

Subject: Annual Report of the Licensing Authority 2014
Date of Meeting: 5 March 2015
Report of: Director of Public Health
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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 during 2014.
- 1.2. National matters: legislative changes and consultation
- 1.3. Local licensing matters
 - Alcohol Programme Board
 - Street drinking/Sensible on Strength
 - Student Freshers/Pub Crawls
 - Promoters
 - Sexual exploitation in the night-time economy
 - Underage/Fake ID – Test purchase (TP) operations
 - Events
- 1.4. Local gambling matters
 - Test purchase operations and subsequent reviews
 - Co-regulation and intelligence sharing between Licensing Authority, Gambling Commission and Police
 - Review Gambling Policy – impact on vulnerable?
 - 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1 below shows the numbers of applications and hearings for the last three years, including those granted, refused and withdrawn.

3.1.2. The Licensing Authority dealt with 10 reviews (including 2 gambling premises for failed test purchases see 3.6.1) in 2014. The full list can be seen in the Review table report. There were a number of challenging reviews, including West Beach Hotel (revoked) and Harbour View (revoked).

Table 1: Licensing Act 2003 figures 2014/2013/2012

| 1st Jan - 31st December 2014 | | 1st Jan - 31st December 2013 | | 1st Jan - 31st December 2012 | |
|-------------------------------------|-----------|-------------------------------------|------|-------------------------------------|------|
| Number of premises | | Number of premises | | Number of premises | |
| - Premises Licences | 1377 | - Premises Licences | 1532 | - Premises Licences | 1478 |
| (surrendered) | 13 | (surrendered) | 9 | (surrendered) | 10 |
| - Club Premises | 36 | - Club Premises | 45 | - Club Premises | 47 |
| (surrendered) | 0 | (surrendered) | 2 | | |
| New apps | | New apps | | New apps | |
| TOTAL | 52 | TOTAL | 72 | TOTAL | 39 |
| (granted) | 46 | (granted) | 69 | (granted) | 34 |
| (refused) | 3 | (refused) | 1 | (refused) | 3 |
| (withdrawn) | 3 | (withdrawn) | 2 | (withdrawn) | 2 |
| Variations | | Variations | | Variations | |
| TOTAL | 29 | TOTAL | 33 | TOTAL | 35 |
| (granted) | 25 | (granted) | 29 | (granted) | 24 |
| (refused) | 3 | (refused) | 3 | (refused) | 6 |
| (withdrawn) | 1 | (withdrawn) | 1 | (withdrawn) | 5 |
| Minor Variations | | Minor Variations | | Minor Variations | |
| TOTAL | 50 | TOTAL | 84 | TOTAL | 66 |
| (granted) | 49 | (granted) | 83 | (granted) | 64 |
| (refused) | 1 | (refused) | 1 | (refused) | 2 |
| Panel hearings | 16 | Panel hearings | 23 | Panel hearings | 32 |
| Reviews | 8 | Reviews | 2 | Reviews | 2 |
| Appeals | 3 | Appeals | 3 | Appeals | 4 |
| TENs | | TENs | | TENs | |
| TOTAL | 903 | TOTAL | 892 | TOTAL | 987 |
| (granted) | 884 | (granted) | 850 | (granted) | 923 |
| (refused) | 16 | (refused) | 31 | (refused) | 42 |
| (withdrawn) | 3 | (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 12 2014) | 2007 |
|------------------------------------------------|-----------------------------|-------------|
| Casinos | 4 | 4 |
| Bingo Licences | 4 | 8 |
| Adult Gaming Centres (AGCs) | 10 | 28 |
| Family Entertainment Centres (FECs) | 2 (plus 4 FEC permits) | 8 |
| Betting tracks | 2 | 2 |
| Betting Shops | 42 | 51 |
| Gaming Machines | | 222 |
| Gaming Machine Permit (> 2 x Cat C&D) | 24 | |
| Gaming Machine Automatic Entitlement (2 x C&D) | 158 | |
| Club Machine Permits | 8 | |
| Club Gaming Permits | 3 | |

