





Brighton & Hove
City Council

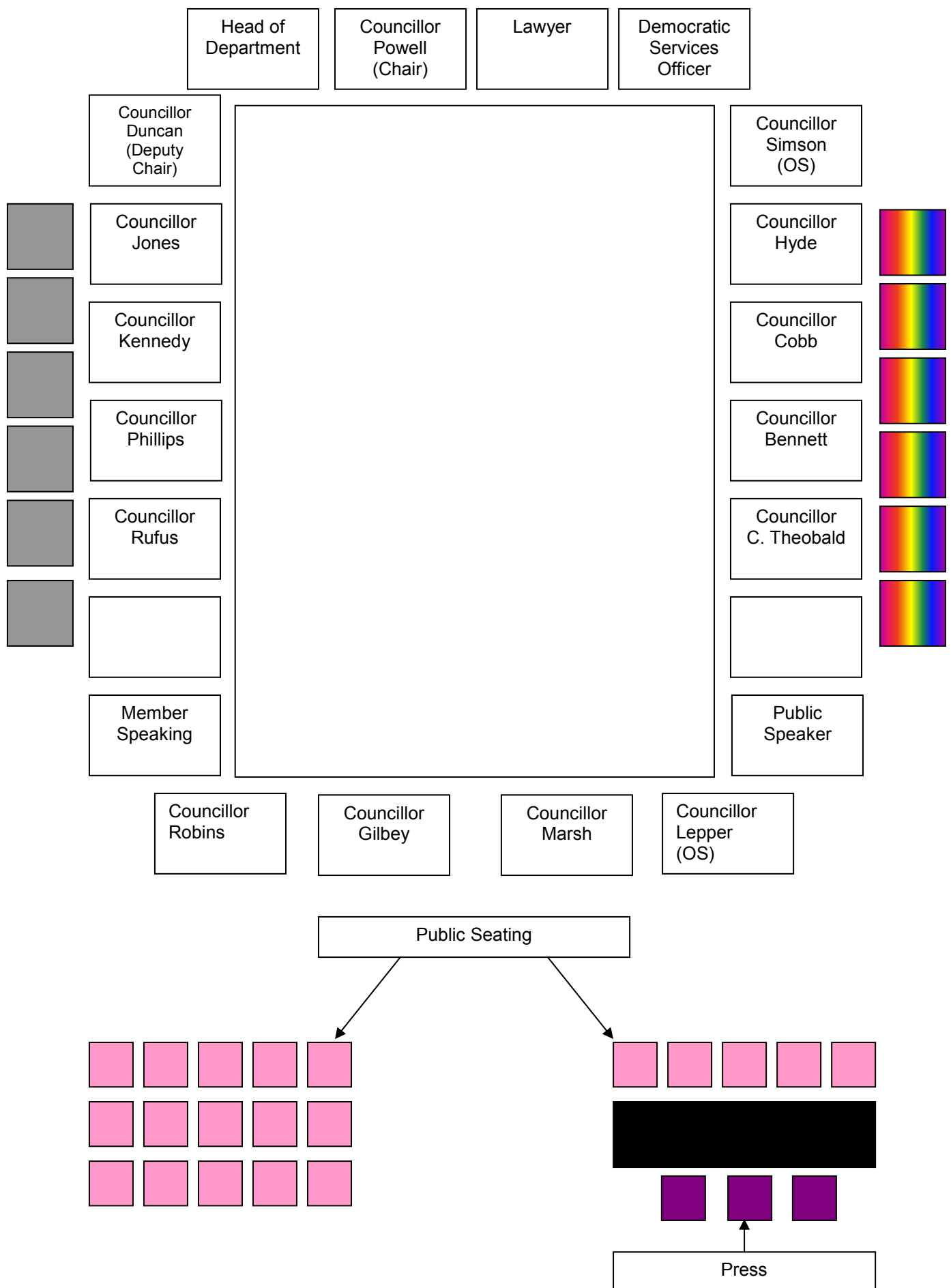
Licensing Committee

(Licensing Act 2003 Functions)

Title:	Licensing Committee (Licensing Act 2003 Functions)
Date:	26 June 2014
Time:	3.30pm (or conclusion of Non 2003 Committee)
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Powell (Chair), Duncan (Deputy Chair), Simson (Opposition Spokesperson), Lepper (Opposition Spokesperson), Bennett, Cobb, Gilbey, Hyde, Jones, Kennedy, Marsh, Phillips, Robins, Rufus and C Theobald
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

Part One

Page

1. PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest:

- (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.

2. MINUTES OF THE PREVIOUS MEETING

1 - 8

Minutes of the meeting held on 6 March 2014 (copy attached)

3. CHAIR'S COMMUNICATIONS

4. PUBLIC INVOLVEMENT

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

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

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself – report of the Head of Law (copy attached)
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on 19 June 2014;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on 19 June 2014 – report of the Head of Law (copy attached).

5. MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee

6. RESPONSE TO REPORT OF HEALTH AND WELL BEING OVERVIEW AND SCRUTINY PANEL ON ALCOHOL 9 - 34

Report of the Head of Law (copy attached)

Contact Officer: Penny Jennings Tel: 29-1065
Ward Affected: All Wards

7. UNDERAGE GAMBLING TEST PURCHASE OPERATION 35 - 40

Report of the Director of Public Health (copy attached)

Contact Officer: Jim Whitelegg Tel: 29-2143
Ward Affected: All Wards

8. SCHEDULE OF REVIEWS 41 - 42

Schedule prepared by of the Director of Public Health containing details of reviews lodged during the period since the last meeting (copy attached)

Contact Officer: Jean Cranford Tel: 29-2550
Ward Affected: All Wards

9. SCHEDULE OF APPEALS 43 - 44

Schedule prepared by the Head of Law containing details of appeals lodged during the period since the last meeting (copy attached)

Contact Officer: Rebecca Sidell Tel: 29-1511

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Ward Affected: All Wards

10. ITEMS TO GO FORWARD TO COUNCIL

To consider items to be submitted to the INSERT DATE Council meeting for information.

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

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

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the 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 Penny Jennings, (01273 291065, email penny.jennings@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Wednesday, 18 June 2014

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.00PM 6 MARCH 2014

COMMITTEE ROOM1, HOVE TOWN HALL

MINUTES

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

Apologies: Councillors Pidgeon and Robins

PART ONE

21. PROCEDURAL BUSINESS

21a Declaration of Substitutes

21.1 Councillor Sykes declared that he was substituting for Councillor Kennedy.

21b Declarations of Interest

21.2 There were none.

21c Exclusion of the Press and Public

21.3 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).

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

22. MINUTES OF THE PREVIOUS MEETING

- 22.1 RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 21 November 2013 be agreed and signed as a correct record.

23. CHAIR'S COMMUNICATIONS

Government Consultation on Locally-set Fees

- 23.1 The Chair explained that as part of the Government's Alcohol Strategy the Home Office had launched a public consultation on the move from centrally-set to locally-set fees under the Licensing Act 2003. Under the Police Reform and Social Responsibility Act 2011 the Home Secretary could prescribe by regulations that fee levels should be set by individual licensing authorities on a cost recovery basis.
- 23.2 The Home Office's Consultation sought views, primarily from licensing authorities and fee paying licensees, on the maximum amounts that can be charged, whether and under what circumstances different amounts should be charged to different types of premises, and the mechanisms that would reassure fee-payers that the fees were being set transparently and at cost. It also asked whether there should be a single national payment date for annual fees. The closing date for responses was 10 April 2014 and the consultation documentation can be found at www.gov.uk/government/consultations/locally-set-licensing-fees

- 23.3 **RESOLVED** – That the content of the Chair's Communications be noted and received.

