document would state its intention to introduce a levy, its proposed design (including the late night supply period and proposed exemption and/or reduction categories) and the services that the licensing authority intends to fund with its share of the levy revenue.
- 3.9 The licensing authority would publish the consultation online and in a local newspaper. It would also send written details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol during the period when it is proposed the levy would apply. The consultation is intended to be targeted at those affected by the levy, particularly businesses, the police, residents and other interested parties. The consultation process, including the period, is expected to be proportionate and targeted, so that the type and scale of engagement is relative to the potential impacts of the proposal.
- 3.10 The licensing authority would assess consultation responses and make a final decision about whether to introduce the levy and, if so, its design. The decision to introduce the levy, and its design, would then be put to the full council to approve.
- 3.11 If the full council approved the introduction (or variation) of the levy, it is recommended that the licensing authority notifies adjoining authorities and it would be helpful if licensing authorities also notified the Secretary of State for transparency purposes, via the Home Office.
- 3.12 The LNL does not apply to Temporary Event Notices (TENs), so some premises might take up their full TEN entitlements to avoid the levy. Currently within the cumulative impact area premises appear to heavily rely on TENs. There is concern that the temporary event notice provision and further deregulation measures in the current Home Office consultation are and may further be used to avoid the stricter licensing policies and controls. LNL also does not apply to entertainment or late night refreshment providers.
- 3.13 The Regulatory Impact Assessment published by the Home Office for the LNL suggests that the Council might use its contribution (<30%) for:
 - Late night street wardens – in Brighton and Hove there are voluntary, unpaid street pastors trained at the authorities' expense.
 - Late night taxi marshals – in the city the city centre ranks are marshalled, currently funded by Sussex Police and public health
 - Late night CCTV – currently provided in John Street suite.
- 3.14 Some strategic considerations for the council are: economic effects of the levy on operators, on local economy and local employment; the existence of night safe and the BCRP for the reduction of crime and disorder and the cost of and effect on scheme for operators; the current alternative means of reducing crime and disorder (licensing policy, Operation Marble, etc.); fairness of passing the burden

to operators rather than their being borne by the community at large; Police capacity to fund crime prevention and fairness of non-town centre operators funding town centre policing.

- 3.15 A licensing authority can deduct the costs it incurs in connection with the introduction or variation, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned between the police and licensing authority. Regulations have prescribed descriptions of expenses which may be deducted. Any financial risk relating to the levy revenue, such as lower than expected revenue or higher than expected costs, rests at a local level. These deductible costs may include (but are not necessarily limited to) the following:
- the preparation and publication of the consultation document, including publishing it online and sending details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol after midnight on any day;
 - the collection of levy payments;
 - the enforcement of levy payments; and
 - the cost of processing applications for a variation in relation to the introduction of the levy.

As previously reported above, officers have run programmes to estimate income with different late night supply periods but it is difficult with variables: volume of minor variations, confidence in getting rateable values and multipliers, trade response to different 'witching' hours, accuracy over exemptions and reduction categories and calculating. It is doubtful that we would know BCRP nightsafe premises or small business rate relief recipients.

- 3.16 It is estimated that there are approximately 110 premises open until 0100, approximately 122 premises open until 0200, approximately 51 premises open until 03.00, approximately 18 premises open until 04.00, approximately 16 premises open until 05.00, approximately 13 premises open until 06.00 and approximately 73 premises which are open 24 hours (13 of these are for residents only). Seven of the licences were for time limited events.
- 3.17 Appendix 1 shows the timeline for LNL's and EMROs in other areas.
- 3.18 Appendix 2 shows the method of calculating the number of premises within the different hours, what their rateable value is etc.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Officers are not recommending adoption of these powers; previously committee has not ruled out application of the levy.

5 COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Alcohol Programme Board, Licensing Strategy Group, finance and legal services.

6. CONCLUSION

- 6.1 The Alcohol Programme Board support this measured approach to the consideration and monitoring of Late Night Levy and Early Morning Restriction Orders.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 Officers are concerned about the number of free Minor Variation Applications that would have to be dealt with. The Home Office Impact Assessment (IA) states "There may be other costs in administering the levy, such as sending out a levy invoice, but these processes will be done in tandem with the existing licence fee regime and will not constitute a new cost". Page 17 of the IA "Enforcement" states "There will not be any significant cost in enforcement costs. The late night levy can be collected alongside the annual licence fee and contain negligible new costs". The licensing authority will only be able to keep up to 30% of income collected (after administration costs have been taken out) but this will have to be used as specified. Officers are concerned that introduction of EMROs or LNL will necessitate a large amount of work not already carried out, possibly requiring more staff.

Finance Officer Consulted: Steven Bedford

Date: 18/02/14

Legal Implications:

- 7.2 Legal implications are contained within the body of this report. There is no appeal to challenge the introduction of a levy. Any challenge would be by way of a judicial review. Legal challenge might reasonably be expected.

Lawyer Consulted: Rebecca Sidell

Date: 18/02/14

Equalities Implications

- 7.3 There are no direct equalities implications.

Sustainability Implications:

- 7.4 There are no direct sustainability implications.

Any Other Significant Implications:

- 7.5 Public health is not a licensing consideration. Evidence based policy supports the local economy and retail industry.

