

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

4.00PM 19 NOVEMBER 2015

**MAIN HALL, QUAKER MEETING HOUSE, SHIP STREET/PRINCE ALBERT STREET,
BRIGHTON**

MINUTES

Present: Councillors Marsh (Chair), Horan (Deputy Chair), Cobb (Opposition Spokesperson), Deane (Group Spokesperson), Allen, Bell, Gilbey, Lewry, Moonan, O'Quinn, Page, Simson, C Theobald, Wares and West

Apologies: Councillors

PART ONE

12 PROCEDURAL BUSINESS

12a Declaration of Substitutes

12.1 There were none.

12b Declarations of Interest

12.2 There were none.

12c Exclusion of the Press and Public

12.3 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).

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

13 MINUTES OF THE PREVIOUS MEETING

13.1 **RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 25 June 2015 be agreed and signed as a correct record.

14 CHAIR'S COMMUNICATIONS**Statement of Licensing Policy**

- 14.1 The Chair explained that consultation had commenced on 30 September 2015. The licensing authority had contacted all statutory consultees, placed information on the council's licensing pages and the council's consultation portal. Businesses had been advised via Brighton Business Forum.

The Key Changes

- 14.2 The key changes were as follows:

Review of overall structure and layout, removal of out of date and no longer relevant information to reflect changes in legislation.

Inclusion of an Executive Summary.

A new Section 2 "Public Health and Alcohol", Public Health section, incorporating the latest Public Health thinking and perspective, including that of The Alcohol Programme Board.

A proposed new section titled "Special Policies and Initiatives" (section 3) to include BHCC policies in relation to the CIZ, SSA, Matrix, TENs, Off licences/sensible on strength scheme, student and organised beer crawls, night-time economy safeguarding initiatives.

A Matrix review (section 3.3)

Addition of Café/bars category to table

Removal residential/mixed areas from the table

Inclusion of an "Other Areas" category with rationale in note 7 of matrix notes (referring to Public Health framework document for alcohol decisions).

Restaurants in the SSA – change from 2am to Midnight

Pubs – change of times from 11pm to No in CIZ category

Removal of HVVD (supper pub) category

Members Clubs - add 11pm for CIA and SSA

Inclusion of a definition of a restaurant condition in notes (paragraph 3.4)

Updated Police section 4.2

- 14.3 The following questions had been included and would be looked at as part of the consultation process:

Special Policy on Cumulative Impact.

Do you agree with including details of what may be considered exceptional circumstances within the special policy at paragraph 3.1.7?

What effect do you think this will have on the policy?

Do you have any general comments to make about the special policy and the CIZ?

Matrix approach.

Do you agree with the key changes proposed for the matrix, for example the area categories, the inclusion of café bars, and the exclusion of pubs in the CIZ?

Do you agree with the stated times for licensable activities in the different types of premises and different areas, for example restaurants, pubs and non- alcohol lead venues?

Do you have any comments to make on the 'notes' following the Matrix?

Section on Special policies and initiatives.

Do you have any comments to make about other special policies such as off-licences at 3.5, night-time safeguarding initiatives at 3.4, and street drinking at 3.6?

General comments about the policy

Please make any comments about any other aspects of the policy as a whole.

- 14.3 **RESOLVED** – That the position be noted.

15 PUBLIC INVOLVEMENT

15a Petitions

- 15.1 There were none.

15b Written Questions

- 15.2 There were none.

15c Deputations

- 15.3 There were none.

16 MEMBER INVOLVEMENT**16a Petitions**

16.1 There were none.

16b Written Questions

16.2 There were none.

16c Letters

16.3 There were none.

16d Notices of Motion

16.4 There were none.

17 LATE NIGHT LEVY

17.1 The Committee considered a report of the Director of Public Health updating the Committee in respect of the proposed policy position of the licensing authority concerning the Late Night Levy (LNL).

17.2 It was noted that that expression of support for a levy had been received from the City Management Board (a letter had been sent from the Board to Committee Members), including directors of council departments, the PCC and local police. The Head of Regulatory Functions, Tim Nichols explained that Public Health England published local authority profiles and that in June 2015, Brighton & Hove had recognised the need to reduce harmful drinking as a priority area.

17.3 At the previous meeting of the Committee on 25 June, it had been agreed that officers investigate further on the possibility of consulting in respect proposals for a Late Night Levy (LNL) and that Officers report to the November meeting on consultation cost, design and methodology for the LNL in order for the Committee to decide whether or not to go ahead with the consultation. Officers had provided details of the potential costs of consultation in the report and it was noted that these figures did not include officer time and that consultations costs could be deducted from income collected before any split was made and that Sussex Police had indicated that they would be prepared to split the cost of consultation with the city council.