24. PUBLIC INVOLVEMENT

24a Petitions

- 24.1 There were none.

24b Written Questions

- 24.2 There were none.

24c Deputations

- 24.3 There were none.

25. MEMBER INVOLVEMENT

25a Petitions

- 25.1 There were none.

25b Written Questions

- 25.2 There were none.

25c Letters

25.3 There were none.

25d Notices of Motion

25.4 The Committee considered a Notice of Motion put at Full Council on 12 December 2013 in relation to fixed odds betting terminals. An extract setting out of the minute of the meeting of Full Council had also been circulated to Members in advance of the meeting.

25.5 The Chair, Councillor Powell responded in the following terms:

“It is likely that many interested parties, regulators and service providers, like the Gambling Commission, Gamcare and gambling licensing authorities would support lobbying.

Do vulnerable adults receive sufficient gambling regulation protection? Gambling is widely accepted in the UK as a legitimate entertainment activity by government. There has been considerable disagreement between those who believe gambling to be a fundamentally damaging activity, which should be severely restricted, if not banned, and those who argue that individuals should be free to gamble, with only those minimal restrictions needed to prevent crime and protect the vulnerable. Fixed Odds Betting Terminals have been described as “the crack cocaine of gambling”. In 2012, the Commons Culture, Media and Sport Committee reported that the Gambling Act 2005 had resulted in inconsistencies. The Committee said more power should be devolved to local authorities, which had the local knowledge to assess their impact, with central regulation existing to ensure high standards of protection for the vulnerable, particularly children. The London Health Inequalities Network reported to Public Health England that the availability of problem gambling treatment services data is very limited.

The NOM requires actions of the Chief Executive and Policy and Resources Committee, rather than this committee.”

25.6 **RESOLVED** – That the content of the Notice of Motion be noted and received.

26. LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS UPDATE

26.1 The Committee considered a report of the Head of Regulatory Services which provided an update 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).

26.2 The Head of Regulatory Services explained that Officers were concerned about the number of free Minor Variation Applications that would have to be dealt with if EMROs/LNL were implemented in the city. The Home Office Impact Assessment (IA) stated “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”. The late night levy could be collected alongside the annual licence fee which it was considered would contain negligible new costs”. The licensing authority would only be able to keep up to 30% of income collected (after administration costs had been taken out) but this would have to be used as specified.

Officers were very concerned that introduction of EMROs or LNL would necessitate a large amount of work not already carried out, possibly requiring more staff.

- 26.3 In consequence Officers were suggesting that this matter be kept under review but that these powers not be adopted at the present time; whilst noting that the Committee had not ruled out application of the levy in the future. The London Borough of Islington had recently taken the to commence consultation (November 2013) with a view to considering implementation of a Late Night Levy but were seeking commitment from the Police for 70% contribution hypothecated for the night time economy policing in Islington, and not the wider London area. It was proposed that Officers followed progress of this matter by the London Borough of Islington.
- 26.4 Councillor Simson stated that she supported the approach being proposed and sought confirmation that measures were in place to secure continuation of the Taxi Marshall and Safe Space schemes. It might be appropriate for a levy to be considered to fund such provision in the future. The Head of Regulatory Services stated that these arrangements had been funded originally by the Council and latterly (over the past two/three years) by the Police, currently there was a short hiatus. Councillor Simson stated that this was a matter for concern.
- 26.5 Councillor Marsh was in agreement with the views expressed by Councillor Simson stating that the Taxi Marshall scheme had made a positive contribution and its loss was matter for regret. Councillor Marsh hoped that all continuation of this service could be supported and hoped that the Police could be encouraged to reconsider continuation of funding. The Head of Regulatory Services stated that discussions were taking place in respect of this matter. Funding provision of this service, an idea put forward by the taxi trade, be funded least in part from licence fees had been explored. Subsequent advice that such practice was not lawful had been received and in consequence such practice has ceased.
- 26.6 Councillor Rufus sought clarification regarding comments that further consideration of a Late Night Levy should be a "last resort". The Head of Regulatory Services stated use of a Levy was complex and could as indicated give rise to additional administrative costs which it would be difficult to quantify in advance. Such additional work needed to be proportionate to the level of problems within the late night economy that it had been implemented to address. Councillor Rufus sought clarification that further report(s) would be brought to the Committee if the current position were to change and it was considered appropriate to bring in EMROs or LNL in future. The Head of Regulatory Services confirmed that that this would be the case, that there was a specific consultation process had to be observed and that ultimately approval would be required by full Council.
- 26.7 Councillor Duncan stated that he had the same queries as those raised by Councillor Rufus which had now been answered. He considered that the report set out clearly why it would be inappropriate to proceed with EMROs or LNL at the present time and he was in agreement with that rationale. He hoped however, that further consideration would be given to this in future if the current position changed.

- 26.8 Councillor Hyde stated that in her view if significant problems were to arise in consequence of removal of the Taxi Marshall scheme the Police were likely to reconsider means by which it could be funded.
- 26.9 Councillor C Theobald also expressed regret regarding the current Taxi Marshall situation, considering that if levies were to be introduced funding could be used to fund this and similar schemes. The Head of Regulatory Services responded that in practice it could be difficult to apply the levy in this way. Notwithstanding that it was predicated on a “polluter pays” principle in reality the structure required to run it would be complex and there was no discretion regarding where it was implemented in that it would apply across the city’s entire administrative area.
- 26.10 Councillor Simson Councillor Simson was in agreement that whilst it was not considered appropriate to implement EMROs/LNL now that it was important for this decision to be revisited in future if the existing dynamic of the city’s night time economy changed. She noted and understood that any potential changes were subject to Committee/Council approval as implementation could have significant consequences for the local economy in that it amounted to an additional local tax on businesses.
- 26.11 Councillor Deane concurred with the points raised by Councillor Simson stating that she noted that the London Borough of Islington was considering an LNL. She considered that there were more likely to be comparators and similarities between the City and this London Borough than for example with Newcastle, the first authority to introduce one. She considered that it would be beneficial if Officers could check on progress there periodically and report back to Members as appropriate.
- 26.12 **RESOLVED** – (1) That the licensing committee notes the contents of this report;
- (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; and
- (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.
- 27. WORK OF THE LICENSING AUTHORITY – LICENSING & GAMBLING 1/11/12-31/1/14**
- 27.1 The Committee considered a report of the Head of Regulatory Services setting out the licensing and gambling functions of Brighton & Hove Council carried out between 1 January 2012 and 31 January 2014.
- 27.2 The report detailed national matters including legislative changes and consultation; local licensing matters including street drinking/Sensible on Strength, student freshers/pub crawls/ promoters and best practice licensing initiatives. Also, local gambling matters including betting shops/fixed odds betting terminals (FOBTs), o-regulation and intelligence sharing between the Licensing Authority, Gambling Commission and the Police and illegal poker in clubs and pubs.