SUPPORTING DOCUMENTATION

Appendices:

1. Timeline for introduction of LNLs and EMROs in other areas.
2. Calculation sheets.

Documents in Members' Rooms

1. None.

Background Documents

1. None.

Late night levy development around England & Wales:

- Blackpool: considering 3 am EMRO. This has been deferred twice (March and Aug) 10 December – Blackpool deferred EMRO decision again. 10 February, Blackpool decided not to implement a late night levy.
- Hartlepool: started consultation for a 2 am EMRO. This was delayed in April and later refused.
- Islington: Council considering LNL but seeking commitment from the police for 70% contribution hypothecated for the night-time economy policing in Islington, and not the wider London area. Islington begins LNL consultation 13 November
- Milton Keynes: police requested a 1am to 6am LNL. The police have made commitment to use their contribution for the late-night economy policing. This was deferred, rejected, reconsidered and approved then rejected by Full Council.
- Newcastle-upon-Tyne consulting on a midnight to 6am LNL. Newcastle are the first authority to introduce a LNL as of 1 November 2013.
- Northampton considering EMRO. This was scrapped 19 June.
- Norwich considering EMRO – decision delayed 17 October
- Plymouth: pre-consultation on LNL and EMRO with the police (taking informal views from stakeholders) (to 20 March 2013)
- Leeds considering LNL. On 19 December 2013, the Executive Board agreed that Leeds does not pursue the introduction of a Late Night Levy; that Officers within Licensing work with partners, including the licensing trade, to develop and enhance the various existing voluntary initiatives and that the Executive Board reiterates its openness to support a BID which includes an element of initiatives to manage the night time economy. This decision was referred back to their Licensing Committee.
- Woking considering LNL and EMRO – both rejected 16 October
- York considering LNL 0000 – 0600
- Bristol considering LNL and EMRO
- Liverpool considering LNL
- Cheltenham adopting LNL wef 1 April 2014 from midnight to 0600.
- City of London considering LNL
- Camden considering LNL and EMRO
- Tameside considering LNL
- Chelmsford considering LNL
- Cheshire East considering LNL
- Lambeth considering LNL and EMRO
- Chesterfield confirmed they are not considering EMRO Sept
- Harrow – cancelled EMRO hearing 9 October
- Kingston – rejected EMRO 18 October
- Barnsley, Forest Heath, Lewisham, Manchester, Sunderland, Swindon, Watford and West Lancashire are all at the informal interest or pre-consultation stage for EMRO.
- Nottingham are consulting on a late night levy which would be from 00.01 to 06.00.

Article in Publican in April: survey of LA's show 78% say no to LNL, 77% say no to EMROs.

Premises that are open:					
latest hour	number of prem	amount raised	notes	observations	
	1	115	5 licences revoked/surrendered		
	2	128	6 licences revoked/surrendered		
	3	54	3 licences revoked/surrendered		
	4	20	2 licences revoked/surrendered		
	5	18	2 licences revoked/surrendered		
	6	14	1 licence revoked/surrendered		
24 hour		73	4 licences revoked/surrendered		13 licences are for residents
Total		422			

Notes

Licensing authorities will have the discretion to offer an exemption from the levy to the following categories of premises and schemes:

- Premises with overnight accommodation
- Theatres and cinemas
- Bingo halls
- Community Amateur Sports Clubs ('CASCs')
- Community premises
- Country village pubs
- Business Improvement Districts ('BIDs')

observations

If a licence has been suspended because of non payment of annual fee, it has been counted as if the licence was active.

6 licences were for time limited activities (e.g. Freshers)

a) Terminal hour	b) number of premises	c) Rateable Value/Cost	d) (b x c)	
01.00 115				
A	8	A 299	2392	
B	70	B 768	53760	
C	22	C1259	27698	
D	4	D1365	5460	
E	11	E 1493	16423	
E + Multiplier	0	E+ 4440	0	
	115		105733	if closing at 01.00
02.00 128 (126 Blanche House is partly 24 hour)				
A	13	A 299	3887	
B	70	B 768	53760	
C	27	C 1259	33993	
D	4	D 1365	5460	
E	14	E 1493	20902	
E+ Multiplier	0	E+ 4440	0	
	128		118002	if closing at 02.00
03.00 54				
A	2	A 299	598	
B	30	B 768	23040	
C	13	C 1259	16367	
D	1	D 1365	1365	
E	5	E 1493	7465	
E + Multiplier	3	E+ 4440	13320	
	54		62155	if closing at 03.00
04.00 20				
A	1	A 299	299	
B	13	B 768	9984	
C	4	C 1259	5036	
D	0	D 1365	0	
E	2	E 1493	2986	
E + Multiplier	0	E+ 4440	0	
	20		18305	if closing at 04.00
05.00 18				
A	0	A 299	0	

a) Terminal hour	b) number of premises	c) Rateable Value/Cost	d) (b x c)	
B	9	B 768	6912	
C	8	C 1259	10072	
D	0	D 1365	0	
E	1	E 1493	1493	
E + Multiplier	0	E+ 4440	0	
	18		18477	if closing at 05.00
06.00 14				
A	0	A 299	0	
B	3	B 768	2304	
C	8	C 1259	10072	
D	1	D 1365	1365	
E	2	E 1493	2986	
E + Multiplier	0	E+ 4440	0	
	14		16727	if closing at 06.00
24.00 73				
A	2	A 299	598	
B	49	B 768	37632	
C	13	C 1259	16367	
D	2	D 1365	2730	
E	7	E 1493	10451	
E + Multiplier	0	E+ 4440	0	
	73		67778	24 hour per day premises

If the terminal hour was set at 1am, the amount collected could be in the region of £407177.00 (everyone open 1,2,3,4,5,6,24hrs)

If it was set at 2am, the amount collected could be in the region of £301444.00 (everyone open 2,3,4,5,6,24hrs)

If it was set at 3am, the amount collected could be in the region of £183442.00 + 67779 = (everyone open 3,4,5,6,24hrs)

If it was set at 4am, the amount collected could be in the region of £53509.00 + 67779 = £121288 (everyone open 4,5,6,24hrs)

If it was set at 5am, the amount collected could be in the region of £35204.00 + 67779 = £102983 (everyone open 5,6,24hrs)

If it was set at 6am, the amount collected could be in the region of £16727.00 + 67778 = £84505 (everyone open 6,24hrs)

None of the above figures takes account of exemptions.

