



Brighton & Hove
City Council

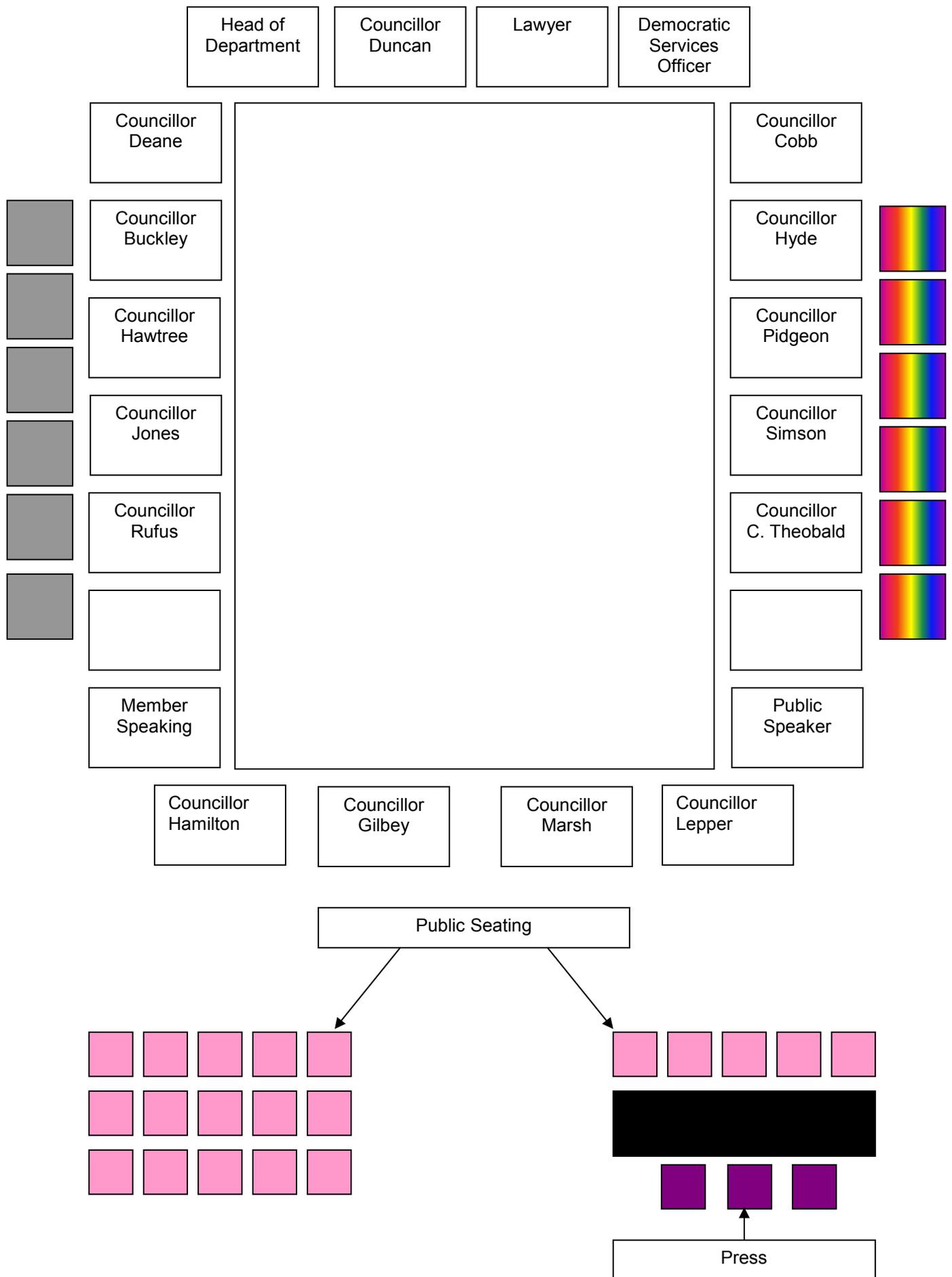
Licensing Committee

(Licensing Act 2003 Functions)

Title:	Licensing Committee (Licensing Act 2003 Functions)
Date:	14 March 2013
Time:	3.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Duncan (Chair), Deane (Deputy Chair), Cobb (Opposition Spokesperson), Lepper (Opposition Spokesperson), Buckley, Gilbey, Hamilton, Hawtree, Hyde, Jones, Marsh, Pidgeon, Rufus, Simson 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

18. 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.

19. MINUTES OF THE PREVIOUS MEETING

1 - 4

Minutes of the meeting held on 22 November 2012 (copy attached)

20. CHAIR'S COMMUNICATIONS

21. PUBLIC INVOLVEMENT

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

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

- (a) **Petitions:** to receive any petitions presented by members of the public to the full Council or at the meeting itself.
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on 6 March 2013.
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on 6 March 2013.

22. ISSUES RAISED BY MEMBERS

To consider the following matters raised by Members:

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

23. WORK OF THE LICENSING AUTHORITY 2011/13 5 - 42

Report of Head of Planning and Public Protection (copy attached)

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

24. GAMBLING LICENSING AUTHORITY REVIEW 43 - 48

Report of the Head of Planning and Public Protection (copy attached)

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

25. ARRANGEMENTS FOR LICENSING PANELS 49 - 58

Report of the Head Legal & Democratic Services (copy attached).

Ward Affected: All Wards

26. SCHEDULE OF REVIEWS 59 - 60

Schedule prepared by the Head of Planning and Public Protection (copy attached)

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

27. SCHEDULE OF APPEALS RECEIVED

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

None were received during the period covered between the previous Committee to the date of publication of papers for this meeting.

28. ITEMS TO GO FORWARD TO COUNCIL

To consider items to be submitted to the 28 March 2013 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.

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

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

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

Date of Publication - Wednesday, 6 March 2013

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)	Agenda Item 19 Brighton & Hove City Council
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BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.00PM 22 NOVEMBER 2012

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Duncan (Chair), Deane (Deputy Chair), Cobb (Opposition Spokesperson), Lepper (Opposition Spokesperson), Buckley, Gilbey, Hawtree, Hyde, J Kitcat, Marsh, Pidgeon, Shanks, Simson and C Theobald

PART ONE

9. PROCEDURAL BUSINESS

9a Declaration of Substitutes

9.1 Councillor J Kitcat declared that he was substituting for Councillor Rufus and Councillor Shanks declared that she was substituting for Councillor Jones.

9b Declarations of Interest

9.2 There were none.

9c Exclusion of the Press and Public

9.3 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).

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

10. MINUTES OF THE PREVIOUS MEETING

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

11. CHAIR'S COMMUNICATIONS

- 11.1 There were none.

12. PUBLIC INVOLVEMENT

Petitions

- 12.1 There were none.

Written Questions

- 12.2 There were none.

Deputations

- 12.3 There were none.

13. ISSUES RAISED BY MEMBERS

Petitions

- 13.1 There were none.

Written Questions

- 13.2 There were none.

Letters

- 13.3 There were none.

Notices of Motion

- 13.4 There were none.

14. GAMBLING ACT 2005 - REVISED POLICY

- 14.1 The Committee considered a report of the Head of Planning and Public Protection requesting that they agree the council's updated Statement of Gambling Policy, for which there was a legal requirement for it to be reviewed and published every three years.

- 14.2 It was explained that The Gambling Act 2005 required Licensing Authorities to prepare, every three years, a statement (also known as a Policy) of the principles which they propose to

apply when exercising their functions. The statement had to be published following the procedure set out in the Act, including whom should be consulted. That consultation process had commenced on 16 July 2012 and had lasted 12 weeks. The existing Statement of Gambling Policy had been sent to consultees and had been made available on the council's website.

- 14.3 Eight responses had been received, including responses from Sussex Police, the Racecourse Association, Brighton Racecourse, the National Casino Industry Forum, a medical practitioner, The Quakers Society, Sussex Deaf Association and The Campaign for Fair Gambling. The responses had been evaluated and all respondents had been in favour of them as framed. No proposals had been made for any changes and it was therefore proposed to maintain the council's existing policy as set out in Appendix 1 to the report.
- 14.4 Councillor Hawtree stated that he was concerned regarding the number of betting shops located across the city having observed that there were several in the George Street area of Hove, a new premises having opened recently in close proximity to those which were already in existence. The Licensing Manager, Mrs Cranford stated that the number of premises across the city varied between 90-100 and that this figure was fairly constant. The Head of Regulatory Services, Mr Nichols stated that in some parts of the country problems had arisen where takeaways, off licences and gambling establishments were located in close proximity to one another. However, such problems had not been experienced Brighton and Hove and in consequence the Policy itself was concise and had recognised this issue, however, any future policy review should, if necessary, address emerging situations where gambling becomes a source of disorder.
- 14.5 Councillor Simson enquired regarding the process to be observed when a premises applied for a betting shop licence. The Head of Regulatory Service, Mr Nichols explained that there was a consultation process and that included consultation within the local community where a premises was to be located. However such premises attracted very few objections. In the past these had been from other gambling premises licence holders and on one occasion the Gambling Commission.
- 14.7 **RESOLVED TO RECOMMEND** - That the Committee agrees that the final version of the Statement of Gambling Policy (included with the report appended hereto) be referred to Full Council for adoption.