- 27.3 Councillor Duncan commended the report which in his view indicated the depth and breadth of work undertaken by the Licensing Authority and the hard work carried out by Officers.
- 27.4 Councillor Simson referred to the interdepartmental work undertaken to seek to address illegal activity e.g., the sale of counterfeit alcohol and that on which the requisite level of duty had not been paid. She referred to proposed initiatives by Central Government on alcohol pricing stating that she was unsure whether this would apply to all alcohol including wines/spirits, or just those which were high strength.
- 27.5 The Senior Environmental Health Officer explained that initiatives and work to address illegal activity were ongoing and that the minimum pricing strategy would apply sales of all alcohol based on its strength. The Head of Regulatory Services stated that latterly problems associated with illegal activity in relation to alcohol appeared to have receded somewhat and issues had been identified in relation to illegal activity relating to alcohol, however, a vigilant approach was continuing. It should be noted that a Scrutiny exercise was underway in relation to the number of Temporary Event Notices (TENs) being requested, there appeared to have been an increase particularly in those requested for church halls and similar venues. Findings from the Scrutiny exercise would be reported back to the Committee following its completion.
- 27.6 In answer to questions by Councillor Simson the Head of Regulatory Services explained that TEN applications accounted for around 10% of the number of applications received overall.
- 27.7 Councillor C Theobald referred to the Scrap Metal Dealers Act 2013 now in force, and to the incidence of theft of lead roofing materials pipe work and other materials from churches which this had in art been brought in to address.
- 27.8 Councillor Sykes referred to a TEN application Hearing which he had sat on a while ago where the Police expressed concern regarding the style of event for which approval had been sought, indicating that they would be likely to raise more objections in respect of future applications. The Head of Regulatory Services responded that currently the Police appeared to be taking the same stance in relation to TEN applications as they had done previously and it was understood that they assessed applications carefully prior to making their comments.
- 27.9 Councillor Deane commended the report and wished to place on record her congratulations to Jim Whitelegg, Senior Environmental Health Officer who had been elected Chair of the Sussex Licensing Liaison Group for 2014.
- 27.10 **RESOLVED** – (1) That the Committee notes the contents of this report; and
(2) That officers should continue to monitor trends of applications and illegal activity to inform future policy.

28. SCHEDULE OF APPEALS

- 28.1 The Committee considered a schedule prepared by the Head of Law containing details of appeals lodged during the period since its last meeting.

28.2 **RESOLVED** – That the contents of the schedule be noted.

29. ITEMS TO GO FORWARD TO COUNCIL

29.1 There were none.

The meeting concluded at 3.45pm

Signed

Chairman

Dated this

day of

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

Agenda Item 6

Brighton & Hove City Council

Subject:	Report of the Health & Well Being Overview & Scrutiny Panel		
Date of Meeting:	26 June 2014		
Report of:	The Head of Law		
Contact Officer:	Name:	Penny Jennings	Tel: 29-1065
	Email:	Penny.jennings@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To consider the recommendations put forward by the Health & Wellbeing Overview & Scrutiny Panel, Scrutiny Panel on Alcohol in relation to proposed revision of the current Statement of Licensing Policy. An extract from the Minutes of the Health & Wellbeing Overview & Scrutiny Panel and a full copy of the report of the Scrutiny Panel on Alcohol are appended to this report.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the Recommendations set out in the Executive Summary on Page 4 of the report;
- 2.2 That the Committee notes the Panel's recognition of the strengths of the Statement of Licensing Policy and agrees to authorise officers to carry forward their recommendation that the Policy and Matrix be reviewed by this Committee, in particular
- (a) the geographical scope of the Cumulative Impact Zone;
 - (b) that café bars are given their own categorisation in the Matrix to recognise that they are not restaurants or pubs and that different guidance may apply;
 - (c) review the definition of residential or commercial areas;
 - (d) review the statement on hours of alcohol sale; and
 - (e) review the policy on food and alcohol retailers outside the CIZ (Page 16 of the report; gather and assess the evidence necessary for a review of the policy as above in particular the evidence for inclusion of further areas into the CIZ and that officers report back to this committee with a detailed report and amended policy proposal for approval by the committee with a view to commencement of the statutory consultation process and
- 2.3 gather and assess the evidence necessary for a review of the policy as above in particular the evidence for inclusion of further areas into the CIZ and that officers report back to this committee with a detailed report and amended policy proposal

for approval by the committee with a view to commencement of the statutory consultation process

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Overview & Scrutiny Committee have forwarded their report to the Licensing Committee (Licensing Act 2003 Functions) for information and are also seeking the Committees' approval to review the current Statement of Licensing Policy in the terms set out.
- 3.2 Before determining its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Licensing Act. The views of all these persons or bodies should be given appropriate weight when the policy is determined. Licensing guidance advises licensing authorities to consider very carefully whether a full consultation is appropriate as a limited consultation may not allow all persons sufficient opportunity to comment on and influence local policy.
- 3.3 To justify any special policy for cumulative impact within the statement of licensing policy, the licensing authority must take prescribed steps: identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm; consider evidence that crime and disorder or nuisance and threats to public safety or the protection of children from harm. If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent. Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
- 3.4 From previous experience this process requires a minimum of two licensing committees to assess evidence and consultation responses and a full Council meeting. Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act. The legislation does not allow delegation of the policy setting function from the full Council. A likely projection is for the licensing policy review to reach conclusion during the period around 2015 local elections.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Not applicable. A review of the current Statement of Licensing Policy (SOLP) is being sought.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 As appropriate within the statutory consultation process.

6. CONCLUSION

- 6.1 This is a report for information – the rationale underpinning the HWB changes is detailed in the report to Full Council (**Appendix 1**).

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The costs associated to the recommendations made by the Health & Wellbeing Overview & Scrutiny Panel will be funded from the existing Licencing Act 2003 revenue budget within Environmental Health and Licensing service.
- 7.2 The net budget for the service in the 2014-15 financial year is approximately £9,000, which includes income received from licenses and the cost of support services and management and administration support

Finance Officer Consulted: Steven Bedford

Date: 4/06/14

Legal Implications:

- 7.3 These are set out in the report. Review of the SOLP is a significant piece of work and one which must be undertaken in accordance with proper procedure and legal advice in order to avoid challenge.

Lawyer Consulted:

Date: 1/06/14

Equalities Implications:

- 7.2 None specifically.

Sustainability Implications:

- 7.3 None specifically.

Any Other Significant Implications:

- 7.4 None specifically.

SUPPORTING DOCUMENTATION

Appendices:

- 1. Extract from Minutes of the Report of the Health & Wellbeing Overview & Scrutiny Panel.
- 2. Report of the Scrutiny Panel on Alcohol

Documents in Members' Rooms

None

Background Documents

None

BRIGHTON & HOVE CITY COUNCIL
HEALTH & WELLBEING OVERVIEW AND SCRUTINY PANEL
SCRUTINY PANEL ON ALCOHOL

4.00pm – 4 FEBRUARY 2014

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Dean(Chair), Marsh and Simson

11. SCRUTINY PANEL ON ALCOHOL

- 113.1 Councillor Lizzie Deane presented the scrutiny panel report on alcohol to HWOSC and summarised the findings and recommendations that the panel had made. Councillor Deane had been Chair of the panel, along with Councillors Mo Marsh and Dee Simson.
- 113.2 Members queried how much sway scrutiny panels could have over altering licensing definitions. Councillor Deane said that the panel had made their recommendations as they felt that it was an important issue but that they would take guidance from the Licensing Team.
- 113.3 Members agreed and endorsed the scrutiny panel report without amendments. Councillor Deane thanked everyone who had taken part in the panel.
- 113.4 Councillor Andrew Wealls then presented the scrutiny panel report on homelessness to HWOSC, summarising the findings and recommendations that were made. Councillor Wealls had been Chair of the panel, along with Councillors Alan Robins and Ollie Sykes.
- 113.5 Councillor Wealls apologised for the time taken to complete the panel but said that members had wanted to talk to everyone who was involved rather than rushing the process. He paid particular tribute to the homeless service users who had contributed to the panel meetings, as well as the voluntary sector and the council staff.

There was a lot of excellent work taking place in Brighton and Hove regarding homelessness. It was hard to judge whether this made Brighton a more attractive place to be if you were homeless.

- 113.6 Councillor Robins said that he had found the panel process a very poignant one. He had had personal experiences which had led him close to becoming

homelessness in the past; it was just a matter of luck. Councillor Sykes said that he too had gained a lot from the panel.