LICENSING COMMITTEE (LICENSING ACT 2003)

Agenda Item 27

Brighton & Hove City Council

Subject:	Work of the Licensing Authority – Licensing & Gambling 1/1/12 – 31/1/14		
Date of Meeting:	6 March 2014		
Report of:	Head of Regulatory Services		
Contact Officer:	Name:	Jim Whitelegg	Tel: 292438
	Email:	Jim.whitelegg@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1. This report sets out the licensing and gambling functions for Brighton & Hove Council carried out between 1st January 2012 and 31 January 2014.
- 1.2. National matters: legislative changes and consultation
- 1.3. Local licensing matters
 - Street drinking/Sensible on Strength
 - Student Freshers/Pub Crawls/Promoters
 - Best Practice licensing Initiatives
- 1.4. Local gambling Matters
 - Betting Shops/Fixed odds betting terminals (FOBTs)
 - Co-regulation and intelligence sharing between Licensing Authority, Gambling Commission and Police
 - Illegal poker – clubs and pubs
- 1.5. Members are apprised of local and national issues.

2. RECOMMENDATIONS:

- 2.1. That the committee notes the contents of this report.
- 2.2. That officers should continue to monitor trends of applications and illegal activity to inform future policy.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1. Licensing Act 2003

- 3.1.1. Table 1 below shows the numbers of applications and hearings for 2012 and 2013, including those granted, refused and withdrawn. The number of premises licences in Brighton & Hove in 2013 rose to 1532 with the number of Club Premises remaining broadly the same at 45.

- 3.1.2. In 2013 the number new applications was 72, an increase of 85% on the previous year, with variations remaining similar at 33 and minor variations increasing by 27% to 84. Two reviews were carried out of premises licences (Pop in Store 3 month suspension and B&W Stores revocation). There were 3 appeals in 2013 for Fish & Chips, Kings Road, B&W Stores, York Place and Co-op Portland Road.
- 3.1.3. 2013 saw 892 Temporary Event Notices (TENs) being processed, a decrease of 10% on 2012.

Table 1: Licensing Act 2003 figures 2012/2013

1st Jan - 31st December 2013		1st Jan - 31st December 2012	
Number of premises		Number of premises	
- Premises Licences	1532	- Premises Licences	1478
(surrendered)	9	(surrendered)	10
- Club Premises	45	- Club Premises	47
(surrendered)	2		
New apps		New apps	
TOTAL	72	TOTAL	39
(granted)	69	(granted)	34
(refused)	1	(refused)	3
(withdrawn)	2	(withdrawn)	2
Variations		Variations	
TOTAL	33	TOTAL	35
(granted)	29	(granted)	24
(refused)	3	(refused)	6
(withdrawn)	1	(withdrawn)	5
Minor Variations		Minor Variations	
TOTAL	84	TOTAL	66
(granted)	83	(granted)	64
(refused)	1	(refused)	2
Panel hearings	23	Panel hearings	32
Reviews	2	Reviews	2
Appeals	3	Appeals	4
TENs		TENs	
TOTAL	892	TOTAL	987
(granted)	850	(granted)	923
(refused)	31	(refused)	42
(withdrawn)	11	(withdrawn)	22

3.2. Gambling Act 2005 - Licensing Authority Functions

- 3.2.1. The functions of licensing authorities may be divided roughly into five: publication of Gambling Policy, regulation of premises, registration of small society lotteries, maintenance of registers and compliance.

3.2.2. Table 2 shows types and numbers of gambling licences issued by Licensing Authority currently compared to 2007 when the Gambling Act 2005 came into force.

Premises Licences	Current (31 01 2014)	2007
Casinos	4	4
Bingo Licences	4	8
Adult Gaming Centres (AGCs)	8	28
Family Entertainment Centres (FECs)	4(incl. 2 FEC permits)	8
Betting tracks	2	2
Betting Shops	47	51
Gaming Machines	243	222

3.3. **Press interest:**

3.3.1. Licensing issues in Brighton and Hove have been at the forefront of the media between 1/1/13 – 31/1/14. Press interest includes:

Argus regularly reports on the work of the Licensing Panels and featured articles including:

- Fixed Odds Betting Terminals “crack cocaine of gambling”
- Council’s launch of Sensible on Strength (SoS)
- Student pub crawls
- Prosecution of takeaway operating beyond permitted hours

3.3.2. Street drinking and the SOS campaign also featured on Radio 4 “You and Yours” programme.

3.3.3. The Gambling Commission also published an article in their Oct 2013 monthly bulletin about the work of the local authority in closing down an illegal poker club. “The Commission’s Director of Regulatory Risk and Analysis, Matthew Hill said:

“These cases once again show how local authorities can step in when concerns arise about illegal poker. The narrow permission allowing members of genuine members’ clubs to play poker cannot be used to justify the provision of what amounts to a commercial poker club.”

3.4. **National matters: legislative changes and consultation can be found in Appendix 1.**

3.5. **Local Licensing Issues**

3.5.1. In 2010, in response to the Marmot Inequalities report, the Director of Public Health selected alcohol as a priority health inequality area. The Programme Board includes health commissioners and NHS/voluntary sector providers, the Council, University student reps, police, licensees, retailers and probation services. The work of the Alcohol Programme Board, domain group 2 (availability) developed an action plan which can be found at Appendix 2. The Alcohol Programme Board is concerned about emerging themes concerning the availability of alcohol, in particular, pre- and post-loading, street drinking and

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

- 3.5.2. The Council's Licensing Team operate a risk rate inspection programme where premises are inspected to ensure they are conforming to the conditions of their licence and then score rated against a number of risk factors including, type of business, operating hours, location, capacity, confidence in management, enforcement & complaint history and control measures in place. The frequency of re-inspection is dependent on whether the premises scores a high, medium or low risk rating.
- 3.5.3. Since becoming responsible authorities in April 2012 the licensing team as well as the Director Public Health have made several representations where applications are contrary to Policy.