3.3. Press interest:

3.3.1. Licensing issues in Brighton and Hove have been at the forefront of the media between 1/1/14 – 31/12/14. Press interest includes:

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

- Underage Gambling – Further Failed test purchases and Policy review to protect residents
- GP praises moves against super-strength drink (Sensible on Strength)
- West Beach Hotel premises licence revoked
- Director of Public Health’s annual report “What will life be like 2024”
- Council test purchasing on gambling reveals high failure rate
- Two late night take-away shops have their licences revoked
- Magistrates give B & W Stores opportunity to improve (revocation appeal)
- License holder grilled over opening hours (Golden Grill prosecution)

Gambling Commission released this press release in February 2015 regarding last years TPs.

- A number of independent operators have had conditions attached to their premises licences in order to strengthen underage gambling controls at their premises.

Further to the programme of test purchasing conducted in 2014 by local authorities in partnership with the Commission, East Lindsey District Council, Brighton and Hove City Council and Hastings Borough Council have all reviewed premises licences where operators failed for a second time to challenge a test purchaser.

Two adult gaming centre operators, a family entertainment centre and a betting shop were subject to premises licence reviews.

Those operators had submitted improvement plans to their respective authorities after having failed a first test purchase earlier in the year, but the subsequent re-tests demonstrated that the weaknesses in their controls had not been remedied. Examples of the conditions that have been attached to premises licences following the reviews include:

- the requirement for the licensee to have a Think 21 or Think 25 policy for the premises

- the requirement for regular test purchasing to be undertaken, to ensure that the licensee monitors the effectiveness of their controls on an ongoing basis
- the use of Maglocks to restrict access to the premises
- the use of infra-red beams that trigger sound alerts when broken, to alert staff to the presence of customers in age-restricted areas
- Physical barriers to reduce the risk of children crossing from family entertainment centre premises into adult gaming centre premises
- Re-positioning Category D gaming machines away from the entrances to adult gaming centre premises, to reduce the attraction of children to those areas.
- Induction and refresher training for staff.

Operators cooperated with the local authorities during the review processes, and some offered up further measures to strengthen their controls in addition to the formal licence conditions, such as:

- Re-siting age-restricted gaming machines so that they are directly in front of manned areas or a staff counter, to improve levels of supervision.
- Assigning a member of staff to have specific duties for supervising the age-restricted area.

Matthew Hill, Director at the Commission, said:

“We welcome the action taken by our local authority partners to ensure that operators are able to manage the underage gambling risks at their premises, and also the cooperation of the licensees in the review processes. The recent Ipsos Mori research tells us that, while overall figures for underage gambling have remained broadly static, the prevalence of children playing fruit machines is a lot higher than for other forms of gambling participation, and has risen on previous years.

Machines are a form of gambling that can usually be accessed without any staff interaction, and it is vitally important that operators have the controls in place to prevent children from playing age-restricted products such as these.

And we must remind operators not to be complacent in this key area of compliance – where weaknesses persist, other sanctions such as the suspension or revocation of a licence could be considered by regulators”.

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

3.5. **Local Licensing Issues**

3.5.1. Alcohol Programme Board

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. Street drinking/Sensible on Strength

Over recent years problems associated with street drinking have been experienced across the city but particularly by the Level, Lewes Road and New Road. There are many support services in place to deal with this and the drinkers themselves. In November 2013 the Licensing Authority launched the 'Sensible on Strength' scheme to reduce the availability of cheap super-strength beers and ciders. Off licences voluntarily sign up not to sell cheap super-strength beers and ciders and receive an accreditation. This has been a considerable success and we have received positive feedback including from businesses, alcohol treatment centres and health professionals, where 80% of the high profile street drinkers have moved to lower ABV and more clients are engaging with rehab treatment centres, as well as breaking up hot spot drinking areas. This is an ongoing scheme that will be reviewed regularly.

There are currently 112 members of Sensible on Strength. It is an ongoing scheme and the Licensing Team will continue to incorporate advice about the scheme when carrying out their risk based inspection programme and will sign up those who are interested and who qualify. The Licensing Team together with the Police and Trading Standards will continue to respond to any complaints about hot spot areas and investigate accordingly.

