





Brighton & Hove
City Council

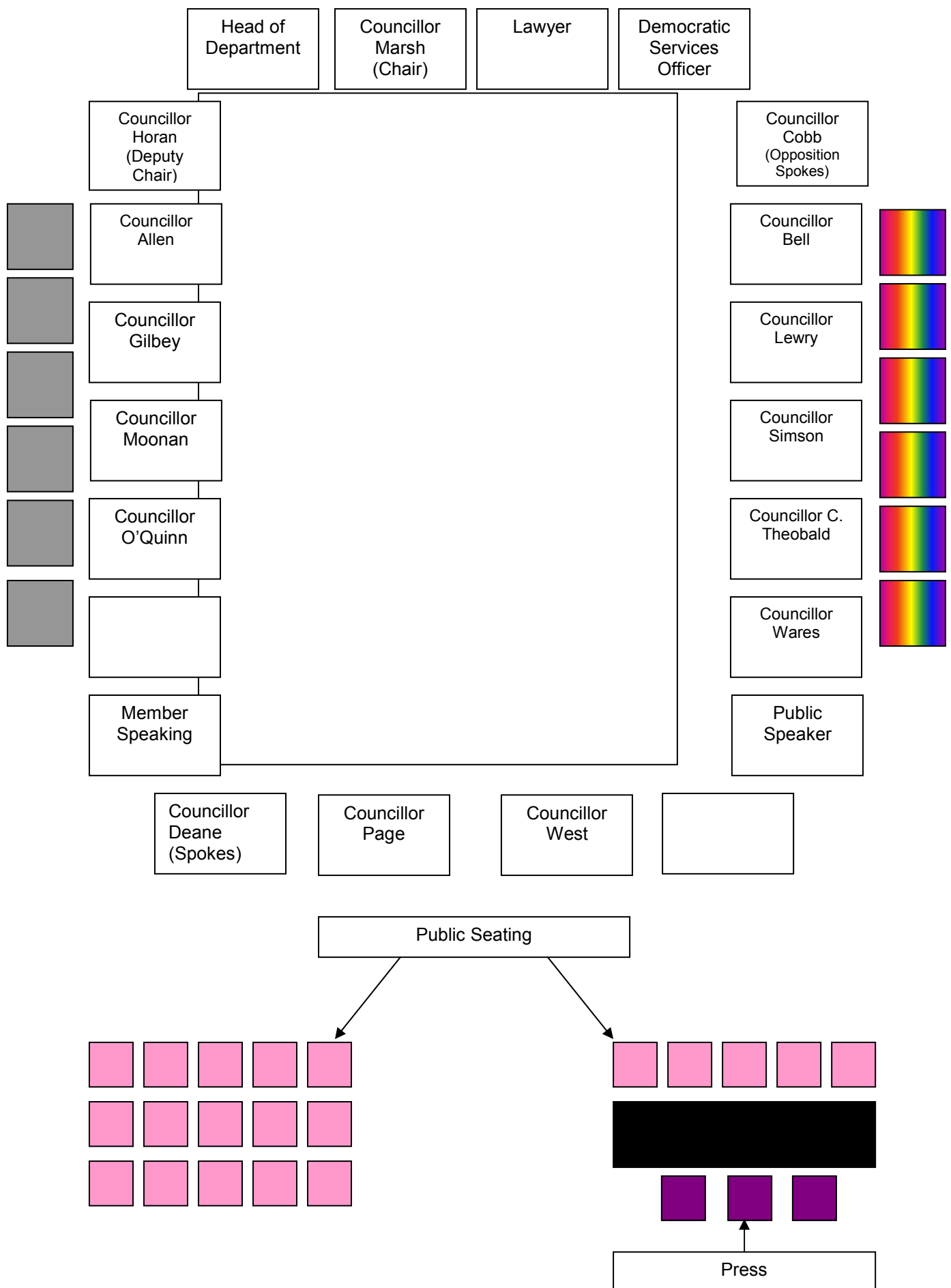
Licensing Committee

(Licensing Act 2003 Functions)

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| Title: | Licensing Committee (Licensing Act 2003 Functions) |
| Date: | 19 November 2015 |
| Time: | 4.00pm (or conclusion of Non 2003 Committee) |
| Venue | Main Hall, Quaker Meeting House, Ship Street/Prince Albert Street, Brighton |
| Members: | 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 |
| Contact: | Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk |

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Democratic Services: Meeting Layout



AGENDA

Part One

Page

12 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.