15. SCHEDULE OF REVIEWS

- 15.1 **RESOLVED** – That the Schedule of Reviews be noted and received.

16. SCHEDULE OF APPEALS RECEIVED

- 16.1 Councillor Simson thanked Officers for their efforts in arranging the recent Licensing Committee visit which had been very informative. She referred to the appeal which had been lodged successfully by the Marwood Café stating that when the Committee had visited the premises during their Committee tour the premises had been observed operating in line with the permission sought in their licensing application. The Panel who had made the original decision (of which she had been a Member) had grappled with a

difficult decision in determining the application and had been concerned that if permission had been granted it would operate as a vertical drinking establishment. This had not proved to be the case and this represented a learning curve for the Members who had sat on that Panel. Councillor Marsh who had also sat on that Panel concurred in that view.

- 16.2 Councillor Simson stated that this illustrated the value of visiting premises and the Chair stated that Members were not precluded from visiting premises informally for this purpose if they chose to do so. Several Members demurred from that view, but the Chair reiterated that provided Members simply observed a premises they could not be seen as being biased or having pre-determined an application. Councillor Hawtree stated that he had had found it beneficial to visit a particular premises prior to consideration of an application.
- 16.3 The Head of Regulatory Services, Mr Nichols stated that in determining applications a key consideration for Members was to seek to ensure that they added/agreed conditions which were robust and enforceable. It should not be necessary for Members to visit individual premises as the information provided in Officer's reports and from the submissions received at the licensing panel meetings should of themselves be sufficient to determine an application.
- 16.4 **RESOLVED** – That the Schedule of Appeals be noted and received.
- 17. ITEMS TO GO FORWARD TO COUNCIL**
- 17.1 **RESOLVED** – That Item 14 "Gambling Act Revised Policy" be referred to Full Council for approval.

The meeting concluded at 3.25pm

Signed

Chairman

Dated this

day of

LICENSING COMMITTEE (LICENSING ACT 2003)

Agenda Item 23

Brighton & Hove City Council

Subject:	Work of the Licensing Authority 2011/13		
Date of Meeting:	14 March 2013		
Report of:	Head of Planning and Public Protection		
Contact Officer:	Name:	Tim Nichols	Tel: 29-2163
	Email:	tim.nichols@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report sets out the licensing functions carried out between 1 April 2011 and 31 January 2013.

2. RECOMMENDATIONS:

- 2.1 That the committee notes the contents of this report.
- 2.2 That Members consider the significant rise in temporary event notices as a matter for future policy consideration.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The number of premises in Brighton & Hove during 2011/12 (latest figures reported to Home Office) is 1507 made up of 1460 premises licences and 47 club premises certificates. Included in that figure are 58 applications for new licences with 53 applications for new licences being granted (5 refused).
- 3.2 In 2011/12 the council received 36 applications for variations to premises licences, 32 of which were granted. 58 premises went to panel hearings. 41 minor variations were received during this period; 38 were granted. 10 reviews were carried out of premises licences.
- 3.3 Between 1 April 2012 and 31 January 2013, 34 applications for new licences were received with 24 new licences being granted. 22 applications for variations to premises licences were received of which 12 were granted. 45 premises went to panel hearings. 69 minor variations were received during this period; 50 were granted. Two reviews were carried out of premises licences.
- 3.4 2011/12 saw 946 Temporary Event Notices (TENs) being processed 51 of which were withdrawn and 381 personal licences issued during that time; 3 personal licence applications went to a hearing. The number of TENs and personal licences issued from 01.04.12 to 31.12.12 are 768 and 241.

3.5 A list of all reviews and appeals carried out between 2011 to date can be found at appendix 1 and 2. In addition, details of the number of TENs has been included in appendix 3 and the number of Licensing Panels can be found at appendix 4.

3.6 During 2010 and 2011, Brighton and Hove City Council renewed and refreshed its Statement of Licensing Policy (SOLP); in 2010 a full consultation was undertaken and the policy was amended in 2011 to increase the cumulative impact zone and special stress areas. Following further consultation, a matrix approach for licensing decisions was included in the policy in December 2011.

3.7 Licensing regulation was amended by the Police Reform and Social Responsibility Act 2011 (PRSRA) and was integrated into the December 2011 SOLP.

3.8 **Press interest:**

Licensing issues in Brighton and Hove have been at the forefront of the media during 2011/13. Press interest includes:

April 2011/March 2012: Press interest included 27 items in the Argus; articles in Gscene, Brighton & Hove News (web-based), Daily Mail, Sunday Telegraph, Morning Advertiser, Watford Observer, Local Government Lawyer, Harpers Wine and Spirit, Noise Bulletin; the Latest; six items on BBC Radio Sussex.

April 2012/January 2013: 17 items in the Argus; four items on BBC Radio Sussex and one on Juice FM; featured on Fake Britain, BBC 1.

As well as the work of the licensing panels, hot topics were: counterfeit alcohol, CCTV in taxis, licence reviews, Sainsbury's appeal, lap dancing clubs, the alcohol debate and the cumulative impact zone

3.9 **Sussex Police and Brighton and Hove Council enforcement priorities are:**

1. Sale of high strength beer and cider, incorrectly labelled beers attracting street drinking in over 20 specific off licences serving street drinkers around the city, particularly: York Place/London Road, Queen's Road and Western Road, Brighton/Hove boundary. Currently, the statement of licensing policy recognises the Level as a high risk area for street drinkers; in future other locations may become legitimate policy considerations for Licensing Committee.
2. Investigation of smuggled, falsely described and illicit alcohol supply in the food chain is a continuing issue for the alcohol programme board. Multiagency work between trading standards, licensing and environmental health officers, Sussex Police Licensing Unit and HM Revenue and Customs is designed to reduce evasion of duty, labelling and food traceability offences, food standards and trademark offences, reducing cheap, illicit alcohol in the market.

3.10 **National matters: LNL and EMRO**

The Early Morning Restriction Order was an uncommenced power within the Licensing Act 2003, reintroduced by the Police Reform and Social Responsibility Act 2011 (PRSRA) at Part 2, section 119.

- 3.11 The Late Night Levy (“the levy”) is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) as part of “Rebalancing the Licensing Act”. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority’s area, as a means of raising a contribution towards the costs of policing the late-night economy. The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas.
- 3.12 The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.
- 3.13 Rationale
When considering whether to introduce a levy, licensing authorities should note that any financial risk (for example lower than expected revenue) rests at a local level and should be fully considered prior to implementation.
- 3.14 Officers are running calculations to estimate potential income in order to advise the Council, Sussex Police or Police and Crime Commissioner (PCC), if requested. The Council’s costs in administration should be recoverable. However, challenges include:
- Complexity and short term service pressure of setting up and collection.
 - Variable factors in predicting income (variations, exemptions, reductions).
 - Competing demands on limited funds: policing, taxi marshals, safe space, street pastors, cleansing.
 - Fairness: The Home Office said the levy would not target individual premises but is applicable over the licensing authority’s administrative area. The levy applies to the whole area of the authority. It cannot be imposed on part of the area only. The local Licensees Association and National Association of Licensed Multiple Retailers opines that LNL will not counter unmanaged home pre-loading and the off trade; possibly aggravating the phenomena. Other main issues include potential increase in antisocial behaviour, unfairness between licensees based on geography and divisive measures that reduce partnership spirit between the trade and responsible authorities. Legal challenge might reasonably be expected.
 - Police contribution is not hypothecated. PCC is under no obligation to reinvest police contribution in the area paying the LNL. The PCC policing strategy would determine resource allocation. The police are not statutorily required to apply the funds to the supply of policing during the late night supply period, or to provide extra policing during that period or to reinvest in the same geographical area as collection. The proportion of the net levy receipts are paid by the licensing authority to the local policing body determined by the licensing authority and must be at least 70% of the net levy receipts. There may be perception of injustice with suburban licensed premises subsidising

policing city centre problems or urban licensed trade subsidising rural Sussex policing strategy.