3.6. **Street drinking/Sensible on Strength**

- 3.6.1. In August 2013, the Licensing panel revoked a licence for an off licence in a hot spot area for street drinking and associated ASB. Review was brought by the Local Action Team and well supported by local community, Police, Trading Standards, Licensing Authority and alcohol support groups in the area. A lot of very compelling reps with photographic evidence of the street drinkers entering several times a day buying single cans of cheap super strength beers/ciders, drunk and then going onto cause low level antisocial behaviour. The alcohol rehabilitation centre provided witnesses statements. One instance concerned a known street drinker who walked out of the off licence straight in front of a bus. Trading standards, police and licensing authority had advised the shop over a period of two years about the dangers of selling cheap super strength and where other off licences in the area had agreed to a voluntary scheme for not selling super strength. Premises licence holder has appealed the decision which is due to be heard on the 24th and 25th February.
- 3.6.2. The Council's licensing team together with Trading Standards and Sussex Police have worked together to introduce the 'Sensible on Strength' scheme which was launched by Full Licensing Committee in November 2013. The purpose of the campaign is to find ways of limiting the availability of low cost, super-strength beers, lagers & ciders (above 6% abv) in Brighton & Hove to encourage retailers who sell alcohol 'off the premises' to operate good practice measures that will promote the four licensing objectives. Visits are being carried out to premises to gauge their interest as it is a voluntary scheme; those who are interested will then be checked for compliance with their existing licensing conditions and any additional measures. Officers will then present a certificate and window sticker to the business if they pass the inspection.
- 3.6.3. The campaign message is not anti alcohol and recognises the long established beer and cider drinking culture in the UK and our own vibrant city atmosphere. Experience shows, where businesses have removed super strength alcohol they have seen a reduction in crime & disorder such as thefts, intimidation and violence to staff.

3.6.4. Through achieving this change, the ultimate aim is to reduce alcohol related harm and anti-social behaviour, and to move vulnerable drinkers onto weaker alcohol as experience shows that if this can be achieved, the level of deterioration in health is dramatically slowed and there is more likelihood that they will take the step to abstinence and long-term sobriety.

3.6.5. Currently there are 75 premises that have joined the scheme with others who are showing an interest. This is an ongoing initiative as there are approximately 330 off licensed premises in the city.

3.7. **Student Fresher/Pub Crawl Events**

3.7.1. Brighton and Hove has two universities as well as independent commercial operators who organise student based pub-crawl nights within the City. The Licensing Authority can not stop this from taking place so Licensing Officers have developed a set of good practice measures for these organised pub crawls, based on the licensing mandatory code and promoting licensing objectives. They consist of: stewarding, on site medics and non alcohol drinks free or cheaper; no irresponsible promotions (which ended in venue price contracts) and extra security or policing, water angels giving out water to the students. This year the Council has also helped to organise and promote non-alcohol based alternatives of events and tours for students, such as art/culture tours.

3.8. **Promoters**

3.8.1. In the City club nights are organised by promoters who work in partnership with the clubs to advertise their nights and fill the clubs. The problem that we face as a Licensing Authority is that the responsibility of the licensing objectives and mandatory conditions falls only on the licensed premises and not on the promoters who actually organise the nights. Therefore any irresponsible promotions that the promoter advertises and runs for premises could see enforcement action only being taken against the premises. The Licensing Team have been working with promoters to educate and ensure they are aware of firstly the mandatory conditions and irresponsible drinking promotions and of late to also make them aware of the serious nature of protection of children from harm (underage entering the clubs). From this promoters and premises are looking at their advertising especially through media and being extra vigilant in the promotions and detecting underage from entering the premises.

3.9. **Best practice initiatives - Best Bar None, Pub Watches & BCRP**

3.9.1. There are no active official Pubwatch schemes in the city. There are versions of pub watch schemes that we're aware of (Kemp Town and Rottingdean Village) but these are not officially registered with Pub Watch and do not have data sharing agreements with the Police.

3.9.2. The local authority and the police have explored the possibility of introducing a Best Bar None scheme. The police reported that circa 2006, a number of premises looked to gain 'Best Bar None' accreditation. The huge workload took the licensing team 'off line' for about a month and some of the premises subscribing were found to be less than perfect. The scheme has not been widely

adopted nationally and it is felt that the BCRP scheme is solid and those outside it (Drink In Brighton) are generally responsible retailers.

3.9.3. The BCRP NightSafe scheme has over 90% of licensed premises in the city centre area and are the body that ban troublemakers and connects all premises with a radio system and has all the effective data sharing agreements in place with the council and police. BCRP membership is approaching 300 premises and this does not include the 50 radios we provide free of charge to Sussex Police, Street Pastors, Taxi Marshalls, Safe Space and Royal Sussex Casualty Department Security. BCRP won the Action Against Business Crime Partnerships (ABCP) national award last year for best practice in the Night-time economy.

3.9.4. Concern with introducing a Best Bar None scheme is that it would compete with the BCRP scheme and would need significant resource to run. Experience has shown that when police introduced Best Bar None in 2008 a full-time officer had to be employed from the Police licensing team to administer the scheme.

3.10. **Events**

3.10.1. The Licensing Team lead on behalf of Environmental Health & Licensing for the safety management and regulation of events in the city, including for 2013 Brighton Marathon, Brighton Festival & Fringe & The Great Escape, Kemptown Carnival, Cliff Richard SCCC, Paddle, Pride/GVP, Shakedown and Freshers. Focusing on structure and crowd safety, welfare/WC provision, public nuisance, food safety and compliance with licensing (alcohol, underage, illegal traders, etc).

3.11. **Sussex Licensing Liaison Group (EWSLLG)**

3.11.1. Jim Whitelegg, Senior Environmental Health Officer, was elected Chair of the Sussex Licensing Liaison Group this year. The group meets every 3 months and is attended by all local Sussex Licensing Authorities, Sussex Police, East and West Sussex Fire and Rescue Services, East and West Sussex Trading Standards, Gambling Commission and Security Industry Authority. The Group contribute to local and central government departments on national consultations, organise and develop training for the group as appropriate and act as a good practice group on all legislation, linking into the national agenda.

3.12. **Gambling Local and National Issues**

3.12.1. **Betting Shops**

Further to the Gambling Report on Betting Shops at the March Licensing Committee 2013, there were 4 new betting shops in 2012/13, although numbers are down compared with numbers in 2007 which were 51 when the Gambling Act came into force. However, officers continue to monitor the situation looking for evidence of clustering.