3.5.3. Student and Organised Pub Crawls

The Licensing Team and other agencies work with universities, event organisers and promoters to ensure events are responsibly run to include good practice measures based on mandatory conditions and promoting licensing objectives. Such measures include stewarding, on site medics, discounted non alcoholic drinks, water angels, and promotion of non-alcohol events. This includes working with Brighton University regarding a Home Office initiative for an accreditation scheme around a NUS alcohol impact project to encourage students to drink responsibly. Licensing officers are working with the university on a research project to identify vulnerable groups, audit licensed premises and look at the attitudes of those students that don't drink.

3.5.4. Promoters

The Licensing Act 2003 makes no mention or provision for the use of promoters within licensed premises. Many of the late night bars and clubs within the Brighton & Hove Cumulative Impact Area regularly hire promoters to sell nights at their venues. In recent years with the introduction of promoters within the Brighton night time economy, several issues have arisen. This includes promoters vouching for underage customers to get them inside licensed premises where they can access alcohol, providing flyers to passers by who throw them on the floor and irresponsible promotions for their nights. The Police

and 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). Many premises now have an agreement with their promoter for acceptable promotions and behaviour which includes the signing of a written contract of expectations. This shows premises evidencing their due diligence and ensures that promotion companies know what is expected of them. The contract could include, obligations to pick up self generated litter, verification of ages of their customers and users of their social media, promoters being over the age of 18 and responsible advertising on social media.

3.5.5. Sexual Exploitation in the Night-Time Economy

The team will be working with Helen O'Brien, Project Coordinator, The WiSE Project around student freshers events and joint intelligence based visits in the city centre. There are two strands to this; working with Allsorts Youth Project and addressing sexual exploitation in the night-time economy. Helen is one of the lead workers for 'Safe Space' and works regularly on a Friday and Saturday night. She sees many instances of vulnerable young girls who have got separated from their groups and are being preyed on by men. Helen's work includes promoting self-responsibility in young people and to be aware of where their friends are and even noticing if there are vulnerable, drunk people they don't know. It is also about educating door staff and bar staff to raise awareness of this problem; quite often young people are evicted from a club without any of their personal belongings, including mobile phones and bags. This is a real concern as this makes people even more vulnerable.

3.5.6. Underage/Fake ID project

In 2014 the Police carried out a number of test purchase operations on city centre on-licence premises and the number failures, together with intelligence from partners such as RUOK, suggested underage drinking and fake IDs were a bigger problem than first thought. The Licensing Team worked with the police to promote a fake ID poster campaign and advise about under age. Those premises found to sell to underage after an advice visit will be subject to Review and the licensing team will be asked to support any review bought by the Police.. We also hope to work with colleagues in Public Health to educate pupils in further education about the risks of using fake ID.

3.5.7. Events

The Licensing Team lead on behalf of Environmental Health & Licensing for the safety management and regulation of events in the city, including for 2014 Brighton Marathon, Brighton Festival & Fringe & The Great Escape, Kemptown Carnival, 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).

The event that impacts most within the city is Pride. Since Pride in the Park has been fenced the problems of underage drinking and low level anti-social behaviour has moved from inside the Park to the periphery and surrounding

areas. Pre-pride and during pride licensing checks were carried out in all licensed premises associated with the event. Over the Pride weekend which includes the Parade, Pride in the Park and the Village Party, the Licensing team were focused on identifying and stopping any instances of licensed premises selling to children and people who were clearly drunk.