- 3.15 There is a complex consultation which would have to be followed prior to implementing a late night levy. The LNL does not apply to Temporary Event Notices (TENs), so some premises might take up their full TEN entitlements to avoid the levy. Currently within the cumulative impact area premises appear to heavily rely on TENs. There is concern that the temporary event notice provision and further deregulation measures in the current Home Office consultation are and may further be used to avoid the stricter licensing policies and controls. LNL also does not apply to entertainment or late night refreshment providers.
- 3.16 Some strategic considerations for the council are: economic effects of the levy on operators, on local economy and local employment; the existence of night safe and the BCRP for the reduction of crime and disorder and the cost of and effect on scheme for operators; the current alternative means of reducing crime and disorder (licensing policy, Operation Marble, etc.); fairness of passing the burden to operators rather than their being borne by the community at large; Police capacity to fund crime prevention and fairness of non-town centre operators funding town centre policing.
- 3.17 There are also wider policy considerations concerning the early morning restriction order provision. There are complex evidence requirements, administration and consultation; for instance a hearing would be necessary by Licensing Committee within 30 days of the 42 day consultation ending with a determination within 10 days, which may require full Council resolution. The days, area and periods to be determined along with representations for individual premises to be excluded as not contributing to nuisance or disorder will need considering and determining. Lack of exemption classes may cause calls for exclusions, such as casinos. Consultation analysis indicating an alternative EMRO may require repeating the entire procedure. Justification on proportionality grounds is necessary. So a hearing may cover socio-economic considerations for the city or restrict itself more narrowly to licensing objectives alone and potential legal challenge. Generally the licensing authority will need to balance community benefits.
- 3.18 Work of the Alcohol Programme Board, domain group 2 (availability). The Alcohol Programme Board has developed an action plan which can be found at appendix 5.
- 3.19 The Home office carried out an Alcohol Strategy consultation which sought views on five areas aimed at applying the national alcohol strategy and meeting the Red Tape Challenge to remove burdens from responsible businesses:
1. a ban on multi-buy promotions in shops and off-licences to reduce excessive alcohol consumption
 2. a review of the mandatory licensing conditions, to ensure that they are sufficiently targeting problems such as irresponsible promotions in pubs and clubs (the mandatory code - the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification and small measures)

3. health as a new alcohol licensing objective for cumulative impacts so that licensing authorities can consider alcohol-related health harms when managing the problems relating to the number of premises in their area
4. cutting red tape for responsible businesses to reduce the burden of regulation while maintaining the integrity of the licensing system
5. minimum unit pricing, ensuring for the first time that alcohol can only be sold at a sensible and appropriate price

The Alcohol Programme Board's responses can be found at appendix 6.

3.20 **Deregulating regulated entertainment**

Cutting back red tape

The announcement follows the Department for Culture, Media and Sport consultation in late 2011 which looked at potential deregulation of Schedule 1 of the Licensing Act 2003. The consultation was the Government's response to calls to reduce unnecessary regulation arising from the Licensing Act 2003 for low risk activities.

Proposals include removing the requirement for premises licences, between 8am and 11pm for indoor sport activities for audiences of 1000 or less, plays and dance to audiences of 500 or less, and live and recorded music in alcohol licensed premises for audiences of 500 or less. The measures will also include plays, dance and indoor sport events taking place on community and Local Authority owned premises.

At the present time it is unclear in practice exactly how the changes will be implemented.

In light of these responses the Government now plans to De-regulate Entertainment beginning in April 2013:-

- Plays and the Performance of Dance will be deregulated for audiences of up to 500 between the hours of 08:00 to 23:00.
- Indoor sport will be deregulated for audiences of up to 1000 between 08:00 to 23:00.
- Live music. Live music is already partly deregulated under the Live Music Act since 1st October 2012, with live unamplified music in any location being permissible between 08:00 and 23:00 and live amplified music in on-licensed premises or workplaces for audiences of up to 200 between 08:00 to 23:00. The Government now proposes to raise the Live Music Act audience threshold for permitted music performance from 200 to 500 in on-licensed premises and workplaces.
- Recorded music will be treated in the same way as live music in on-licensed premises between 08:00 to 23:00 (i.e. with an audience limit of 500 and the prospect of a Review if noise nuisance is caused).
- Films will remain regulated, but the Government will consult in 2013 on proposals to examine the possibilities for safe community - focused screenings that maintain child protections.
- Plays, films, indoor sporting events, live and recorded music and performances

of dance, held on their own premises by Local Authorities, hospitals, nurseries and schools (except higher education) will be exempt between 0800 to 2300, with no audience limit.

- Similarly, live and recorded music held on premises owned by the above organisations will be exempt from licensing requirements for audiences up to 500 people.

- Community premises such as church and village halls and community centres will be exempt from licensing requirements for live and recorded music for audiences of up to 500 people.

- Circuses will be exempt from regulation for live and recorded music, plays, dance and indoor sport between 08:00 to 23:00 with no audience restrictions.

- Regulation will remain in place for all activities that exceed the audience limits and timings above. Boxing and wrestling will remain regulated, with the exception of the Olympic sports of Greco-Roman and Free style wrestling. Cage fighting/mixed martial arts will become regulated activities.

Please note that all deregulated entertainment has a cut off time of 23:00 hours.

There is no mention in the Consultation Response on the status of licence conditions for these soon to be deregulated activities.

The response can be found at

<http://www.culture.gov.uk/consultations/9650.aspx>.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 Licensing Strategy Group, finance and legal services.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime

Finance Officer Consulted: Jeff Coates

Date: 05/02/13

Legal Implications:

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

Lawyer Consulted: Rebecca Sidell

Date: 04/02/13

Equalities Implications:

5.3 There are no direct equalities implications.

Sustainability Implications:

- 5.4 There are no direct sustainability implications.

Crime & Disorder Implications:

- 5.5 There are no direct crime and disorder implications.

Risk and Opportunity Management Implications:

- 5.6 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence and so it is crucial for licensing authorities to execute this duty professionally. A significant proportion of city residents are employed in the licensed trade or in industries supporting it. There may be unforeseen socio-economic consequences of decisions affecting the local economy.

Public Health Implications:

- 5.7 The levy and EMROs may reduce the availability of alcohol which is a strand of the alcohol programme board's policy work.

Corporate / Citywide Implications:

- 5.8 The Licensing Act 2003 should provide a better system of regulation for businesses, greater choice for consumers and, where possible, help areas in need of economic regeneration. In the current economic climate, great care is necessary in terms of imposing taxes and regulatory delivery to ensure local business can be sustained and grow.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 None – for information only.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 For information only.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix 1 – Reviews 01.04.11 – to date
2. Appendix 2 – Appeals 01.04.11 – to date
3. Appendix 3 – Temporary Event Notices (TENs) 01.04.11 – to date
4. Appendix 4 – Licensing panels 01.04.11 – to date
5. Appendix 5 – Alcohol Programme Board action plan
6. Appendix 6 – Alcohol Strategy consultation response

Documents in Members' Rooms

1. None.

Background Documents

1. None.

REVIEWS RECEIVED

<u>NAME AND ADDRESS OF PREMISES</u>	<u>DATE OF HEARING</u>	DETERMINATION
Lord of the Wines 43 Upper St James Street Brighton BN2 1JN	20.04.11	Revoked
Best One/Dharni Stores 165-167 Hangleton Way Hove BN3 8EY	11.08.11	Licence revoked
Allsorts News Agents 159 North Street Brighton BN1 1EA	02.09.11	Licence revoked
The Corner Shop 50 Upper North Street Brighton BN1 3FH	02.09.11	Licence suspended for 3 months
QD'z Place 40 Lewes Road Brighton BN2 3HQ	06.10.11	Additional condition
Tescho Ltd Lower Beavendean Post Office 1 Leybourne Parade Brighton BN2 4LW	06.10.11	Licence suspended for 3 months and conditions added.
Sweet N Things 100B Western Road Brighton BN1 2AA	06.12.11	Revoked
Tipple 52 Queens Road Brighton BN1 3XB52	19.12.11	Revoked

Rolyn's News 57A North Road Brighton BN1 1YD	20.12.11	Suspended for 2 months plus amended hours and additional condition.
Park Road News 7 Park Road Brighton BN1 9AA	14.02.12	Revoked
K & A News 5 St Georges Road Brighton BN2 1EB	23.10.12	Licence suspended for 8 weeks, change of DPS, additional personal licence holder, documented training, and additional conditions on licence.
Vavavoom 31 Old Steine Brighton BN1 1EL	11.02.13	