- **Paddy Power**, 9 George Street, Hove BN3 3YA (currently a bar but the intention is to turn it into a betting shop)
- **Coral**, 103 George Street, Hove (previously a bank)

- **Coral**, 56 Western Rd, Brighton
- **William Hill**, St. James's St, Brighton

3.12.2. Fixed Odds Betting Terminals (FOBTs)

3.12.2.1. There has been significant local and national interest into the impact of FOBTs. FOBTs are category B2 gaming machines. The maximum stake is multiples of £10 for maximum prize of £500. They work like playing black jack, roulette, etc on a machine. The fear is hard gaming, fast transactions, and chasing debts. Betting shops are permitted 4 machines from classes B2, B3, B4, C and D (10p stake and £8 prize). B2 machines are only permitted in betting shops, casinos – not bingo or arcades.

3.12.2.2. Recent estimates show that more than £40bn was spent nationally on high-stakes gambling machines from April 2011 to March 2012. Referred to by critics as the “crack cocaine of gambling”, these high-stakes gambling machines are viewed by many as highly addictive and associated with crime and poverty.

3.12.2.3. In October 2013, the Local Government Association (LGA) published *‘Problem Gambling: Frequently asked questions’*, a briefing for local authorities on how they can help to tackle problem gambling through existing legislation and guidance.

3.12.2.4. There have been issues in London: Paddy Power v Newham LBC 2013 (and previously Richmond). The concern is betting shops used more for gaming machines than traditional betting, proliferation and gangs of men congregating (crime and disorder) at times when no horse racing. Gambling Commission concerns are:

- Cumulative impact/clustering/proliferation – neither gambling, licensing or planning can be used to restrict as licensing objectives do not include need/unsatisfied demand/cumulative impact and planning use class for financial service (A2) is wide – banks, betting shops and estate agents). London Health Inequalities Network published case for saturation zones.
- “Primary Gambling Activity” – betting or gaming (equal chance gaming). LA duty is to “aim to permit”. In case above held that “Primary Gambling Activity” falls outside remit of LA but within scope of Gambling Commission. Although GC position is “aim to permit” requires LA to act in accordance with code of practice. This is subject to Judicial Review.
- Poverty and addiction.

3.13. Co-regulation and Intelligence Sharing between Licensing Authority, Gambling Commission and Police

3.13.1. The Licensing Team with the Police and Gambling Commission carried out investigations into private gaming and poker club issues, including the investigation into illegal gaming at a residential property. This lengthy investigation following detailed intelligence concerning charging a participation fee and demonstrated the complexity of the gambling licensing regime.

- 3.13.2. Officers also received intelligence from the Gambling Commission that a newly opened social members club in Hove was being run as a poker club by a known individual who had been prosecuted in London for running an illegal poker club. Evidence was gathered including a joint visit with the Gambling Commission. The Licensing Authority were satisfied that the Club was not operating as a bona fide members club and served a Notice of Withdrawal of their Club Premises Certificate, which meant their Club Gaming Permit lapsed and they closed down. This work was published by the Gambling Commission as an example of good working practices by the licensing authority.
- 3.13.3. Poker can be played in a members' or commercial club providing that the conditions that apply to gaming clubs are followed, including limits on stakes and prizes. Clubs must be established and conducted wholly or mainly for purposes other than gaming. Stakes are limited to £10 per game with a maximum prize of £250, as opposed to a £5 stake and £100 prize for poker in pubs. A nominal participation fee of £1 or £3 can be charged in clubs, unlike pubs where no participation fee can be charged.
- 3.13.4. This has highlighted an issue that the Gambling Commission has raised nationally regarding so called members clubs obtaining Club Gaming Permits through the fast track procedure and has led to greater liaison with the Gambling Commission when an application for a club premises certificate is received. Officers have recently conducted joint visits with Gambling Commission regarding poker in pubs in the City where we found evidence of pubs breaching the limits of stakes and prizes. Warning letters were sent which has resulted two pubs cancelling the weekly poker tournament and the others now compliant with the restrictions.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1. Licensing Strategy Group, finance and legal services.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1. The costs associated to the licensing and gambling functions of the council are funded from existing revenue budgets with the Environmental Health and Licensing service.

Licence fees are set at a level that it is reasonably believed will cover the costs of providing the service and in accordance with the requirements of the legislation under which they are charged. Licence fees are approved annually at Licensing Committee.

Finance Officer Consulted: Steve Bedford *Date:* 31/01/14

Legal Implications:

- 5.2. Legal implications are contained within the body of this report.

Lawyer Consulted: Rebecca Sidell *Date:* 04/02/13

Equalities Implications:

- 5.3. There are no direct equalities implications.

Sustainability Implications:

- 5.4. There are no direct sustainability implications.

Crime & Disorder Implications:

- 5.5. Contained in the body of the report.

Risk and Opportunity Management Implications:

- 5.6. No implications

Public Health Implications:

- 5.7. Contained within report.

Corporate / Citywide Implications:

- 5.8. The local licensing delivers support improvement that help businesses comply with the law speedily, easily and economically.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1. None – for information only.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1. For information only.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix 1 – Legislative changes & consultation
2. Appendix 2 – Alcohol Programme Board minutes and action plan

Documents in Members' Rooms

1. None.

Background Documents

1. None.

APPENDIX 1

Legislative changes & consultation - listed below is a summary of the changes, both past and future.