- a) Licensed premises around parade route, Park and PVP were generally good and compliant and had clearly responded to earlier pre licensing visits.
- b) Pre-event work and work on the day prevented raves occurring and private parties escalating. Noise abatement notices served on a seafront premises to prevent rave occurring. Minimal noise complaints. Team prevented outside parties by stopping people setting up sound systems on London road.
- c) Underage drinkers following parade or gathering in the Park had their alcohol seized by police and where asked majority sourced their alcohol from home (given by parents or taken) or they had asked someone over 18 to buy it for them.
- d) High levels of drunkenness and nitrous oxide citywide. Large group of underage drinkers on fringes of Park event similar to previous year. Well managed by the Police preventing previous years' disorder.
- e) Generally feeling was that the Pride in the Park event was a happy safe event (crowd peaked 25K of scanned tickets not including volunteers, sponsors or VIPs). The usual issues were outside the fenced event which almost feels like a separate event now. Large numbers of people in Preston Park outside of the fenced event. High levels of drunkenness and large number of youths 14-18 (approx. 1000) congregating around the tennis courts and bowling greens. Vast majority appeared to be drunk plus evidence of nitrous oxide all over the park. The atmosphere got progressively more edgy with the police having to cordon the area off to prevent further entry at 6pm. Generally very obnoxious with minor fights. Police cleared area around 8pm. The police report around 15 arrests, mostly drink and drug related at Park. Park got quiet from 8pm.
- f) First Aid are reporting an increase in the number of people transferred to hospital (they don't have finite figures yet) and a similar number of treatments from last year. There has been a particularly unpleasant "new" drug identified - Voodoo - which has been the cause of many of the treatments / hospitalisation and caused patients to be particularly combative. They reported that they were treating a lot of drunk 14-16 olds the majority of who were incoherent. Treatment centres full, majority from alcohol. My experience of talking to police who were seizing large quantities of alcohol from underage, was that the majority sourced their alcohol from home, either nicked or given from parents.
- g) Many peddlers on route and in park. Vast majority of mobile traders (ice cream & burger vans) were trading on private or park land not highway so exempt from street trading consents.
- h) A lot of people exited the Park around 8pm. City was very busy with people partying on every available green space between park and seafront but areas

around Level and Valley Gardens began to thin out by 9pm. Taxi rank at bottom of Stanford Av barely used.

- i) Pride Village Party – less congested than previous years, less glass, less aggressive atmosphere. Noise zones appeared to work with active management by event organisers. Some private parties in commercial premises delayed dispersal in street after PVP close.

3.6. Gambling Local and National Issues

3.6.1. Underage Gambling Test Purchase Operation

In April 2014, 6 out of 7 premises failed a test purchase exercise by allowing an under 18 year old to enter the premises and gambling on age restricted gaming machines. Those premises that failed were retested on the October 2014, where two premises (Regency Arcade and Metrobet) failed again. Review applications for these premises were submitted by the Licensing Authority and, for the first time nationally, the Gambling Commission supported the review application by submitting a supportive representation. The licensing authority liaised with the premises concerned and the Gambling Commission. The review hearing took place on the 19th December 2014 and took the following action:

- a) Re-altered Layout
- b) Infra Red Beam
- c) Maintaining of a Refusal Register
- d) Age Verification Testing
- e) Upgrade CCTV
- f) Training
- g) Challenge 25
- h) Signage and Prominent Gam Care Documentation

The Gambling Commission, as the national regulator, has welcomed the action taken by the Licensing Authority as an example of good practice by a local authority in tackling underage sales.

3.6.2. Co-regulation and Intelligence Sharing between Licensing Authority, Gambling Commission and other agencies – Policy Review

The Licensing Team are working with Public Health colleagues, Gambling Commission, outreach centres and other local authorities who have a high proportion of gambling premises. The purpose of this partnership working is to explore area vulnerability to gambling-related harm, to enable the authority to understand the impact that gambling has on health and wellbeing of local communities and to outline this approach in the Policy. The Council are required to produce a Gambling Policy which sets out the authorities approach to gambling and how it will consider applications. The Policy must be reviewed at least every 3 years and that's due this year so we would like to develop the policy to take a public health approach to gambling.

Officers continue to receive intelligence from the Gambling Commission and operators regarding illegal poker in pubs and clubs.

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.

Officers have 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 have been sent which has resulted in poker being removed or operators complying 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 activates allowable under the Licensing Act 2003 are funded by licence fee income; any variation between expenditure and income generated from licence fees is funded from existing revenue budgets.

Where fees are not set by central government, 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:* 21/01/15

Legal Implications:

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

Lawyer Consulted: Rebecca Sidell *Date:* 23/01/15

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):

None – for information only.

7. REASONS FOR REPORT RECOMMENDATIONS

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.