17.4 It was explained that officers had calculated that depending at what hour the levy was set, the LNL could apply to approx. 255 pubs, bars and nightclubs, 14 members clubs and commercial members/sports clubs, 56 convenience stores/off licences, 65 restaurants, 10 café bars, 2 large supermarkets, 2 late night refreshments with alcohol, 33 hotels/guest houses, 2 hotels/guest house with nightclubs, 13 hotels/guest houses with licences for guests and public, 3 SEVs, 2 Casinos, 6 cinema/theatres, 2 bingo halls, 2 large supermarkets and 16 "other" (which includes racecourses, entertainment venues etc). Data obtained from other authorities where a levy had been imposed were also

included and it was recommended that the Committee instruct officers to proceed with formal consultation to raise a levy. In answer to questions it was explained that the amount at which the levy was set was based broadly on a premises' rateable value, staff time involved in processing matters in relation to the levy and could come into operation at an agreed hour after midnight.

- 17.5 Superintendent Roy Apps was in attendance on behalf of the Police and addressed the Committee. Superintendent Apps explained that notwithstanding the financial pressures under which the Police had found themselves, there was a commitment to provide operations such as "Marble" over each weekend which responded to issues which arose across the city in relation to the Late Night economy. By consulting on and ultimately by imposing an LNL this would assist the Police in continuing to plan for provide such initiatives. Also, that in addition to its other benefits "Operation Marble" was valuable in providing preventative intervention for example by identifying those who were vulnerable due to intoxication and assisting them in leaving the city safely.
- 17.6 Councillor Marsh, the Chair stated that she was concerned that this process was not rushed and that the Committee were able to give all relevant matters their full consideration in a measured way, she was also unhappy at that Members of the Committee had been lobbied directly in the form of the letter sent by the City Management Board, which she did not consider appropriate. In order to do so she felt that they needed to have more information available to them than had currently been provided. She considered that the focus appeared to have shifted somewhat from the previous occasion on which this matter had been considered. Councillor Horan concurred in that view, considering that there were factors which were unique to operation of the night time economy in Brighton and Hove and that these needed to be considered fully.
- 17.7 In answer to questions the Head of Regulatory Services, Tim Nichols explained that generally there appeared to be a degree of support from the premises itself, certainly from larger/medium sized establishments.
- 17.8 Councillor Simson stated that she was concerned that there appeared to be a lack of clarity around what would be funded, it was her understanding that the Levy was not intended to fund police operational measures and that given the city wide remit of an LNL it provided a blanket approach which could not be fine-tuned. Councillor Simson went on to state that she had recently attended a meeting at which the Police and Crime Commissioner had also been present and at which she had indicated that in her view many of the "benefits" achieved from the imposition of an LNL could also be achieved by entering into a Business Improvement District (BID). It would be worth pursuing this option further before going down the road of formal consultation as this could prove less unwieldy and could be applied as appropriate to different parts of the city in the same way that the existing CIZ and SSA areas applied. Whilst there were clear financial advantages for the Police in adopting a LNL, the Committee had to consider and weigh all relevant factors and in her view it was not appropriate to go to the expense of a consultation exercise without considering whether the same results could be achieved by other means. Councillor Simson stated that she was very concerned that there seemed to be a premise that a LNL would be proceeded with and was of the view that to do so currently would be premature.

- 17.9 Councillor Cobb concurred in that view stating that she was also very concerned that the approach/focus being taken in considering this matter appeared to have changed, also and regarding the amount of lobbying which had taken place. It was important to ensure that any consultation set out clear questions and was broad based. Currently, information provided appeared to be confused and in some instances conflicting.
- 17.10 Councillor O'Quinn stated that she also had concerns about this whole process whilst large operators, particularly those who were part of large chains could afford to pay a levy it could have a very detrimental impact on small to medium sized ones. Many smaller premises relied on weekend trade as a mainstay of their business model. The need to cut back their hours in order to avoid paying a levy could render them financially unviable. It was important therefore to ensure for any consultation needed to be wide ranging and inclusive and designed in such fashion that it was not "leading" as this could of itself skew the feedback received and therefore the ultimate outcome of the process.
- 17.11 Councillor Deane considered it was regrettable that the Government had provided a blunt too for dealing with the negative impacts which could arise from operation of the late night economy within city centres and Councillor West also concurred in that view.
- 17.12 Councillor Wares considered Councillor Deane's comments to be overtly political and unhelpful although he was in total agreement that further information/work was required before the Committee was in a position to decide whether or not to carry out a consultation exercise. He was in agreement with the views expressed Councillor Simson that it would not be appropriate for monies received from a levy to be used to back fill Police services, he was concerned that the services for which such funding could be used were becoming blurred.
- 17.13 Councillor Moonan was in agreement that it would be premature to agree to a consultation exercise at the present time considering that it was important to carry out a pre-consultation exercise to ascertain whether/what will existed for raising a LNL, alongside the other additional information requested and for this information to come to a future meeting of the Committee as soon as practicable in order to enable members to determine whether or not they wished to proceed to a formal consultation exercise.
- 17.14 Councillor Allen stated that as effectively no decision was being made at this stage, that the officer recommendation was to consult, he considered that he was minded to support it.
- 17.15 The Chair, Councillor Marsh sought advice on the issue following which she stated, that as the view of the Committee appeared to be that consideration of the report should be deferred, that she would put that to the vote.
- 17.16 On a vote of 14 with 1 abstention Members indicated that they wished to defer consideration of the report indicating that they wished to consider a further report including the additional information set out below prior to determining whether or not to proceed with a formal consultation exercise in respect of raising a Late Night Levy (LNL) for the city.
- 17.17 **RESOLVED** – That consideration of the above report and consultation in respect of a Late Night Levy (LNL) to be deferred in order for a further report to be prepared for

consideration at a future meeting of the Committee (as soon as practicable). No consultation except pre-consultation referred to below to be undertaken until the Committee has had the opportunity to consider a further report. The report to include the following information:

Details of pre-consultation undertaken with a representative range of stakeholders/premises operators, of various types, capacity, floor area and styles of operation;

Whether it would be appropriate/practicable to introduce Business Improvement District (BID) arrangements as an alternative to a Late Night Levy (LNL) including details of the differences between the two and how either would work in practice;

Precise details of how money raised by a LNL would be spent;

Up dated information/feedback in relation to how LNL's already introduced are operating; and

An assessment of factors which are unique to the city, conference trade, tourism, student population, residents and whether it would appropriate/how "bespoke" arrangements which reflected that mix could be implemented.

18 GAMBLING ACT 2005 - REVISED POLICY

- 18.1 The Committee considered a report of the Director of Public Health which explained that it was a requirement of the Gambling Act 2005 that every three years Licensing Authorities prepared a statement (also known as a Policy) of the principles which they would apply when exercising their functions. It was also a requirement that the Licensing Authority must publish this statement following the procedure set out in the Act, which included details of whom they should consult.
- 18.2 In line with the guidance given by the Gambling Commission, the council's current Statement of Gambling Policy had been sent to all statutory consultees, with the consultation period running for four weeks from 1 September, a copy of the document had also been made available on the council's website, Consultation had taken the form of an interim review and had included minor amendments including changing the date and removal of any out of date information.
- 18.3 Having evaluated the responses received (set out in appendix 1 to the report) it was not recommended that any substantive changes be made. It was therefore proposed to maintain the existing policy but to remove any information which was out of date. The proposed Statement as amended was set out in appendix 2 to the report.
- 18.4 A vote was taken and Members voted unanimously that the recommendations set out in the report be approved.

- 18.5 **RESOLVED:** That the Director of Public Health agrees to refer the final version of the Statement of Gambling Policy (appended to the report) to Full Council for adoption.

RESOLVED TO RECOMMEND: That the final Statement of Gambling Policy (as appended to the report) be presented to Full Council for approval and adoption.

19 SCHEDULE OF REVIEWS

- 19.1 **RESOLVED** – That the content of the schedule of reviews report be noted.

20 SCHEDULE OF APPEALS

- 20.1 **RESOLVED** – That the content of the schedule of appeals report be noted.

21 ITEMS TO GO FORWARD TO COUNCIL

- 21.1 It was agreed and noted that the Final version of Statement of Gambling Policy, Item 18, entitled“ Gambling Act 2005 - Revised Policy” needed to be presented to the scheduled meeting of Full Council on 17 December for approval and adoption.

21(B) VOTE OF THANKS – HEAD OF REGULATORY SERVICES, TIM NICHOLS

- 21.2 The Chair, Councillor Marsh, paid tribute to the Head of Regulatory Services, Tim Nichols who was due to be leaving the Council's employment on 11 December, commending his knowledge, personability and consummate professionalism. The Chair stated that she wished to place on record her personal thanks for the information and support Tim had provided over the years and more recently during her role as Chair and was sure that the Committee also wished to add their thanks for his advice and service over a number of years and to send Tim their very best wishes for the future.
- 21.3 Members of the Committee who had known Tim for a number of years added personal tributes and good wishes. Councillor Simson, commended Tim's breadth of knowledge and stated that his support during her period as Chair had helped her to increase her own knowledge and growth. Councillor Deane echoed all that had been said stating that this encapsulated all that she would have said and reflected her own experience, having received tremendous support during her period as Chair and since, he would be very much missed. Councillor Allen stated that in addition to his professionalism and contribution as a very high calibre officer he was aware of Tim's contribution within the community where he lived, which was within his own ward. Tim had always kept those two roles separate and had been very modest about his achievements. Councillor C Theobald thanked Tim for his assistance to her and also her husband Councillor G Theobald over a number of years including her period in the Chair. Councillor West referred to the fact that during the years he had been a Councillor he had been provided with support in his role as a Ward Councillor as well as in his role on Licensing Committee and when Chair of Environment, Sustainability and Transport Committee.

- 21.4 The Committee were unanimous in concurring with all that had been said and in wishing to place on record their thanks and Best Wishes to Tim Nichols, Head of Regulatory Services.
- 21.5 Tim Nichols, Head of Regulatory Services responded briefly in suitable terms thanking all for their good wishes and commending the time that he had spent with the Council.

The meeting concluded at 6.45pm

Signed

Chairman

Dated this

day of