Appendix 2

Appeals

Premises	Appellant	PTR	Hearing	Outcome
Sainsbury's Local North Street	Sainsbury's		6 th and 9 th May 20 th and 21 st June 2011	Appeal dismissed with costs
Sainsbury's Local 13 – 15 Old Steine	Sainsbury's	23 rd May 2011		Appeal withdrawn by Sainsbury's who undertook not to submit another application for 12 months from the 20 th May 2011
Allsorts Newsagents 159 North Street Brighton	Licence Holder Mr Abadi	10.10.11	22 & 23 February 2012	Licensing panel decision to revoke upheld; appeal dismissed with costs to the Council.
Dharni Stores/Food and Beverage 4U, 165 Hangleton Way Hove	Licence Holder Antonello Cavallaro/Food and Beverage 4U Ltd	10.10.11	5 th December	Appeal was remitted back for re-hearing by licensing panel. Panel issued "yellow card".
Sweets N Things, 100B Western Road, Brighton	Licence Holder	13.02.12	01.05.12	Decision to revoke the licence upheld. Appeal dismissed with costs to the Council.
Tipple 52 Queens Road Brighton	Licence Holder	13.02.12	04.05.12	Consent order replaced revocation with 3 month suspension.
Marwood Café, 52 Ship Street, Brighton	Premises	18.10.12		Settled by Consent. Licence granted. Council to pay Appellant's costs of £1,200.00

Temporary Event Notices

Year	No of TENS applied for	No of TENS granted
2009/10	849	847
2010/11	858	
2011/12	946	51 withdrawn
2012/13	768 to 31.12.12	33 refused, 18 withdrawn

Panel hearings

Year		
2009/10	58 cases heard	45 panel hearings
2010/11	53 cases heard	42 panel hearings
2011/12	38 cases heard	34 panel hearings
2012/13	35 cases heard to January	31 panel hearings to January

Alcohol Programme Board
SDG 2 : Availability

Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
1. Key Priorities 2012/13						
National Licensing Changes						
1.1 Late Night Levy	<ul style="list-style-type: none"> § Reduced late night opening § Funding stream for taxi marshalls and Safe Space § Revenue for Sussex Police 	<ul style="list-style-type: none"> § Monitoring and response to Home Office consultation § Report to Licensing Committee § Anticipation of regulations § Engagement of Council, Sussex Police and PCC § Consideration within Licensing Strategy Group (1.00am commencement) 	<ul style="list-style-type: none"> § Commencement October 2012 § Election of PCC in Nov 2012 § PCC police strategy 	<ul style="list-style-type: none"> § Theoretically collection self funding § Concern over complexity of collection and sufficient funding for projects § Potential cost to local economy 	Head of Regulatory Services; Sussex Police; PCC; Licensing Committee	<ul style="list-style-type: none"> § Changes to late night authorisations § Revenue realised § Funding of Taxi Marshalls and Safe Space (Income may not cover. LSG feel 1.00am will return pubs to earlier

		<p>t for late night authorisation and hotel exemption?)</p> <p>§ Calculation of revenue for different late night authorisations + exemptions</p>				closing times)
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
1.2 Early Morning Restriction Orders	§ Reduced late night opening in locality	<p>§ Monitoring and response to Home Office consultation</p> <p>§ Report to Committee</p> <p>§ Anticipation of regulations</p> <p>§ Consideration within Licensing Strategy Group (As a measure unlikely to counter general</p>	§ Commencement October 2012	§ Potential cost to local business (lost revenue)	Head of Regulatory Services; PCC; Residents' Associations; Licensing Committee	§ Late night opening hours reduced

		disturbance in city centre)				
2. Business as Usual Reducing Illegal Alcohol Sales						
2.1 Investigation of smuggled, falsely described and illicit alcohol supply	Reduction of duty, labelling, food standards and trademark offences, reducing cheap illicit alcohol in the market.	Intelligence led investigations, licence reviews and formal action All food enforcement staff checking wine, etc. provenance as part of inspection programme. Intelligence sharing: Sussex Police, HMRC, TS, EH, licensing.	2012/13 Business Plan (Trading Standards)	Fair Trading Officer (£25k) Part of programme (10 food safety officers inspecting 1,200/3,300 FBOs pa	§ Trading Standards Officers § EHOs § Sussex Police Licensing Unit § Licensing Panels	§ Reviews and formal action § 13 Reviews and 1 prosecution since 1.4.10 § HMRC raid
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
2.2 Proxy purchase and underage sale investigations and test purchase operations	Reduction of age restricted sales offences	<u>2012/13, 1st quarter</u> 13 premises – test purchase operations; 40 business support visits	2012/13 Business Plan (Trading Standards)	Fair Trading Officer (£25k) Unit cost/TP operation = £110	§ Trading Standards Officers § Sussex Police Licensing Unit	§ Review and formal action § 5 Reviews in 2011/12 (3 also concerned counterfeit)

					§ Licensing Panels	
2.3 Street drinking	Reduce sale of high strength lager and cider and street drinking.	Sale of high strength beer and cider, incorrectly labelled beers attracting street drinking in over 20 specific off licences serving street drinkers around the city, particularly: York Place/London Road, Queen's Road and Western Road, Brighton/Hove boundary. Policy currently recognises Level.	2013/14	Fair trading officer with Sussex Police Licensing Unit	§ Trading Standards Officers § Sussex Police Licensing Unit	Informal action to convince off licence proprietors. Potential new policy considerations.
2.4 Business Support Training	Reduction of supply of alcohol to children and young people	<u>2012/13, 1st quarter</u> 25 businesses (65 staff)	2012/13 Business Plan (Trading Standards)	Business charged £40 (2012/13 budget)	Trading Standards Officers	Businesses trained
3. Inclusion and engagement						

Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
3.1 Improve community involvement in licensing decisions	Increase representations on applications. More appropriate businesses serving communities	Presentation at LATS, weekly lists to Ward Councillors. Changes to website (PRSR). Public register published and advertised. Advice on representations. 2012/13 :	Continuous	Within Licensing core budget	Head of Regulatory Services	Presentations to LATs and Residents' Associations
		Moulsecomb LAT. EBRA, East Street LAT, CMPCA, BARG, Central Hove, Licensing Strategy Group				
3.2 Strengthen links with the local licensed trade	Increased understanding of policy, applications appropriate to community and better	Presentations at business association meetings. <u>2012/13</u> Village Pubwatch Tourism Alliance Destination	ongoing	Within Licensing core budget	Head of Regulatory Services	Presentations to business associations

	expectation for applicants. Inappropriate applications deferred.	Management Forum				
4. Government Alcohol Strategy						
4.1 <u>Minimum Unit Pricing</u> Likely Government consultation on 45p	Can beer (1.8 units) = 81p 1L spirit : £18 (40% abv) Scotland (50p MUP) anticipates 50 fewer deaths in year 1, 300 fewer deaths in year 10	Home Office consultation on new licensing measures to cut crime, save lives and reduce alcohol consumption. There's a 10-week consultation period on: 1. a ban on multi-buy promotions 2. a review of the mandatory licensing conditions 3. a minimum	APB response to consultation and representation on two Home Office technical groups – health as alcohol licensing objective for cumulative impact and review of mandatory code.	None Cost to local economy? (increased revenue?)	Head of Regulatory Services	Alcohol related hospital admissions. National reduction in consumption measured in litres of alcohol.

		<p>unit price of 45p</p> <p>4. a new health-related objective for alcohol licensing</p> <p>5. cutting red tape for responsible businesses</p>				
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
<p>4.2 <u>Licensing</u></p> <p>§ Health bodies as responsible authorities</p> <p>§ Licensing Authority as responsible authority</p> <p>§ Lower evidence test. Removal of vicinity test</p> <p>§ Child</p>	Reduced new outlets	<p>Policy and processes amended</p> <p>Liaison with DPH.</p> <p>Simplification of weekly application list.</p>	Current	None	Head of Regulatory Services	Trends in licensed premises numbers

protection – increased fine § Zoning permitted § CIZ/ Public health connection						
4.3 <u>Taxation</u> Escalator Reduced duty rate	General duty rates 2% over inflation 2014/15 <2.8% ABV beer					
Activity Area	Impact	Current Activity	Time Frame	Cost Impact	Leads	Identified KPIs and Progress
New tax	High strength beers (> 7.5% ABV)					
5. Responsibility Deal/Existing Licensing Enforcement						
5.1 Mandatory code	§ Designated premises supervisor	Under review (Home Office) Represented on	Risk based inspection programme	Existing core licensing budget	Licensing Officers	Inspection numbers