113.7 Councillor Wealls said that he would be interested to see the administration's response to the report and recommendations.

113.8 Members agreed and endorsed the scrutiny panel report without amendments. Panel members thanked everyone who had taken part in the panel



**Report of the Health & Wellbeing
Overview & Scrutiny Panel**

February 2014

Scrutiny Panel on Alcohol

Panel Members

**Councillors Lizzie Deane (Chair)
Mo Marsh
Dee Simson**

Chair's Introduction

When you think of going out in Brighton and Hove, chances are you'll think of events involving alcohol. There's no doubt that alcohol contributes a lot economically and socially to the city with alcohol-related business worth an estimated £329M to the local economy every year¹. However there are a number of well recognised downsides to the ubiquity of alcohol in Brighton & Hove, including anti social behaviour, alcohol related crime and health impacts, with the cost to the city estimated at £107 million² annually. Councillors wanted to ensure that they had been involved in shaping the role of alcohol in the city on behalf of residents, without duplicating the valuable and extensive work that has already taken place elsewhere.

There's been a lot of discussion about alcohol in Brighton & Hove already including the Intelligent Commissioning work and the Big Alcohol Debate, both of which involved members of the public sharing their views on alcohol with the council and health partners. The Alcohol Programme Board meets regularly to bring together key public and private sector colleagues in the city on a range of alcohol related issues including addressing the city's drinking culture, the availability of alcohol, the night time economy and treatment for people with drinking problems.

The Alcohol Programme Board has already looked at these issues in depth and has come up with a range of action plans and recommendations for further development. However a number of areas had not been fully explored, and it was suggested that these were areas that a scrutiny panel could usefully look at.

There were three panel meetings, which looked at alcohol-free events; responsible retailing and promoting responsible drinking.

The first panel meeting looked at the role of alcohol-free events and led into a discussion with members of the Alcohol Programme Board about responsible retailing. The second scrutiny meeting was an opportunity to review the Statement of Licensing Policy. In the third meeting, panel members met with both universities to talk about responsible drinking and how this is promoted amongst the student population.

Given that members of the public have already commented on alcohol in the city fairly recently, the scrutiny panel took the decision not to actively invite members of the public to take part in this set of meetings. We have involved a wide range of partners though including members of the Alcohol Programme Board, trade associations, both of the local universities, retailers, the police, tourism representatives and others.

¹ Public Health Report to Health and Wellbeing Overview & Scrutiny Committee, February 2013

² Public Health Report to Health and Wellbeing Overview & Scrutiny Committee, February 2013

The panel would like to thank everyone who has taken part in the set of alcohol panel meetings for the invaluable information and advice that they have given.

I was joined on the panel by councillors Mo Marsh and Dee Simson. I would like to thank them for their time and effort in addressing this huge issue.

We would also like to thank the council's Scrutiny Team for the help that they have given to the panel during this scrutiny review process, from organising the meetings and attendees to drafting this report.

There is a glossary of terms at the end of the report.



Lizzie Dune.

EXECUTIVE SUMMARY OF RECOMMENDATIONS

1. Brighton & Hove City Council needs to lead by example in the case of operating low alcohol or alcohol-free events. We recommend that our own events, such as the Mayor's Christmas Party or in-house events are not automatically alcohol based and would like to see more consideration given to a wider range of non/ low-alcohol drinks being provided to encourage people to explore alternatives to alcohol.

This should extend to people wishing to rent council-managed land for an event, eg a park or the seafront. We recommend that the Events team highlight alcohol awareness in their events information or ask that people increase their food offer rather than relying on alcohol.

We also recommend that Brighton & Hove City Council reconsiders the clause included in certain commercial leases that promotes the need for an alcohol licence. **(page 7)**

- 2 The council should seek to encourage a range of day and night time events which might involve alcohol but don't rely on it. The panel recommends continuing the work between responsible trade partners such as Brighton and Hove Licensees' Association and the statutory bodies to ensure that this is managed well.

In line with this we recommend that the council cuts down on the proportion of large events that are alcohol sponsored. We recommend that the Alcohol Programme Board continues to work with the Events Team to address this, seeking a measureable reduction in large events that are currently sponsored by alcohol. **(page 9)**

- 3 The panel commends the level and range of work in place at both universities to raise alcohol awareness issues and address the drinking culture. We recommend that this is used as an exemplar for other organisations working with students and young people.

We would like to endorse the continued use of innovative methods of promoting the alcohol awareness message including the CRI unit measure glasses and scratchcards, and would encourage all organisations working with young people to use the tools available. This will help young people understand the impact of alcohol on their health and wellbeing. **(page 11)**

- 4 We recommend that the planned work of the Alcohol Programme Board in addressing older people's drinking behaviour should include information on the cumulative impact of alcohol on a number of health and wellbeing issues including physical and mental health. **(page 12)**
- 5 We recommend that the council's Licensing Team and the Sussex Police Licensing Team continue with their proactive work to encourage

retailers to sell alcohol in a responsible way during large events. **(page 13)**

- 6 The panel is mindful that 'Incredible', the local Best Bar None scheme in Brighton has not progressed due to lack of funding. We are not in a position to recommend that the council funds this but we recommend that the Alcohol Programme Board work with local trade bodies, council officers and police staff explore what assistance could be given to enable this scheme to become live. **(page 14)**
7. The panel recognises the strengths of the Statement of Licensing Policy but would suggest that the policy and Matrix be reviewed by the Licensing Committee, in particular
 - (a) the geographical scope of the Cumulative Impact Zone
 - (b) that café bars are given their own categorisation in the Matrix to recognise that they are not restaurants or pubs and that different guidance may apply
 - (c) review the definition of residential or commercial areas
 - (d) review the statement on hours of alcohol sale
 - (e) review the policy on food and alcohol retailers outside the CIZ **(page 16)**

The Overview and Scrutiny Committee will monitor the implementation of the agreed recommendations.

1. What is the council's role in promoting responsible drinking?

- 1.1 The Big Alcohol Debate ran in Brighton and Hove from October 2011 to January 2012. It asked contributors a number of open questions including '*What would you do about alcohol in Brighton and Hove if you were in charge?*'
- 1.2 One of the key messages that came back from contributors was that the city needs to promote more alternatives to alcohol including late-night solutions to encourage a broader mix of people into the city centre. For example, alcohol-free venues such as cafes, tea houses and other attractions should be encouraged to stay open late and there should be more city sponsored activities that aren't alcohol-driven. Many residents are discouraged from coming into the city in the evening because of alcohol-fuelled disruptive behaviour.³
- 1.3 With this in mind, we as panel members met with representatives of the Alcohol Programme Board including members of trade associations, events organisers, police, health representatives and anti social behaviour staff and with representatives from the local universities to look at alcohol-free events and responsible drinking.
- 1.4 There are a number of daytime alcohol-free events throughout the annual programme of events, including sports and family events; these operate successfully. We were asked to consider whether there was a place for more of a focus on alcohol-free events in the night-time. We also considered the council's role in leading by example, for instance, by making some council-led functions alcohol-free.
- 1.5 As panel members, we are all concerned that alcohol has become too central to everyday life, and that it is in danger of taking over events that do not necessarily need to have alcohol present. Alcohol is slowly creeping into a wider range of events including school fetes, parents' evenings, church functions and community events, which has led to people expecting that alcohol should be available at all events as a norm. The council is not 'anti-fun' but it is important to provide a range of options so that alcohol does not always become the default.

The council's role in alcohol-free events

- 1.6 With this in mind, we felt that Brighton and Hove City Council should lead by example, and more actively consider the drinks offer at its own social events such as the Mayor's Christmas party or council-organised awards ceremonies. We would like to see more positive consideration given to the range of low/ non-alcoholic drinks offered at these events,

^{3 3} Public Health Report to Health and Wellbeing Overview & Scrutiny Committee, February 2013

and for a positive public statement to be made explaining the council's position.