Govt Alcohol Strategy March 2012

The Government will:

- July 2013 Govt set out its response, including a commitment to facilitate “local alcohol action areas” (LAAAs) – targeted local initiatives in places with significant levels of alcohol-related harm.
- Introduce a ban on the sale of alcohol in England and Wales below the level of alcohol duty for a product plus value added tax, to come in to effect no later than Spring 2014.
- Introduce changes to improve the effectiveness of the mandatory licensing conditions by enabling tougher action on irresponsible promotions, strengthen measures to help people drink more responsibly and improve age verification requirements.
- Renew the challenge to industry so that further rapid action is taken to reduce alcohol-related crime and health harms.
- Introduce a new light touch authorisation to sell alcohol – the Community and Ancillary Sellers Notice – under the 2003 Act for ancillary sellers and community groups.
- Increase the annual limit for the number of TENs that can apply to particular premises from 12 to 15.
- Free up businesses that provide late night refreshment by removing the requirement to have a licence where there is no need for one by enabling licensing authorities to make local exemptions for particular locations or types of premises. (low risk as opposed high risk late night drinking areas).
- Abolish the requirement to renew personal licences every ten years.
- Consult in due course on abolishing personal licences altogether.

Also consulted on but not to be implemented at this stage :-

- Ban on multi-buy promotions & minimum unit pricing but Government felt no evidence it would have significant effect in reducing consumption.
- Adding health as a licensing objective for cumulative impacts but Government have not brought this forward at this stage although remain interested in principle.

Consultation

Further Deregulation of Regulated Entertainment

Wave 1: deregulation of plays, dance and indoor sport (between 08:00 am to 11:00 pm) and under 500 audience levels (1,000 for indoor sport); regulating for combined fighting sports (intro May 2013).

Wave 2: deregulation for local authorities, schools, nurseries and hospitals; deregulation for community venues, such as church and village halls; deregulation of live and recorded music, including amendments to the Live Music Act 2012 (up to 500 persons); deregulating Greco-Roman and freestyle wrestling; commencing in April 2014.

Wave 3: deregulation of community film/incidental film consultation 2014.

Personal Licences (12 09 13 - 07 11 13) Govt proposals to scrap personal licences. Proposal for LAs to impose conditions where necessary, e.g. training and CRBs, sales authorised by DPS.

Actual law

Police Reform and Social Responsibility Act 2011

- Extended Responsible Authorities to Licensing Authority and Public Health
- Scrapped 'vicinity' test
- Lowered evidence threshold from necessary to appropriate.
- Reform system of TENs – EH & Police to object on all 4 LOs. One TEN 7 days.
- Licence suspension for annual fee non-payment
- SoLP review 5 yrs
- Late Night Levy & EMRO - No interest in Sussex. It's being considered elsewhere in the country but currently only aware of Newcastle and possibly City of London actively considering introducing such a scheme.

Live Music Act 2012

Deregulated live amplified music in licensed premises/work places for audiences up to 200 people between 8am and 11pm and unamplified music in all venues for unlimited audiences.

Scrap Metal Dealers Act 2013

Introduces a new licensing regime, administered and enforced by Local Authorities (site and collectors licences).

The Health and Social Care Act 2012 received Royal Assent on 27 March 2012. This was a critical step in the transition towards the establishment of a new public health system in local authorities and confirmed the Government's vision for the new public health role in local authorities and the new legal framework for local government that underpins that vision. Local authorities will be responsible amongst other things for alcohol and drug misuse services.

Mobile Homes Act 2013

This new legislation will change the responsibilities for local authorities and for the first time they will be able to charge fees for the site licences. A tentative enquiry has been made with a training supplier (James Button) to cost a locally run course on the subject early in 2014. the legislation comes into law from 01.4.2014.

Taxi Licensing - Law Commission - pt of red tape agenda looking at reforming legal framework relating to taxis and private hire. LC will publish their report and draft Bill by the end of April 2014

Key issues for the Law Commission reviewing taxis are:

- § Quantity controls
Local Authority hackney carriage quantitative control powers.
- § Standard setting
Local Authority discretion to set standards for taxis.
- § Equality
Accessibility, disability, driver capability and training, compellability to take fares.
- § Cross border
Controls on cross border hiring enforcement and legal process.
- § Better regulation.

Fees - R (Hemming and Others) v Westminster City Council 16th May 2012

The EU Services Directive and Provision of Services Regulations 2009 were used by a group of Soho sex shop operators to obtain refunds of sex licensing fees from Westminster City Council. The Court of Appeal held that while the costs of the authorisation process, including monitoring compliance of operators, were fairly part of the fee, the costs of enforcement against third party operators was not.

Led to a reduction in fees and potential for liability going back to 2009. The judgment has a far wider effect, because it affects fees for much bigger licensing regimes, including the Licensing Act 2003. The Licensing Act 2003 (Fees) Regulations 2005 were lawful when they were published in 2005; they became unlawful when new European laws came into force in 2009.

It could also affect: street trading and highway licensing, but not gambling or taxis. Taxi licence fees are tightly regulated by separate legislation.

APPENDIX 2

Alcohol Programme Board SDG 2 : Availability

Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
1. Reducing Alcohol Sales						
1.1 Street drinking Sensible on Strength Campaign	Reduce sale of high strength lager and cider and street drinking.	Sale of high strength beer and cider, illicit beer and street drinking linked around the city, particularly: York Place/London Road, Queen's Road and Western Road, Brighton/Hove boundary. Policy currently recognises Level.	2013/14	Fair trading officer with Sussex Police Licensing Unit	§ Trading Standards Officers § Sussex Police Licensing Unit	Review and revocation of off licence Targeted enforcement
1.2 High ABV beer and cider "Sensible on Strength"	Reduce sale of high strength lager and cider and street drinking	"Safe on Strength" accredited off-licence scheme. Remove super-strength (>6% ABV).	2013/14 Soft launch. Launch by comms. Mail shot. LAT and	£500 for brand – RS budget.	Trading Standards and Licensing Officers	300+ off licences. 72 Shops in scheme. All to be personally

		Documented training, Challenge 25, refusals policy, CCTV. Brand developed. Inspections commenced (St James's	Argus. PCC or Mayor.			inspected and certificates issued. Publicity: You & Yours (R4). Economic partnership, Coast 2 Capital.
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
		Street, London Road, Western Road. Trading Standards approaching Cash & Carry. St James's St Community Action Group (LAT) engaged in recruiting SOS retailers. Eastbourne BC adopting SOS scheme. 25 city off licences inspected and certified.				Economic Development Newsletter.