	<ul style="list-style-type: none"> § Personal licence holder authorisation § Irresponsible promotions § Age verification § Smaller measures (½pint beer, 25ml spirit, 125ml wine) 	Home Office technical group				
5.2 Health information on labels	<ul style="list-style-type: none"> Unit content CMO guidelines Pregnancy warning Drinkaware (optional) Responsibility statement (optional) 	Currently voluntary code (Portman Group)				

Discharged Activities – Achievements 2011/12

Activity Area	Impact	Subsequent Activity	Leads	KPIs
6. Licensing Policy				
6.1 Cumulative Impact Zone expanded January 2012	Special policy creating rebuttable presumption for refusal	Application to Licensing Panel hearings where representations made within CIZ	Licensing Officers and Members	Policy applies to 1.5% of administrative area (city centre). Outcome of applications within CIZ.
6.2 Statement of Licensing Policy Matrix policy	Zoned approach to applications	Application to Licensing Panel hearings where representations made within CIZ	Licensing Officers and Members	Outcome of applications within zones
7. National Alcohol Strategy				
7.1 Amended licensing procedures	Licensing and Public Health are responsible authorities. Increased weight of Police	Less permissive regime	Licensing Officers	Public Health representations. Licensing Authority representations.

	representations. Lower evidence threshold.			
Activity Area	Impact	Subsequent Activity	Leads	KPIs
7.2 Amended Statement of Licensing Policy	New responsible authorities. Reinforces recent policy changes.	Alcohol strategy appears supportive to hypothesis that concentrations of alcohol outlets in city centres are detrimental to health	Licensing Lawyer Licensing Officers Licensing Panel	Licensing Panel determinations
8. Licensing Councillor Expertise				
8.1 Officer training Licensing Councillors. External training. Member visits.	Increased Licensing Councillor expertise, leading to proportionate decisions.	Continuous Member development and induction for new Licensing Councillors	Head of Regulatory Services Licensing Lawyer	Trained Councillors

Home Office Alcohol Strategy Consultation

Draft responses to questions

Question 1: Do you agree that this minimum unit price (MUP) level would achieve these aims?

Yes

Reduction of excessive consumption by hazardous and harmful drinkers. Making alcohol less affordable is the most effective way of reducing alcohol related harm (NICE).

Question 2: Should other factors or evidence be considered when setting a minimum price unit for alcohol?

Yes

Regular review. Review of alcohol duties.

Question 3: How do you think the level of minimum unit price set by the Government should be adjusted over time?

The minimum unit price should be reviewed after a set period.

Question 4: The aim of minimum unit pricing is to reduce the consumption of harmful and hazardous drinkers, while minimising the impact on responsible drinkers. Do you think that there are any other people, organisations or groups that could be particularly affected by a minimum unit price for alcohol?

Yes

Binge Drinkers; Street Community; Young People; Limited Income

Question 5: Do you think there should be a ban on multi-buy promotions involving alcohol in the off trade?

Yes – some consideration should be given to promoting multi-buys of lower ABV drinks.

Question 6: Are there any further offers which should be included in a ban on multi-buy promotions?

Yes

Offers should comply with M.U.P.
½ and ⅓ price offers.

Question 7: Should other factors or evidence be considered when considering a ban on multi-buy promotions?

None?

Question 8: The aim of a ban on multi-buy promotions is to stop promotions that encourage people to buy more than they otherwise would, helping people to be aware of how much they drink, and to tackle irresponsible alcohol sales. Do you think that there are any other groups that could be particularly affected by a ban on multi-buy promotions?

Yes

Most supermarket customers who shop for people who drink alcohol.

Question 9: Do you think each of the mandatory licensing conditions is effective in promoting the licensing objectives (crime prevention / public safety / public nuisance / prevention of children from harm)?

Irresponsible promotions	Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance
Dispensing alcohol directly Into the mouth	Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance
Mandatory provision of free tap water	Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance
Age verification policy	Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of harm from children
Mandatory provision of small Measures	Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance

Question 10: Do you think that the mandatory licensing conditions do enough to target irresponsible promotions in pubs and clubs?

No

- § The limitations on consumption leading to "a significant risk to crime and disorder" should be rescinded.
- § Reference to "at a table meal" should be removed as an unnecessary exemption. There's no need to restrict to "unlimited or

unspecified quantities of alcohol" – limited, specified discounted alcohol presents a risk.

New conditions should be considered:

- § A prohibition on commercially organised pub crawls (e.g. Carnage).
- § To address the low enforcement levels concerning sale of alcohol to drunk customers, a new condition requiring a drunkenness prevention policy should be required.

Question 11: Are there any other issues related to the licensing objectives which could be tackled through a mandatory licensing condition?

Yes

Prohibition on commercially organised pub crawls.

Question 12: Do you think the current approach, with five mandatory licensing conditions applying to the on-trade and only one of those to the off-trade, is appropriate?

No

The off trade should be equally regulated, but the ban on multi-buy promotion in the off-trade helps to address. Some conditions, like small measures and drinking water, seem inappropriate.

Question 13: What sources of evidence on alcohol-related health harm could be used to support the introduction of a cumulative impact policy (CIP) if it were possible for a CIP to include consideration of health?

Joint Strategic Needs Assessment
Report of Director of Public Health

- § Deaths specifically from alcohol and chronic liver disease
- § Alcohol related deaths
- § Alcohol specific and alcohol hospital admissions
- § Alcohol specific hospital admissions (under 18)
- § Estimates of drinking above recommended levels and binge drinking
- § Alcohol related A&E attendances
- § Ambulance call-outs (alcohol related)

Question 14: Do you think any aspects of the current cumulative impact policy process would need to be amended to allow consideration of data on alcohol-related health harms?

Yes

- § Wider evidence base

- § Trends in health indicators
- § S5(3) to include DPH.
- § Policy concerns to include protection of public health

Question 15: What impact do you think allowing consideration of data on alcohol-related health harms when introducing a cumulative impact policy would have if it were used in your local area? Please provide evidence to support your response.

In Brighton & Hove, evidence of the Director of Public Health was considered along with Sussex Police and City Environmental Health when considering accumulative impact policy in June 2011. The area would be unlikely to change if alcohol related health harms were a legitimate consideration. The DPH's influence would increase and evidence strengthen as no longer limited to protection of children from harm, crime prevention and other extant licensing objectives.

Question 16: Should special provision to reduce the burdens on ancillary sellers be limited to specific types of business, and/or be available to all types of business providing they met key criteria for limited or incidental sales?

- A The provision should be limited to a specific list of certain
No
types of business and the kinds of sales they make
(see para 9.5)
- B The provision should be available to all businesses No
providing they meet certain qualification criteria to be an
ancillary seller
(see para 9.6)
- C The provision should be available to both a specific list of
No
premises and more widely to organisations meeting the
prescribed definition of an ancillary seller, that is, both
options A and B.

Question 17: If special provision to reduce licensing burdens on ancillary sellers were to include a list of certain types of premises, do you think it should apply to the following:

- A Accommodation providers, providing alcohol alongside
No
Accommodation as part of the contract.
- B Hair and beauty salons, providing alcohol alongside a No
hair or beauty treatment.
- C Florists, providing alcohol alongside the purchase of flowers.
No

- D Cultural organisations, such as theatres, cinemas and museums,
No
providing alcohol alongside cultural events as part of the entry ticket.
- E Regular charitable events, providing alcohol as part of the
No
wider occasion.

Question 18: Do you have any suggestions for other types of businesses to which such special provision could apply without impacting adversely on one or more of the licensing objectives?

No

Question 19: The aim of a new 'ancillary seller' status is to reduce burdens on businesses where the sale of alcohol is only a small part of their business and occurs alongside the provision of a wider product or service, while minimising loopholes for irresponsible businesses and maintaining the effectiveness of enforcement. Do you think that the qualification criteria proposed meet this aim?

Yes

This policy aim (reducing burdens) is difficult to reconcile with tackling alcohol related harms, particularly health harms. NICE advised that reducing the number of outlets is an effective way of reducing alcohol related harm. Ubiquitous availability of alcohol reinforces the English drinking culture. The temporary event notice process is already used to avoid cumulative impact policy restrictions; allowing ancillary sales would increase availability, consumption and health harms.

Question 20: Do you think that these proposals would significantly reduce the burdens on ancillary sellers?

- A Allow premises making ancillary sales to request in their
Yes
premises licence application that the requirement for a personal licence holder be removed.
- B Introduce a new, light-touch form of authorisation for
Yes
premises making ancillary sales – an 'ASN' but retain the need for a personal licence holder.
- C Introduce a new, light touch form of authorisation for
Yes
premises making ancillary sales – an ASN – with no requirement for a personal licence holder.