- 1.7 We feel that this positive consideration of low/ non-alcoholic drinks ought to be extended to events held on council-owned land, such as those events held in parks or on the seafront. We understand that these are privately organised events and the council cannot control every element of what is being provided but we would like events organisers to at least consider an alternative offer.
- 1.8 We would like the Events Team to include information about alcohol awareness in the information that they give to events organisers, asking them to actively consider non- or low-alcoholic drinks options. We would also encourage more food-led events being organised rather than alcohol-led events.
- 1.9 We are concerned that Brighton & Hove City Council often includes a clause within certain commercial leases that stipulates the need for the prospective licensee to have an alcohol licence. We feel that this is not always necessary and tends to promote a culture where alcohol is expected as a norm. We would like the leases to be reviewed so that this is not always the case with future leases.
- 1.10 **Recommendation 1 -Brighton & Hove City Council needs to lead by example in the case of operating low alcohol or alcohol-free events. We recommend that our own events, such as the Mayor's Christmas Party or in-house events are not automatically alcohol based and would like to see more consideration given to a wider range of non/ low-alcohol drinks being provided to encourage people to explore alternatives to alcohol.**

This should extend to people wishing to rent council-managed land for an event, eg a park or the seafront. We recommend that the Events team highlight alcohol awareness in their events information or ask that people increase their food offer rather than relying on alcohol.

We also recommend that Brighton & Hove City Council reconsiders the clause included in certain commercial leases that promotes the need for an alcohol licence.

2 External Events

- 2.1 Over the past few years, Brighton & Hove Arts Commission and the city council have held a White Night event, a free all night art festival, aiming to open up different venues within the city for arts and cultural events.
- 2.2 Regrettably, the event has attracted some people who did not want to attend the events but were using it as a reason to drink excessively

resulting in anti-social behaviour. The most recent White Night also clashed with a high-drinking event, Zombie Night, which led to some excessive drinking. The resulting anti-social behaviour has led to the event being cancelled for the foreseeable future. It should be noted that the problems did not occur within the festival events themselves, but by people drinking after the events had taken place.

- 2.3 This was a similar outcome to Pride, in that the arranged events were well managed and relatively problem free. Problems were caused by mainly young people drinking near the events, often in open spaces, not in a managed venue. At this year's Pride for example, the police were called to manage approximately 150 young people drinking near Preston Park and causing anti-social behaviour. We heard that the police dealt with these matters robustly but that the problem has escalated year on year.
- 2.4 We considered whether theoretically the anti social behaviour would be curtailed if the events were removed but all parties agreed that it was not the event that was causing the excessive drinking and subsequent behaviour. The events are a valued part of Brighton and Hove's event calendar, bringing many social and economic benefits but they can act as a catalyst for further drinking beyond the event itself.
- 2.5 Alcohol sales within events tended to be well managed and alcohol was responsibly sold, but problems occurred with people drinking outside the event in an unmanaged capacity. The anti social behaviour problems are caused by spontaneous drinking in unlicensed spaces, not by the events themselves.
- 2.6 We concluded that it was not the case that events ought to be cancelled or even that more alcohol free events were necessarily needed but that there was a need to work with licensed premises and retailers to sell alcohol in a responsible way, as well as offering more alternative and affordable low and non-alcoholic drink options.
- 2.7 The Chair of Brighton and Hove Licensees' Association said that, by trying to restrict alcohol and run events without involving the local trade, it made unlicensed events a free for all in terms of bringing your own alcohol. This was endorsed by all parties; we need to turn the idea of alcohol-free events on its head, and involve trade as a partner rather than blaming them for how people choose to drink.
- 2.8 We would like to thank the local business representatives for coming to the panel meeting and for all of their input. Their comments were invaluable and challenged some of the assumptions that we had made prior to meeting as a panel.

By utilising local companies as responsible partners, this could increase business for local companies, adding social value and building on the positive relationships between the public sector and

responsible businesses. As part of this positive relationship we would like to encourage responsible traders to increase their low and non-alcoholic drink offer. We believe that there is a good business case to be made; we heard about the increasing amounts of overseas students who do not drink alcohol and who would prefer to attend venues with a variety of drinks alternatives.

- 2.9 As a passing comment, we note that two new alcohol-free venues are interested in opening in Brighton and Hove. The plans were not advanced enough for us to consider them as part of the panel process but we look forward to hearing how the proposals develop in due course.
- 2.10 We also wanted to note that we did not wish to discourage young people from attending and taking part in the cultural events on offer; events are there for all to enjoy.
- 2.11 As a panel, we recognised that there are a wide range of events and social occasions where excessive alcohol can be consumed, including stag and hen parties. We decided not to focus on these type of events as they are being addressed by another scrutiny panel, looking at 'party houses'.
- 2.12 **Recommendation 2 - The council should seek to encourage a range of day and night time events which might involve alcohol but don't rely on it. The panel recommends continuing the work between responsible trade partners such as Brighton and Hove Licensees' Association and the statutory bodies to ensure that this is managed well.**

In line with this, we recommend that the council cuts down on the proportion of large events that are alcohol sponsored. We recommend that the Alcohol Programme Board continues to work with the Events Team to address this, seeking a measureable reduction in large events that are currently sponsored by alcohol.

3 Students

- 3.1 As a city with two universities, we have a lot of young people, often living away from home from the first time, who often feel pressured into drinking excessively. We spoke to both university student unions about their approaches to alcohol, the advice given to students, the role of alcohol-free events and so on. We also spoke to the member of staff at Sussex who is responsible for Wellbeing, including alcohol related issues.
- 3.2 We were pleased to hear that both universities are very aware of the problems that alcohol can cause, and are taking positive steps to address the alcohol culture.

- 3.3 Sussex University has made a conscious effort to increase the number of alcohol-free events as part of the Freshers' Week entertainments, this year making 65% of events alcohol-free. This has grown year on year, and reflects the make-up of the university's student demographic, with a growing number of overseas students. One of the events offered this year was a day time cultural tour of Brighton, rather than being taken to pubs. This was organised in conjunction with Brighton & Hove City Council's Licensing Team. The event was very successful and will be replicated in future years.

Sussex University's bar manager told us that their alcohol sales on campus had decreased over the last few years, and that sales tended to be food-based or non-alcoholic options. They actively promoted responsible drinking behaviours, for example ensuring alcohol awareness information was available in their bars, and including information about the number of alcohol units on their menus. As a panel we very much welcome this approach and hope that the trend towards alcohol awareness will continue.

- 3.4 The University of Brighton reported some similar trends including the low rates of alcohol consumption in campus bars. They told us that there had been demand for alcohol to be sold in campus cafes but since it had been introduced this year, there had been very low sales. The positive health benefits may be offset by students pre-loading on alcohol in their rooms before going out socially. The university works with health groups to promote responsible drinking and alcohol awareness and will make sure that information is available in fresher information packs. We were also very pleased to hear about the steps that the University of Brighton was taking to address excessive drinking behaviour during sports club initiations, with a range of sanctions that can be applied if it is felt necessary.
- 3.5 The University of Brighton does not have an equivalent member of staff responsible for Wellbeing. Instead, their alcohol work is coordinated by the Student Union's Vice President, Wellbeing, who also has to address other wellbeing issues and is only in post for a limited time. This year, the postholder is very keen to address some of the alcohol awareness issues that have already been identified, but this might not always be the case, depending on who is in post and the priorities that they may have.

As panel members we felt that it would be beneficial if this could be formalised into a more permanent officer post to ensure continuity of policy development, although we recognise that there are funding implications for this. We encourage the University of Brighton to consider providing funding for such a position; we will pursue this further.