1.3 Business Support Training	Reduction of supply of alcohol to children and young people		Continuous	Charge removed creating increased take up.	Trading Standards Officers	Covers age restriction, licence conditions, refusal, violence at work, scams. 105 people trained, 40 premises
1.4 Application of policy (matrix) to resist proliferation of off licences	Halting off licence proliferation	Licensing Authority representations Public Health representations Alcohol Scrutiny – request CIZ and Matrix reviewed	2012/15 (SoLP) policy life	Licensing Panel hearing	Licensing Officers DPH	Expectation of matrix too high, over-reliance – decisions need evidence base Reps need a rationale grounded in the matrix.
1.5 Statement of Licensing Policy - Scrutiny	Restriction of licence proliferation Emerging policy issues:	Scrutiny Panel : Alcohol free events Responsible retailing		Licensing Committee and Full Council hearings	Licensing	§ Alcohol scrutiny panel report to Licensing Committee § Alcohol availability in the city - price with very cheap

						alcohol readily available in off licences
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
	<ul style="list-style-type: none"> § Licence training and competence § High ABV beer and cider § CIZ § Matrix : Café Bars/alcohol free choices 	<p>Abolishing personal alcohol licences will create training need.</p> <p>SDG2 views:</p> <ul style="list-style-type: none"> § No justification for more restrictive CIZ § Café bars should be viewed as pubs in matrix. § TENs in CIZ needs policy informative. § Restricting early off-sales hours difficult to justify, unless case-by-case street drinking foci. 				<ul style="list-style-type: none"> § Concern about preloading and cheap deals in bars § Perception that the rules around alcohol were not being enforced such as refusing to serve drunk people in bars § Education on alcohol issues to start early § Many people

		<p>Recent alcohol scrutiny panel preliminary view:</p> <p>(a) London Road/ Preston Road up to Preston Park; Lewes Road, and George St, Hove are all considered for inclusion in the Cumulative Impact Zone, provided that the evidence is available to support the request</p> <p>(b) Café bars are given their own categorisation and in the Matrix to</p>				<p>avoid the centre of town due to the drinking culture</p> <p>§ Lack of non-alcohol places to socialise</p> <p>Issues arising in Cttee and Panel:</p> <p>§ High strength beer and cider</p>
--	--	---	--	--	--	--

		recognise that they are not restaurants or pubs and that different guidance may apply.				
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
						<p>off-sales, links with street drinking and foreign labelled products</p> <p>§ The matrix: definition of classes of licensing premises, especially café bars; the definition of localities; and the strength of</p>

						<p>presumption</p> <p>§ The cumulative impact zone and permissive approach to pubs and restaurants</p> <p>§ Training and competence of applicants and business operators</p>
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
	<p>§ TENs : prevalence of city centre bar extensions and alcohol in community events (cognitive dissonance)</p>	<p>Responsible authorities experience a reduction and withdrawal of TENS</p> <p>Concern about circumventing C1 special policy</p>			<p>Head of Regulatory Services to instruct solicitor for potential Counsel advice</p>	

1.6 Investigation of smuggled, falsely described and illicit alcohol supply	Reduction of duty, labelling, food standards and trademark offences, reducing cheap illicit alcohol in the market.	Intelligence led investigations, licence reviews and formal action All food enforcement staff checking wine, etc. provenance as part of inspection programme. Intelligence sharing: Sussex Police, HMRC, TS, EH, licensing.	2012/13 Business Plan (Trading Standards)	Fair Trading Officer (£25k) Part of programme (10 food safety officers inspecting 1,200/3,300 FBOs pa	<ul style="list-style-type: none"> § Trading Standards Officers § EHOs § Sussex Police Licensing Unit § Licensing Panels 	<ul style="list-style-type: none"> § Reviews and formal action § 13 Reviews and 1 prosecution since 1.4.10
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
1.7 Proxy purchase and underage sale investigations and test purchase operations	Reduction of age restricted sales offences	<u>2012/13, 1st quarter</u> 13 premises – test purchase operations; 40 business support visits	2012/13 Business Plan (Trading Standards)	Fair Trading Officer (£25k) Unit cost/TP operation = £110	<ul style="list-style-type: none"> § Trading Standards Officers § Sussex Police Licensing Unit § Licensing 	<ul style="list-style-type: none"> § Test purchasing operation planned 30/12

					Panels	
2. Inclusion and engagement						
2.1 Improve community involvement in licensing decisions	Increase representations on applications. More appropriate businesses serving communities	Presentation at LATS, weekly lists to Ward Councillors. Changes to website (PRSRRA). Public register published and advertised. Advice on representations. 2012/13 : Moulsecoomb LAT. EBRA, East Street LAT, CMPCA, BARG, Central Hove,	Continuous	Within Licensing core budget	Head of Regulatory Services Chair London Rd LAT presented on community licence reviews to Westminster Briefing	Presentations to LATs and Residents' Associations. London Road LAT – review application. Off licence revocation LAT Chairs
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
		Licensing Strategy Group, LAT Chairs London Road LAT licence review of B&W Stores, York				

		Place				
2.2 Strengthen links with the local licensed trade	Increased understanding of policy, applications appropriate to community and better expectation for applicants. Inappropriate applications deferred	Presentations at business association meetings. <u>2012/13</u> Village Pubwatch Tourism Alliance Destination Management Forum	ongoing	Within Licensing core budget	Head of Regulatory Services	Presentations to business associations
3. Government Alcohol Strategy						
3.1 <u>Minimum Unit Pricing</u> Likely Government consultation on 45p	Can beer (1.8 units) = 81p 1L spirit : £18 (40% abv) Scotland (50p MUP) anticipates 50 fewer deaths in year 1, 300 fewer deaths in year 10	Home Office consultation closed. period on: 1. a ban on multi-buy promotions 2. a review of the mandatory licensing conditions	APB response to consultation and representation on two Home Office technical groups – health as alcohol licensing objective for cumulative impact and review of	None Cost to local economy? (increased revenue?) No further action on this consultation.	Head of Regulatory Services	Alcohol related hospital admissions. National reduction in consumption measured in litres of alcohol. APB response

Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
	Cutting red tape proposals potential to increase availability	3. a minimum unit price of 45p 4. a new health-related objective for alcohol licensing 5. cutting red tape for responsible businesses	mandatory code.			made. Consultation closed – 6 Feb 12. Budget – beer duty escalator cancelled reducing general beer duty by two per cent from 25 March 2013.
3.2 <u>Licensing</u> § Health bodies as responsible authorities § Licensing Authority as responsible authority § Lower evidence test. Removal of vicinity test § Child protection –	Reduced new outlets	Policy and processes amended Liaison with DPH. Simplification of weekly application list. Pre-application for supermarket in CIZ DPH reps – PH outcome framework	Current Home Office current consultation: abolition of personal alcohol licences and more flexibility: Community and Ancillary Notices	None	Head of Regulatory Services	Trends in licensed premises numbers Current consultations Personal licence regime Deregulation of regulated entertainment

increased fine § Zoning permitted § CIZ/ Public health connection						
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
3.3 <u>Taxation</u> Escalator Reduced duty rate New tax	General duty rates 2% over inflation 2014/15 <2.8% ABV beer High strength beers (> 7.5% ABV)	Beer duty escalator cancelled reducing general beer duty by two per cent by March 2013 budget. Beer duty escalator cancelled reducing general beer duty by two per cent by March 2013 budget.				
4. Responsibility Deal/Existing Licensing Enforcement						
4.1 Mandatory code	§ Designated premises supervisor § Personal	Under review (Home Office) Represented on Home Office	Risk based inspection programme	Existing core licensing budget	Licensing Officers	Inspection numbers

	licence holder authorisation § Irresponsible promotions § Age verification § Smaller measures (½pint beer, 25ml spirit, 125ml wine)	technical group Home Office current consultation: abolition of personal alcohol licences and more flexibility: Community and Ancillary Notices.				
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
4.2 Health information on labels	Unit content CMO guidelines Pregnancy warning Drinkaware (optional) Responsibility statement (optional)	Currently voluntary code (Portman Group)				

45

Discharged Activities – Achievements 2011/12

Activity Area	Impact	Subsequent Activity	Leads	KPIs
5. National Alcohol Strategy				
5.1 Amended licensing procedures	Licensing and Public Health are responsible authorities. Increased weight of Police representations. Lower evidence threshold.	Less permissive regime	Licensing Officers	Complete
5.2 Amended Statement of Licensing Policy	New responsible authorities. Reinforces recent policy changes.	Alcohol strategy appears supportive to hypothesis that concentrations of alcohol outlets in city centres are detrimental to health	Licensing Lawyer Licensing Officers Licensing Panel	Complete

Activity Area	Impact	Subsequent Activity	Leads	KPIs
6. Licensing Councillor Expertise				
6.1 Officer training Licensing Councillors. External training. Member visits.	Increased Licensing Councillor expertise, leading to proportionate decisions.	Continuous Member development and induction for new Licensing Councillors	Head of Regulatory Services Licensing Lawyer	<ul style="list-style-type: none"> • Trained Councillors • Report to Licensing Committee • New Licensing Councillors for 2013/14 trained • Political training for Members by external advisor

--	--	--	--	--

7. National Licensing Changes							
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress	
7.1 Late Night Levy	<ul style="list-style-type: none"> § Reduced late night opening § Funding stream for taxi marshals and Safe Space § Revenue for Sussex Police 	<ul style="list-style-type: none"> § Monitoring and response to Home Office consultation § Report to Licensing Committee § Anticipation of regulations § Engagement of Council, Sussex Police and PCC § Consideration within Licensing Strategy Group (1.00am commencement for late night 	<ul style="list-style-type: none"> § Commencement October 2012 § Election of PCC in Nov 2012 § PCC police strategy 	<ul style="list-style-type: none"> § Theoretically collection self funding § Concern over complexity of collection and sufficient funding for projects § Potential cost to local economy 	Head of Regulatory Services; Sussex Police; PCC; Licensing Committee	<ul style="list-style-type: none"> § Changes to late night authorisations § Revenue realised § Funding of Taxi Marshals and Safe Space (Income may not cover. LSG feel 1.00am will return pubs to earlier closing 	

		<ul style="list-style-type: none"> authorisation and hotel exemption?) § Calculation of revenue for different late night authorisations + exemptions § Monitoring national picture 				<ul style="list-style-type: none"> § 5 LA considering in E&W (Newcastle formally approved LNR)
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
7.2 Early Morning Restriction Orders	<ul style="list-style-type: none"> § Reduced late night opening in locality 	<ul style="list-style-type: none"> § Monitoring and response to Home Office consultation § Report to Committee § Anticipation of regulations § Consideration within Licensing Strategy Group (As a measure unlikely to counter general disturbance in 	<ul style="list-style-type: none"> § Commencement October 2012 	<ul style="list-style-type: none"> § Potential cost to local business (lost revenue) 	<ul style="list-style-type: none"> Head of Regulatory Services; PCC; Residents' Associations; Licensing Committee 	<ul style="list-style-type: none"> § Late night opening hours reduced § 4 LA considering in E&W (Hartlepool recently voted against)

		city centre) § Monitoring national picture				
--	--	--	--	--	--	--

S:\Environment\Management Group\ValPeters\MsOffice\TN - Alcohol (from July12)\SDG2 - Availability - Jan.14.doc

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

Agenda Item 28

Brighton & Hove City Council

**Schedule of Licensing Appeals: Date of Meeting: 6th March
2014**

Premises	Appellant	PTR	Hearing	Outcome
B&W Stores, 29 York Place, Brighton	Premises Licence holder	14/11/13	24 February 2014	
Co-op, 268 – 272 Portland Rd, Hove	Southern Co- operative Ltd	16/1/14		Consent Order further conditions in exchange for later hours