Question 21: Do you think that the following proposals would impact adversely on one or more of the licensing objectives?

- A Allow premises making ancillary sales to request in their Yes premises licence application that the requirement for a personal licence holder be removed.
- B Introduce a new, light-touch form of authorisation for Yes premises making ancillary sales – an ‘ASN’ but retain the need for a personal licence holder.
- C Introduce a new, light touch form of authorisation for Yes premises making ancillary sales – an ASN – with no requirement for a personal licence holder.

Question 22: What other issues or options do you think should be considered when taking forward proposals for a lighter touch authorisation?

ASN would negate measures to reduce availability: CIP, LNL, EMRO, etc. Allowing alcohol to be interwoven into every walk of everyday life creates a culture that conflicts with the Government’s Alcohol Strategy which, in turn, seeks to change individual drinking behaviours and make informed choices about healthier and responsible drinking, discouraging excessive drinking.

Question 23: Do you agree that licensing authorities should have the power to allow organisers of community events involving licensable activities to notify them through a locally determined notification process?

No

Question 24: What impact do you think a locally determined notification would have on organisers of community events?

- A Reduce the burden Yes
- B Increase the burden No

Question 25: Should the number of TENs which can be given in respect of individual premises be increased?

No

Question 26: If yes, please indicate which option you would prefer:

N/A

Question 27: Do you think that licensing authorities should have local discretion around late night refreshment in each of the following ways:

- A Determining that premises in certain areas are exempt No
- B Determining that certain premises types are exempt No
in their local area

Question 28: Do you agree that motorway service areas should receive a nationally prescribed exemption from regulations for the provision of late night refreshment?

- A Motorway service areas should receive a nationally
Don't know
prescribed exemption from regulations for the
provision of late night refreshment

Question 29: Please describe any other types of premises to which you think a nationally prescribed exemption should apply.

None

Question 30: Do you agree with each of the following proposals:

- A Remove requirements to advertise licensing applications in local newspapers No
- B Remove the centrally imposed prohibition on the sale of alcohol at MSAs for the on and off-trade No
- C Remove the centrally imposed prohibition on the sale of alcohol at MSAs but only in respect of overnight accommodation – “lodges” No
- D Remove or simplify requirements to renew Personal licences under the 2003 Act No

Question 31: Do you think that each of the following would reduce the overall burdens on businesses?

- A Remove requirements to advertise licensing
Yes
applications in local newspapers
- B Remove the centrally imposed prohibition on the sale of alcohol at MSAs for the on and off-trade Yes
- C Remove the centrally imposed prohibition on the sale of alcohol at MSAs but only in respect of overnight accommodation – “lodges” Yes
- D Remove or simplify requirements to renew Personal licences under the 2003 Act Yes

Question 32: Do you think that the following measures would impact adversely on one or more of the licensing objectives?

A	Remove requirements to advertise licensing applications in local newspapers	Yes
B	Remove the centrally imposed prohibition on the sale of alcohol at MSAs for the on and off-trade	Yes
C	Remove the centrally imposed prohibition on the sale of alcohol at MSAs but only in respect of overnight accommodation – “lodges”	Yes
D	Remove or simplify requirements to renew Personal licences under the 2003 Act	Yes

Question 33: In addition to the suggestions outlined above, what other sections of or processes under the 2003 Act could in your view be removed or simplified in order to impact favourably on businesses without undermining the statutory licensing objectives or significantly increasing burdens on licensing authorities?

None. The temporary event notice regime should be strengthened. TENs should not be permitted in commercial licensed premises in cumulative impact zones.

Question 34: Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposals?

A	Minimum unit pricing	Don't know
B	Multi-buy promotions	Don't know
C	Health as a licensing objective for cumulative Impact	Don't know
D	Ancillary sales of alcohol	Don't know
E	Temporary Event Notices	Don't know
F	Late night refreshment	Don't know
G	Removing the duty to advertise licence applications in a local newspaper	Don't know
H	Sales of alcohol at motorway service stations	Don't know
I	Personal licences	Don't know

Question 35: Do you have any comments on the methodologies or assumptions used in the impact assessments? If so please detail them, referencing clearly the impact assessment and page to which you refer.

Yes

There is a fundamental flaw in reconciling two policy objectives:

Cutting red tape (freeing up businesses)

and

Cutting alcohol fuelled crime and anti social behaviour (reducing alcohol availability).

LICENSING COMMITTEE (LICENSING ACT 2003)

Agenda Item 24

Brighton & Hove City Council

Subject:	Gambling Licensing Authority Review		
Date of Meeting:	14 March 2013		
Report of:	Head of Planning and Public Protection		
Contact Officer:	Name:	Jim Whitelegg	Tel: 29-2438
	Email:	Jim.whitelegg@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report sets out recent gambling licensing issues over the past year for Brighton & Hove City Council.
- Licensing Authority Functions
 - Extending the range of regulations covered by Primary Authority - Age-restricted sales of gambling
 - Co-regulation and intelligence sharing between Licensing Authority, Gambling Commission and Police
 - Betting Shops – premises licence trends
 - Local trends
- 1.2. Members are apprised of local and national issues.

2. RECOMMENDATIONS:

- 2.1 That members note this report.
- 2.2 That officers should continue to monitor trends of applications and illegal activity to inform future policy.
- 2.3 That officers report to BRDO (Better Regulation Delivery Office) that proposed changes to test purchasing and regulation are unnecessary and inappropriate.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 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 Brighton & Hove currently issues premises licences for: 4 casinos, 4 bingo halls, 33 Adult Gaming Centres, 5 Family Entertainment Centres, 2 betting tracks, 58

betting shops and 243 gaming machines (amusements with prizes machines in betting shops and alcohol licensed premises such as pubs, clubs and casinos).

3.1.3 When Brighton & Hove took responsibility for Gambling in 2007, there were 4 casinos, 8 bingo halls, 49 Adult Gaming Centres, 8 Family Entertainment Centres, 2 betting tracks, 71 betting shops and 222 gaming machines (amusements with prizes machines in betting shops and alcohol licensed premises such as pubs, clubs and casinos).

3.2 Extending the range of regulations covered by Primary Authority - Age-restricted sales of gambling

3.2.1 The Enterprise and Regulatory Reform (ERR) Bill would implement the Primary Authority provisions for age-restricted sales of gambling. Royal assent is expected later in 2013. The primary authority partnership arrangements allow for businesses operating across Council boundaries to partner single local authorities for trading standards, licensing and environmental health advice. The purpose is to ensure consistent assured advice. Enforcing authorities must have regard to primary authority advice and inspection plans. The BRDO resolve disputes. Current scope is food hygiene, trading standards, health & safety but the ERR Bill proposes expansion. Primary Authority applies to some areas of regulation including age-restricted sales legislation of tobacco products and fireworks. It is proposed to expand scope to private sector housing standards, sunbed tanning, Welsh carrier bag regulation and age restricted sales of gambling.

3.2.2 Businesses will be able to access consistent advice on age-verification procedures. They will also have the option of developing an inspection plan to coordinate test purchasing and deliver comprehensive performance feedback. Primary Authority does not restrict local authorities from responding to complaints and the Police operate entirely outside of the scheme.

3.2.3 The BRDO has published The Code of Practice for Age Restricted Products, following collaboration with business and regulators in support of the Age Restricted Products and Services Framework.

3.2.4 The Code, which is non-statutory, is applicable to all local regulatory activities undertaken in England and Wales. It covers all products and services for which statutory age restrictions are in place, and all relevant compliance and enforcement activities, whether in relation to premises or online supply.

3.2.5 The Code contains sections on Test Purchasing, guidance to businesses and the welfare of young people amongst others.

3.2.6 The advice from the Gambling Commission regarding test purchasing is to encourage operators to conduct their own test purchasing and share the data with the Commission and Licensing Authorities.

3.2.7 Locally no test purchase operations have been undertaken. There have been no recent complaints or concerns about underage gambling, for instance under 18s using cat B & C machines in pubs or Adult Gaming Centres (AGCs). Enforcement should be proportionate and informed by local intelligence.