- 3.6 As local councillors, we have had concerns about the Carnage events that operate in the city centre. These are pub crawls organised by an

external company, which have a reputation for promoting excessive drinking, anti-social behaviour and other negative repercussions. We were very glad to note that neither university endorsed the event and did not support or promote it on their campuses. However we heard that the organisers utilise a range of marketing techniques including social media and personal ticket sales and the universities could not stop their students from attending the events individually.

- 3.7 We heard about an alternative pub night called “Brightonian Nights” where students are stewarded around the pubs of Brighton. For the past three years council licensing officers have worked with police colleagues and the student union events organisers to ensure that a safer environment is in place including extra policing for the event; stewarding, drink-pricing contracts to ensure no irresponsible promotions, water angels giving out water to the students; medical staff, and other safety measures. We would encourage more positive partnership working of this type in the future.
- 3.8 We asked both universities for their views on whether there was a demand for a late night coffee shop or soft drinks/ chill out spaces provided in clubs. The universities agreed that this would be worth exploring further and would help extend the offer of entertainment available for students who do not want to drink as much as others. We hope that the universities will work together to explore this further.
- 3.9 **Recommendation 3 – The panel commends the level and range of work in place at both universities to raise alcohol awareness issues and address the drinking culture. We recommend that this is used as an exemplar for other organisations working with students and young people.**

We would like to endorse the continued use of innovative methods of promoting the alcohol awareness message including the CRI unit measure glasses and scratchcards, and would encourage all organisations working with young people to use the tools available. This will help young people understand the impact of alcohol on their health and wellbeing.

4 Health

- 4.1 We were aware that there is a range of work already underway to address young people’s drinking behaviours. We are also mindful that people of all age ranges can experience problems with excessive drinking and that more support and help ought to be given to older people, particularly to those who might drink at home and are not known to service providers.
- 4.2 We were pleased to hear that the Alcohol Programme Board had already identified this as a gap and will be working over the next year to address this. We fully support the Alcohol Programme Board in this.

We would like the information provided to include details on the cumulative impact of alcohol on both physical and mental health so that people are fully aware of the impact that excessive drinking may have.

- 4.3 As a panel, we heard about the alcohol awareness work that has taken place throughout the city, promoting the sensible drinking level message and raising general awareness about alcohol. We were told about a campaign called 'Dry January' which aims to encourage people to give up alcohol entirely for January. We considered whether this was something that we as a panel wanted to promote but on balance felt that this might have the unintended consequence of encouraging binge drinking before and after January. We were also concerned about the negative financial impact on local businesses if we encouraged residents not to drink at all in January.
- 4.4 We felt much more comfortable promoting the message of moderate drinking, and are delighted to see that alcohol awareness messages are being repeated across Brighton & Hove in January 2014. We would like to thank colleagues who work in Health Promotion in CRI for their prompt assistance.
- 4.5 **Recommendation 4 - We recommend that the planned work of the Alcohol Programme Board in addressing older people's drinking behaviour should include information on the cumulative impact of alcohol on a number of health and wellbeing issues including physical and mental health.**

5 Licensed Trade

- 5.1 As we have already seen, retailers and licensed premises are a key partner when it comes to looking at responsible retailing and promoting responsible drinking. We were mindful of the health impacts of drinking alcohol excessively, and the effect on people's behaviour. We would like to see licensed premises being encouraged to positively promote alcohol-free or low alcohol drink options.
- 5.2 The Chair of Brighton & Hove Licensees' Association said that publicans are business people and they would sell any drinks that would make a profit, whether this contained alcohol or not. However the profit margin on all types of drinks was largely tied to the premises type, and if the landlord was tied to one company this could mean that their pricing structure was restricted.
- 5.3 The business representative on the Alcohol Programme Board said that part of their business plan was to introduce own brand lighter alcohol products into stores. As a panel, we welcome this and hope that it can be introduced in other supermarkets too.

- 5.4 We are very pleased with the success of the recent Sensible on Strength campaign⁴ which has encouraged off-licences to voluntarily agree not to sell higher strength beer, lager and cider. The aim is to limit the availability of super-strength drinks. Over 70 retailers have already signed up, with the aim that this would have a positive impact on the level of street drinking and associated anti-social behaviour. The campaign message is not anti alcohol but emphasises that super-strength drinks are causing damage to many people and communities and that if people with drink problems move off the super-strength drinks then their health and life chances will improve. We would like to commend the officers who have worked on the campaign.
- 5.5 We noted that the siting of alcohol in a premises could affect people's decision to buy it. For instance, during Pride or other festivals you often see crates of beer piled near the check outs, encouraging people to buy more than they perhaps otherwise might.
- 5.6 We would like to see enquiries made into the feasibility of a similar voluntary scheme for retailers, encouraging them to re-locate alcohol to a less obvious or accessible place which might limit some of the spontaneous purchases. This scheme could also be extended to encourage retailers not to sell alcohol on days which are known to be associated with excessive drinking, eg Pride.
- 5.7 As a member of the Alcohol Programme Board, a major retailer has indicated that there is scope to work with Brighton and Hove to limit the availability of alcohol during high profile events. This could include a temporary suspension of alcohol sales during Pride from premises close to potential hotspots.⁵
- 5.8 **Recommendation 5 – we recommend that the council's Licensing Team and the Sussex Police Licensing Team continue with their proactive work to encourage retailers to sell alcohol in a responsible way during large events.**

6 Responsible Retailers

- 6.1 One of the key aims of the Alcohol Programme Board was to strengthen the partnership between the licensed trade and the public sector. We as councillors along with our police colleagues are very grateful to the trade representatives for their robust input into discussions and we are keen that we can work positively together in the future. The Alcohol Programme Board's remit includes creating a positive and sustainable night time economy, and we hope that this panel helps towards that aim.

⁴<http://www.brighton-hove.gov.uk/content/licensing/sensible-strength>

⁵ Public Health Report to Health and Wellbeing Overview & Scrutiny Committee, February 2013

- 6.2 We as panel members queried what the best way was to deal with traders who may not be as responsible or considerate as those represented on the Alcohol Programme Board. The Chair of the Licensees' Association said that a few years ago, there had been a lot of work to get Incredible, a local scheme similar to Best Bar None off the ground. The scheme would give positive recognition to responsible retailers and licensed premises, which is recognised as a good way to bring other premises up to scratch. It has Best Bar None endorsement and is based on the specific needs of Brighton and Hove. The Licensees' Association predict that there would be approximately 200 members; it is proposed that the scheme is free to join otherwise it would restrict the number of potential members.
- 6.3 However although the council, the police and members of the licensed trade have all backed the scheme, no one has been willing to date to fund the administration costs. The Licensees' Association is willing to run the scheme but does not have the available funds or resources, which is estimated to cost approximately £20,000 per annum.

Police representatives and councillors feel that Incredible is a positive move forward and every effort should be found to help run the scheme. Brighton and Hove lags behind other authorities in not operating a Best Bar None scheme, and this ought to be addressed. We agree that the Licensees' Association should be supported to operate the scheme and do not feel it is fair to expect the Licensees' Association to fund the work by itself. We heard that it is not practical to ask licensed premises to pay, as this will restrict the number of members.