3.3 Betting Shops

- 3.3.1 The Gambling Act 2005 established a dual tier system of regulation with local authorities granting betting and other premises licences once an operator had obtained an operating licence from the Gambling Commission. Local authorities are responsible for deciding whether or not a betting premises licence should be granted to established operators (this decision is separately made from the planning process).
- 3.3.2 Under the previous gambling regime, betting shops were regulated by the local magistrates court and a betting operator had to prove a demand for betting in a location before a new premises was granted. This 'demand test' no longer applies and reflects the principles of the Gambling Act as a permissive piece of legislation, where local authorities should aim to permit, enabling more market liberalisation.
- 3.3.3 A betting premises licence application is advertised by a notice on the premises and within a local newspaper, with a consultation process lasting 28 days. If no valid objections or representations are received within this period the application is deemed granted at the end of the 28 days.
- 3.3.4 Representations cannot be made on moral or competition grounds, but local residents and businesses can make representations based on the licensing objectives (crime/disorder, fairness to customers and protecting children and vulnerable persons). Guidance issued by the Gambling Commission gives examples of possible representations that would not likely be relevant, e.g. already too many gambling premises (unless linked to crime and disorder), fire safety and traffic congestion.
- 3.3.5 Three recent applications were submitted in December 2012. No objections were received and hence the licences were granted in January 2013:
- **Paddy Power**, 9 George Street, Hove BN3 3YA (currently a bar but the intention is to turn it into a betting shop)
 - **Coral**, 103 George Street, Hove (previously a bank)
 - **Coral**, 56 Western Rd, Brighton
- 3.3.6 Across the City there has been an increase of 9 betting shops in the last year, taking the total to 58. This is still less than the 71 which were licensed by the magistrates before the local authority took over responsibility in 2007. Proliferation alone is not a grounds for refusal. Licensing decisions must be grounded in one of the three objectives: criminal incursion, consumer protection and protection of vulnerable. Suitable use of buildings and land is a planning matter.

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

- 3.4.1 The Licensing Team work closely with both the Gambling Commission and the Police, carrying out joint inspections of gambling premises as required. This includes joint investigations into illegal gambling, for example in the last year we

have investigated allegations of illegal gaming (i.e. charging for gaming without the relevant permit) in Members Clubs and residential premises. Evidence of such gaming was identified in one particular Club who were given advice and a warning notice of the limits on stakes and prizes. This Club continues to be monitored as part of a joint operation with the Gambling Commission. We continue to receive intelligence of illegal gaming and liaise with the Gambling Commission and the Police.

3.5 Casinos

3.5.1 There are four current casino licences in Brighton & Hove, three of which are currently operating, Mint Casino in Preston St, Grosvenor Seafront Casino in Grand Junction Road and Rendezvous Casino in the Marina. What was the Grosvenor 4th Avenue Hove Casino licence is current but they are not operating, until such times as the economy picks up and they find a viable alternative venue within the City.

3.5.2 Under the 1968 Gambling Act there were permitted areas for casinos and a licence holder could apply for a casino if they could show a market/need for a casino. Under the Gambling Act 2005, local authorities who were permitted areas could apply for permission to issue casino licences. If they were unsuccessful then there was a freeze on the number of premises they had up till that date when the Act came in. This was the case with Brighton and Hove and as such the number is frozen at four. The Council decided not to make a “no casino” resolution but made arrangements for a new style small or large casino to be permitted in the city if an operator applied.

3.5.3 Nationally, a number of local authorities were given permission to issue new casinos under the Gambling Act 2005. However, with the exception of Newham, all of them have plans on hold due to the economic climate and lack of demand. Newham has the only new casino (large 27/04/13) in the country, opened in the new Westfield shopping centre.

3.6 **Adult Gaming Centres (AGC)** - slot machines, amusement with prizes including cat B machines. Last year an AGC licence was revoked for non-payment of fees. The business owners who operated throughout Sussex have been prosecuted and found guilty by the HMRC for non-payment of duty on gaming machines. They have been sentenced and their assets have been seized for being proceeds of crime.

3.7 Exempt gaming in Clubs and Pubs

Exempt gaming is equal chance gaming generally permissible in any club or alcohol licensed premises. Such gaming should be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State (e.g. £5 per person with a maximum prize of £100).

Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

3.8 Automatic entitlement to two machines in Clubs and Pubs

The Act provides an automatic entitlement to alcohol licence holders to make available two gaming machines (of category C or D) for use in alcohol-licensed premises.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 Finance and legal services.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted: Jeff Coates

Date: 07/02/2013

Legal Implications:

5.2 Legal implications within the body of this report.
Local authorities are licensing authorities for gambling premises licensing, permits (alcohol-licensed gaming machines, FECs, prize gaming and Clubs) and small society lotteries.

Lawyer Consulted: Rebecca Sidell

Date: 19.02.13

Equalities Implications:

5.3 There are no direct equalities implications. A key objective of gambling regulation is to protect children and the vulnerable from being harmed or exploited. Society lotteries are conducted for charitable purposes, cultural activities and non-commercial purposes.

Sustainability Implications:

5.4 There are no direct sustainability implications.

Crime & Disorder Implications:

5.5 There are no direct crime implications. Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime is one of the three licensing objectives. The Council has a duty to have regard to the need to prevent crime and disorder in the city in exercising this and other duties (Crime & Disorder Act 1998 s17).

Risk and Opportunity Management Implications:

5.6 None.

Public Health Implications:

5.7 None. Public health is not a gambling licensing objective.

Corporate / Citywide Implications:

5.8 There are substantial gaming and betting businesses and charitable activities regulated by the Council.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 The duties of the licensing authority are mandatory.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 To inform members.

SUPPORTING DOCUMENTATION

Appendices: None

Documents in Members' Rooms: None

Background Documents: None

LICENSING COMMITTEE (LICENSING ACT 2003)

Agenda Item 26

Brighton & Hove City Council

Subject:	Arrangements for Licensing Panels		
Date of Meeting:	14 March 2013		
Report of:	Head of Legal & Democratic Services		
Contact Officer:	Name:	Ross Keatley	Tel: 29-1064
	Email:	ross.keatley@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report proposes changes to the current arrangements for the organisation and administration of Licensing Panels; with a view to creating a fairer and more efficient process that can be used in future years to better meet the demands of Licensing within the authority.
- 1.2 Information is given on the contextual background; the current process; suggestions for improvements and an outline of the new proposed arrangements.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the current arrangements, and the problems these have caused in the administration of Licensing Panels.
- 2.2 That the Committee agrees to proceed with the new arrangements outlined in paragraph 3.8 for the 2013/14 municipal year with the appointment of Sub-Committee taking place at the first meeting of the Licensing Committee.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Licensing Panels act as the day to day decision makers for the hearing of Licensing applications referred to Committee and the Council has a statutory duty to determine Licensing Applications within fixed deadlines. Although the Panels are regulatory in nature the current political makeup of the wider Committee is 6 Green, 5 Conservative and 4 Labour & Co-Operative.
- 3.2 Whilst the Licensing Committee sets the policy and over-arching strategy for licensing in the authority the Licensing Panels are responsibility for the 'bread and butter' work of the Committee. The following tables illustrate the breakdown of work between the Licensing Committee and the Licensing Panels, and demonstrate that the vast majority of work is undertaken by the Licensing Panels.

Municipal Year 2011/12:

	Number of Committees/ Panels	Number of cancelled Committees/ Panels	Total Duration of Committees/ Panels	Numbers of reports/ applications considered
Licensing Committees	3	0	8.6 hrs	18
Licensing Panels	44	9	117.2 hrs	58

Municipal Year 2012/13 (to 31 Jan 2013):

	Number of Committees/ Panels	Number of cancelled Committees/ Panels	Total Duration of Committees/ Panels	Numbers of reports/ applications considered
Licensing Committees	2	0	2.7 hrs	9
Licensing Panels	22	14	54.3 hrs	45

- 3.3 In this context - and given the statutory nature of Licensing Panels – it is important to ensure the arrangements are able to cope with the demands of the work, and ensure the proper and fair management of the business across the Committee.

Current Process

- 3.4 The current administrative support for the arrangement of Licensing Panels is undertaken by Democratic Services in conjunction with Licensing Officers.
- 3.5 Licensing Panels are currently arranged on an ad hoc basis; the Democratic Services Team are notified by the Licensing Team of the need to call a Panel; and the deadline for the application to be heard by. A formal request to the full Licensing Committee membership is then sent by email giving the proposed time and date of the meeting. Members then reply by email to confirm if they are able to attend the Panel; and when three Members have been confirmed a second email is sent to the whole Committee confirming the attendees, the time and date of the meeting and to notify that no additional Members are required on the given date.

3.6 This current system presents a series of problems and issues for the arrangement of Licensing Panels:

- There are often difficulties with Members coming forward to agree to sit on Panels which can put pressure on the authority's statutory obligation to hear applications within set deadlines. This also impacts upon the amount of work required to set up Licensing Panels, and considerable time is often given over to contacting Members directly to confirm if they are available; this often takes the form of calling each Member of the Committee individually in turn, which can result in a number of repeat calls. Whilst no Panels have been cancelled due to unavailability of Members an increased amount of pressure is often placed on Members to sit on Panels, and this places additional stress and uncertainty around the process which is already constrained by statutory deadlines.
- The ad hoc nature of arranging Panels often creates Panels with heavy agendas; for example Temporary Events Notices (TENs) are often added to agendas at very short notice; this can create additional demand for Members. Furthermore the nature of Licensing within the authority presents a steady and constant stream of work to be managed.
- The ad hoc nature of arranging Panels often makes the formal agreement of the minutes more difficult as these are currently agreed by the Chair of the Panel in consultation with the relevant clerk to the Panel; in practise this often creates a backlog of minutes which are awaiting formal agreement with Members.
- There is a clear disparity between the numbers of Panels that Members agree to sit on; some taking on much larger numbers than others. The current process does not seem to promote fairness or an equal sharing of the 'bread and butter' work of the Licensing Committee across the whole membership.
- The current arrangements do not promote a culture of learning and ongoing improvement, such that as some Members do not routinely sit on Panels they are not able to gain additional practical experience, or learn from their more experienced colleagues on the Licensing Committee.

3.7 The table below sets out Members attendance at Licensing Panels.

Municipal Year 2011/12:

	Numbers of Panels attended	Numbers of agreed Panels (subsequently cancelled)	Total attended and agreed – 56 Total
Cllr. Deane (Chair)	25	3	28
Cllr. Simson	22	2	24
Cllr. Sykes (D. Chair)	19	-	19
Cllr. Hyde	16	1	17
Cllr. Marsh	11	3	14
Cllr. Gilbey	10	3	13
Cllr. Cobb	6	4	10
Cllr. Rufus	5	1	6
Cllr. West	5	-	5
Cllr. C Theobald	3	1	4
Cllr. Pidgeon	4	-	4
Cllr. Duncan	2	1	3
Cllr. Lepper	2	-	2
Cllr. A Kitcat	1	-	1
Cllr. Turton	1	-	1

Municipal Year 2012/13 (to 31 Jan 2013):

	Numbers of Panels attended	Numbers of agreed Panels (subsequently cancelled)	Total attended and agreed – 36 total
Cllr. Simson	13	7	20
Cllr. Duncan (Chair)	14	4	18
Cllr. Marsh	8	5	13
Cllr. Hawtree	7	5	12
Cllr. Deane (D. Chair)	7	4	11
Cllr. Buckley	4	2	6
Cllr. Hyde	4	-	4
Cllr. Gilbey	4	-	4
Cllr. Rufus	3	-	3
Cllr. Cobb	1	2	3
Cllr. Lepper	-	1	1
Cllr. C. Theobald	-	1	1
Cllr. Jones	1	-	1
Cllr. Pidgeon	-	1	1
Cllr. Hamilton (since Oct 2012)	0	-	0
Cllr. Turton (resigned Sep 2012)	0	-	0

Proposed Changes:

3.8 The following proposals are suggested to improve the arrangements for Licensing Panels:

- The creation of 5 fixed membership Panels (Panel A, Panel B, Panel C, Panel D & Panel E) consisting of 3 members. The formal appointment of the Panels would be made at the first meeting of the Licensing Committee (June 2013) following Annual Council (May 2013).
- An agreed schedule of meetings will drawn up with a Panel meeting once per week on rota basis e.g. Week 1 Panel A; Week 2 Panel B, Week 3 Panel C etc. Members will be consulted in advance as to their general availability across the year (i.e. preferred days of the week and times) and all efforts will be made to co-ordinate this as far as possible.
- Members will be notified in advance of the agreed dates of their respective Panel, and be able to see all the agreed dates for the municipal year. They will be able to indicate at this point if they are unable to attend agreed dates, and the Democratic Services Team can seek a substitute for the date.
- 3 substitute Members will be agreed for each Panel to provide in-built cover if Members are unable to attend their respective Panels. Key Members on the Committee (i.e. Chair/Deputy Chair) and other Members who wish will be offered to serve as substitutes on more than one Panel to continue to undertake additional Licensing Panel work by acting as a substitute.
- Panels will be 'stood down' where there is no business for the week in question, and this can be done with at least one week's notice. It is also envisaged that not all the programmed dates will be required due the rapidly changing nature of work within Licensing.
- Panels could still be called on an ad hoc basis to cover additional demand in Licensing Panel work; or to ensure the Council is able to comply with its statutory obligations to hear applications.

3.9 The following table sets out the proposed make up of Panels based on the current political makeup of the Licensing Committee, and provides a system which will equally share work across the whole Committee:

Panel A	Panel B	Panel C	Panel D	Panel E
Green Member 1	Green Member 2	Green Member 3	Green Member 4	Green Member 5
Conservative Member 1	Conservative Member 2	Conservative Member 3	Conservative Member 4	Conservative Member 4
Labour Member 1	Labour Member 2	Labour Member 3	Labour Member 4	Green Member 6
<i>Substitute Members x 3</i>				

3.10 The problems stated at 3.6 are addressed through these proposals in the following ways:

- The problems in agreeing Membership of Panels will be overcome; as the Panels will be fixed in advance, and Members will be made aware of the dates their allocated Panel will meet. The inclusion of substitutes for Panels will also provide cover through a fallback position, and the arrangements for substitutes can be coordinated by the Democratic Services Team.
- The spread of work across the Licensing Panels can be better managed and organised as a Panel will meet on a weekly basis; this should help alleviate problems with large agendas, and prevent items such as TENs being added to agendas at very short notice. The proposed dates will also be shared with Officers in Licensing to enable them to better co-ordinate and spread workloads; it is envisaged this will help manage some of the busier periods.
- The minutes of the previous Panel meeting can be brought to the next meeting of that Panel for formal agreement i.e. Panel A agrees the minutes of the previous meeting of Panel A when it meets on a 5-weekly basis.
- The 'bread and butter' work of the Licensing Committee will be better shared across all Members without becoming burdensome or onerous i.e. each Member will be asked to sit on a Panel every 5 weeks (approximately 10 per year). These arrangements will also allow the Council to better meet and comply with its statutory duties in relation to the determination of Licensing Panels.
- This system promotes a practical and fair approach to Licensing Panel work asking the whole Committee to take joint responsibility for the sharing of work which comprises the majority of the business.
- This system will ensure all Members have equal access to sit on Licensing Panel, and will help Members gain practical experience of Licensing Panel work. It will also allow the Licensing Committee to build up a stronger and more experienced base of Members to undertake Licensing Panels.

3.11 In addition Members will be offered to act as substitutes to more than one Panel; this will ensure that those Members who are currently used to undertaking more Licensing Panel work can still continue to do this by acting as a substitute Member to other Panels.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 None undertaken as the report relates to the internal arrangements for organising Licensing Panels.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 *There are no additional financial implications arising from the proposed arrangements. All costs will continue to be met from the Democratic Services revenue budgets.*

Finance Officer Consulted: Name: Jeff Coates Date: 28/02/13

Legal Implications:

- 5.2 Section 9 of the Licensing Act 2003 states that 'A licensing committee may establish one or more sub-committees consisting of 3 members of the committee.' The Hearings Regulations make detailed provision about the proceedings of such sub-committees but subject to these, each licensing committee may regulate its own procedure and that of its sub-committees.

Lawyer Consulted: Name: Rebecca Sidell Date: 06/02/13

Equalities Implications:

- 5.3 There are none.

Sustainability Implications:

- 5.4 There are none.

Crime & Disorder Implications:

- 5.5 There are none.

Risk and Opportunity Management Implications:

- 5.6 The report seeks to improve the arrangements for organising Licensing Panels and help ensure the authority is compliant with its deadlines to consider Licensing applications.

Public Health Implications:

- 5.7 There are none.

Corporate / Citywide Implications:

- 5.8 The proposals create a fairer and more transparent process for organising Licensing Panels.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The alternative proposal is to continue the arrangements, and consequent problems, listed at paragraphs 3.5 to 3.7.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 The advantages of the proposals are listed at paragraph 3.9.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None

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

Agenda Item 27

Brighton & Hove City
Council

Reviews table November 2012 – March 2013

<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>
Vavavoom 31 Old Steine Brighton BN1 1EL		11.02.13 / 07.03.13	The initial hearing on 11th Feb was adjourned until 7th March to allow for the 28 day suspension period to elapse with transfer etc. The 28 day period has now passed without a transfer so the licence has lapsed following surrender and therefore the general consensus is that the 7th March hearing is no longer required so letters have been sent to all parties to explain this. The committee hearing has also been cancelled.
Pop In Store 32 North Road Brighton BN1 1YB		12.03.13	