- 6.5 Due to the financial pressures that the council is facing, we do not feel able to recommend that the council covers all of the costs but we recommend that council officers and police work with the Licensees' Association to explore ways of taking this forward imminently.
- 6.6 **Recommendation 6 -The panel is mindful that 'Incredible', the local Best Bar None scheme in Brighton has not progressed due to lack of funding. We are not in a position to recommend that the council funds this but we recommend that the Alcohol Programme Board work with local trade bodies, council officers and police staff explore what assistance could be given to enable this scheme to become live.**

7 Revising the Statement of Licensing Policy

- 7.1 The purpose of the Statement of Licensing Policy is to promote the licensing objectives and set out a general approach to making licensing decisions for Brighton & Hove City Council. Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. The licensing objectives are: the

prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.⁶

- 7.2 The three panel members are also members of the Licensing Committee so we decided to look at the Statement of Licensing Policy (SOLP) as a panel. We have extensive first hand experience of applying the SOLP to current licence applications. The current SOLP was last revised in December 2011.
 - 7.3 We already have a great deal of good practice in the city, much of which is being emulated across the country including the Cumulative Impact Zone (CIZ) and the Matrix approach.
 - 7.4 The Cumulative Impact Zone is an area in the centre of Brighton and Hove where the concentration of licensed premises causes problems of crime and disorder and public nuisance; therefore an approach to 'Cumulative Impact' is necessary as part of the council's Statement of Licensing Policy. There are stricter guidelines on opening licensed premises in the CIZ with the majority of new licence applications being refused.
 - 7.5 The Matrix defines licence application types (eg, restaurant, pub, night club) and gives a general indication as to whether the licence would be granted in certain area types, eg the cumulative impact area, or mixed residential and commercial streets. It does not list particular streets by name, other than the Marina and London Road.
- These are robust and creative policy responses to the many different demands that have to be balanced when considering licensing applications, not least the tension between protecting public health and licensing objectives.
- 7.7 The SOLP is the only tool that the council has to control licensing in the city. Whilst it may not be perfect, it is a very good attempt at controlling how the council wants to see alcohol being traded in the city. The council sees the Matrix as central to its vision, and has kept areas of classification deliberately vague to help members with flexibility in decision making.
 - 7.8 The Matrix is a real strength of the current SOLP. When it was introduced in 2011 it was a great leap forward, and it is very useful when considering applications, although there are sometimes queries over whether it is prescriptive or for guidance.
 - 7.9 As committee members we are often faced with having to make decisions over what is currently an undefined grey area of residential mixed area applications. We discussed whether it would be better to

⁶ http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/downloads/licence_applications/3994_Statement_of_Licensing_Policy_2012_AW.pdf

list every street in Brighton & Hove and assign it a category, or whether to leave it as a more flexible policy. We felt that although there would be some benefits to defining each street, licensing panel members need the opportunity to make real decisions; the problem with defining rules too much is that panel members lose the opportunity to deviate from it with a more appropriate response. We therefore felt that the current approach was the right one.

7.10 We also felt that the Cumulative Impact Zone approach was a very beneficial one for the city as a way of assessing the combined impact of licensed premises in an area. We wondered whether other areas with multiple licensed premises and related problem behaviour could be considered to be included.

7.11 The Head of Regulatory Services, which covers Licensing amongst other functions, said that any decision to include or exclude an area would be based on the evidence available about current negative impacts including noise nuisance complaints, crime rates etc. Anecdotally we have heard that London Road/ Preston Road up to Preston Park, Lewes Road and George St in Hove have all experienced problems and we would like to recommend that these areas are reviewed for inclusion.

Café bars

7.12 Licensing Committee members often have to make decisions on applications from cafés requesting alcohol licences. It seems that all cafes will want to sell alcohol soon, which we note is already causing concern in the community.

7.13 We asked whether there was a way of addressing this. The Head of Regulatory Services said that from a licensing point of view, there was no simple way to address this, as café bars currently fall into the same category as restaurants and bars and the same guidance would apply.

7.14 We asked whether this classification could be reviewed with a view to giving café bars their own categorisation and relevant guidance in the Matrix to recognise that they are not restaurants or pubs. We think that this would strengthen the position statement, whilst recognising the licensing limitations.

7.15 We also had concerns about the food and alcohol retailers such as mini-supermarkets which are outside the CIZ as we feel that the policy addressing such establishments could be more stringent.

7.16 Recommendation 7 - The panel recognises the strengths of the Statement of Licensing Policy but would suggest that the policy and the Matrix be reviewed by the Licensing Committee, in particular

- a) the geographical scope of the Cumulative Impact Zone**
 - b) that café bars are given their own categorisation and in the Matrix to recognise that they are not restaurants or pubs and that different guidance may apply**
 - c) review the definition of residential or commercial areas**
 - d) review the statement on hours of alcohol sale**
 - e) review the policy on food and alcohol retailers outside the CIZ**
- .

GLOSSARY

APB - Alcohol Programme Board – the APB⁷ has a programme of work to tackle the adverse consequences of alcohol consumption in Brighton and Hove. There are four ‘domains’ of work within the Programme Board Action Plan:

- The drinking culture
- Availability of alcohol
- The night time economy
- Early identification, treatment and aftercare

The APB has very senior input from across the city’s statutory partners including health, the city council and police, and from representatives for the alcohol industry.

Best Bar None- Best Bar None is a national award scheme supported by the Home Office aimed at promoting responsible management and operation of alcohol licensed premises. Since 2003, it has been adopted by over 100 towns and cities across the UK.⁸

Carnage - Carnage UK is a company that organises drinking events for an estimated 350,000 undergraduates in 45 towns and cities⁹ including Brighton and Hove. The events organisers have faced criticism that they encourage binge drinking and anti-social behaviour.

CIZ/ CIA – Cumulative Impact Zone/ Area - This is an area where the concentration of licensed premises in a small area of the city centre is causing problems of crime and disorder and public nuisance, and that therefore an approach to ‘Cumulative Impact’ is necessary as part of the council’s Statement of Licensing Policy. The CIA is based on evidence of crime, anti-social behaviour, noise nuisance etc. It currently covers 1.5% of Brighton & Hove City Council’s administrative area.¹⁰

Inncredible – this is Brighton and Hove’s suggested own Best Bar None (see above) scheme, devised by Brighton & Hove Licensees Association and supported by Best Bar None. It is based upon the specific needs of Brighton & Hove.

Matrix – this is part of the Statement of Licensing Policy. It defines licence application types (eg, restaurant, pub, night club) and gives a general indication as to whether the licence would be granted in certain area types, eg

⁷ Public Health Report to Health and Wellbeing Overview & Scrutiny Committee, February 2013

⁸ <http://www.bbnuk.com/>

⁹ <http://www.theguardian.com/education/2009/nov/08/philip-laing-carnage-binge-drinking>

¹⁰ http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/downloads/licence_applications/3994_Statement_of_Licensing_Policy_2012_AW.pdf

the cumulative impact area, or mixed residential and commercial streets. It does not list particular streets by name, other than the Marina.¹¹

SOLP – Statement of Licensing Policy - The purpose of the Statement of Licensing Policy is to promote the licensing objectives and set out a general approach to making licensing decisions for Brighton & Hove City Council. Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. The licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.¹²

¹¹ http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/downloads/licence_applications/3994_Statement_of_Licensing_Policy_2012_AW.pdf

¹² http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/downloads/licence_applications/3994_Statement_of_Licensing_Policy_2012_AW.pdf

LICENSING COMMITTEE (LICENSING ACT 2003)

Agenda Item 7

Subject: Underage Gambling Test Purchase Operation
Date of Meeting: 26th June 2014
Report of: Senior Environmental Health Officer
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 details a recent underage gambling test purchase exercise by the Council's Licensing Team and assisted by the Gambling Commission on the 25th April 2014.

2. RECOMMENDATIONS:

- 2.1. That the committee notes the contents of this report.
- 2.2. That officers should continue to monitor premises and take appropriate enforcement action including test purchases.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS

3.1. Gambling Act 2005 - Licensing Authority Functions

- 3.1.1. 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.
- 3.1.2. 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	144	222

3.2. Rationale

- 3.2.1. Brighton and Hove City Council have been working in partnership with the Gambling Commission (Commission) to undertake test purchases across a number of different operators, to test the effectiveness of underage gambling policies and procedures at gambling premises. The tests were designed to provide us and the Commission with assurance that licensed operators have sufficient safeguards in place to prevent underage gambling.
- 3.2.2. The Commission approached the Licensing team in February 2014 about running a test purchase operation in late April 2014 targeting the small/medium operators of betting shops, adult gaming centres (AGCs) and bingo halls. This has come about as a result of a national test purchase operation done by the Gambling Commission in 2009 which saw a 98% failure rate amongst the larger operators. Since then the larger operators have introduced a number of measures and regular self testing schemes.
- 3.2.3. The Commission has concerns about underage gambling vulnerabilities in particular sub-sectors of the gambling industry. Operators must monitor the effectiveness of their policies and procedures for preventing underage access to gambling premises/products (a requirement under LCCP (Licence Conditions Code of Practice)). Certain sub-sectors of the industry have not provided the Commission with any assurances that this is happening.
- 3.2.4. Those sub-sectors are, broadly, the small and medium-sized betting, AGC/FEC and bingo sectors where the operators constituting those sub-sectors (except where test purchase schemes may already be provided by a trade association or third party, for example) are not able to evidence that age verification procedures are being monitored. The Commission has particular concerns with regards to access to gaming machines, which may be accessible without any interaction between the player and a member of staff.
- 3.2.5. A number of this type of small/medium premises were identified in Brighton & Hove. Test purchasing was carried out in accordance with the advice given by the Better Regulation Delivery Office (BRDO) and Gambling Commission's advice on test purchasing.

3.3. Offences

- 3.3.1. Gambling Act 2005, Part 4, Protection of Children and Young Persons
- Section 46: A person commits an offence if he invites, causes or permits a child or young person to gamble.
 - Section 47: A person commits an offence if he invites or permits a child or young person to enter premises.

3.4. Methodology

- 3.4.1. The juvenile test purchase operation consists of a young person (under 18) attempting to enter a gambling premises and, if so able, attempting then to play a gaming machine for a short period of time before leaving the premises.

3.4.2. Each test purchase seeks to identify at what stage, if any, a challenge is made by the staff member at the gambling premises. The stages of challenge are as follows:

- a. Upon entry to the premises (betting, AGC and casino only)
- b. Any time after crossing the premises threshold but before inserting monies into the gaming machine
- c. After having inserted stakes into the machine and whilst playing the machine
- d. Challenge between finishing gaming machine play and exiting the premises.
- e. No challenge (having departed premises).

3.4.3. The Test purchase operation was carried out on the 25th April 2014 by the Council's Licensing Team and assisted by the Gambling Commission. A total of 7 premises were visited (2 Betting Shops and 5 AGCs). The operation involved two officers from the Local Authority and an officer from the Gambling Commission. A supervisor from the Licensing Team first entered the premises, to assess that the premises was safe to enter and machines were available for use, followed by the test purchaser entering. The test purchaser was a 16 year old boy and he was instructed to first walk around the premises then start playing a gaming machine (for 18 years persons only) for approx 7-10 mins.

3.5. Results

3.5.1. The following premises failed the test purchase by failing to challenge the young person:

- Connaught Leisure (AGC), 46 George St, Hove, BN3 3YB
- Metrobet Bookmakers (Betting Shop), 56 Boundary Road, Hove BN3 5TD
- Bridge Bookmakers (PKA Hare Bookmakers) (Betting Shop), 75 St. James's St, Brighton, BN2 1PA
- Nobles Amusements (Bingo), 126-127 St. James's Street, Brighton BN2 1TH
- Regency Arcade (AGC), 63-64 West Street, Brighton BN1 2RA
- Silverstreak Ltd (AGC), 97 St. James's St, Brighton

The Gaming Centre (AGC), 81 Boundary Road, Hove BN3 5TD passed the test purchase as the young person was challenged upon entry and asked for ID.

3.6. Follow up Action

3.6.1. Each premises was sent a warning letter with details of the test purchase and the offence committed. The licence holder was asked for a written response on how they will address the weaknesses in their underage gambling procedures shown by the test. They were also informed that Brighton and Hove Council intend to conduct a re-test of their gambling premises in the future, and should that test again show weaknesses, consideration may be given to initiating a review of their premises licence.

3.6.2. Written responses have been received from all those premises that failed the test purchase acknowledging the failure and offence and committing to improve their policies and procedures. This includes introducing measures such as further refresher training, disciplinary action taken if appropriate, "blocking" machines when idle so that staff must be approached before playing, maintaining check & compliance logs and introducing independent self test regimes.

- 3.6.3. A second test purchase operation is now required to follow up on the previous operation to ensure guidance given has been adhered to.

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.

The costs associated to activities under the Gambling Act 2005 are funded by licence fee income. Licence fees are approved annually at Licensing Committee and are set at a level that it is reasonably believed will cover the costs of providing the service in accordance with the requirement of the legislation under which they are charged.

Finance Officer Consulted: Steven Bedford

Date: 19/05/14

Legal Implications:

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

Lawyer Consulted:

Rebecca Sidell

Date: 04/02/13

Equalities Implications:

As licensing authority, the Council works in partnership with the betting industry to ensure effective protection measures, policies and procedures are used to promote and implement socially responsible gambling and tackle problematic gambling.

Sustainability Implications:

- 5.3. There are no direct sustainability implications.

Crime & Disorder Implications:

- 5.4. Government policy aims to ensure that the gambling sector is run responsibly, as a safe and enjoyable leisure activity.

Risk and Opportunity Management Implications:

- 5.5. No implications

Public Health Implications:

The Gambling Act 2005 is predicated on the three licensing objectives:

- Keep gambling crime-free
- Ensure that gambling is fair and open
- Protect children and vulnerable adults

As licensing authority, members and officers monitor and review their function with informed by research to support control of problem gambling - How common is the problem in the city and which groups suffer most from problematic gambling? What are the affects of problematic gambling on individuals, families, and health? What can the authority do to minimise risk factors associated with problematic gambling? What interventions are possible at licensing level? How can Local Government and Health and Wellbeing Boards develop an approach to problem gambling?

Corporate / Citywide Implications:

- 5.6. 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: None

Documents in Members' Rooms

1. None.

Background Documents

1. None.

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)	Agenda Item 8 Brighton & Hove City Council
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Reviews table November 13 - June 2014

<u>NAME AND ADDRESS OF PREMISES</u>	<u>Date consideration of closure order received from Magistrates</u>	<u>DATE OF HEARING</u>	<u>DETERMINATION</u>
B & W Stores 29 York Place Brighton East Sussex BN1 4GU	N/A	20.08.13	Licence revoked
Casba 11 Western Road Hove BN3 1AE	N/A	30.04.14	Licence revoked
Casba2 8 Western Road Hove BN3 1AE	N/A	30.04.14	Licence revoked
Golden Grill 9 Western Road Hove BN3 1AE	N/A	30.04.14	Licence suspended
Local Star 105 Edward Street BN2 0BB	N/A	09.07.14	Still to be heard

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 9

Brighton & Hove City Council

Schedule of Licensing Appeals: Date of Meeting: 26th June 2014

Premises	Appellant	PTR	Hearing	Outcome
B&W Stores, 29 York Place, Brighton	Premises Licence holder	14/11/13	24 February 2014	Consent Order: Decision to revoke replaced by decision to impose substantial conditions
Casba, 11 Western Road, Brighton	Premises Licence Holder			
Casba 2, 8 Western Road, Brighton	Premises Licence Holder			