13 MINUTES OF THE PREVIOUS MEETING

1 - 6

To consider the minutes of the meeting held on 25 June 2015 (copy attached)

14 CHAIR'S COMMUNICATIONS

15 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 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 the 13 November 2015;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the 13 November 2015.

16 MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

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

17 LATE NIGHT LEVY

7 - 24

Report of the Director Public Health (copy attached)

Contact Officer: Jean Cranford Tel: 01273 292550
Ward Affected: All Wards

18 GAMBLING ACT 2005 - REVISED POLICY

25 - 50

Report of the Director of Public Health (copy attached)

Contact Officer: Jean Cranford Tel: 01273 292550
Ward Affected: All Wards

19 SCHEDULE OF REVIEWS

51 - 52

Schedule prepared on behalf of the Director of Public Health (copy attached)

Contact Officer: Jean Cranford Tel: 01273 292550
Ward Affected: All Wards

20 SCHEDULE OF APPEALS

53 - 54

Schedule Prepared on behalf of the Head of Legal and Democratic Services (copy attached)

Contact Officer: Rebecca Sidell Tel: 01273 291511
Ward Affected: All Wards

21 ITEMS TO GO FORWARD TO COUNCIL

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

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

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

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

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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, 11 November 2015

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| LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS) | Agenda Item 13 Brighton & Hove City Council |
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BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

4.00PM 25 JUNE 2015

FRIENDS MEETING HOUSE, SHIP STREET

MINUTES

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

PART ONE

1 PROCEDURAL BUSINESS

(a) Declaration of Substitutes

1.1. Councillor Greenbaum declared that she was substituting for Councillor West.

(b) Declarations of Interest

1.2. There were no declarations of interest.

(c) Exclusion of the Press and Public

1.3. 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).

1.4. **RESOLVED** - That the press and public be not excluded from the meeting during consideration of the items on the agenda.

2 MINUTES OF THE PREVIOUS MEETING

- 2.1 **RESOLVED:** That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on the 5th March 2015 be agreed and signed as a correct record.

3 CONSTITUTIONAL MATTERS- LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

- 3.1 The Committee considered a report of the Head of Legal & Democratic Services, concerning the terms of reference of the committee and outlining the need to appoint an Urgency Sub-Committee.

3.2 **RESOLVED:**

- (1) That the committee's terms of reference, as set out in Appendix A to the report, be noted;
- (2) That the Committee establish the Licensing Panel as a sub-committee (the membership of such Licensing Panel shall consist of three Members from the trained Members on the Licensing Committee, who will be able to sit on a panel and substitute for any designated Member of the Panel) to deal with licensing applications in accordance with the Terms of Reference as set out at Appendix A to the report;
- (3) That the Committee agree to disapply the proportionality rules so far as a Licensing Panel is concerned in accordance with the Local Government (Committees and Political Groups) Regulations 1990; and
- (4) That the establishment of an Urgency Sub-Committee consisting of the Chair of the Committee and Councillors Cobb and Deane, to exercise its powers in relation to matters of urgency, on which it is necessary to make a decision before the next ordinary meeting of the Committee be approved.

4 CHAIR'S COMMUNICATIONS

- 4.1 The Chair noted that Philip Colvin QC had agreed to come down on the 5th October to talk about Licensing Laws and Panel procedures and encouraged Members of the Committee to join officers at the event. She stated that his sessions in the past had proved very insightful and were useful as a training aid.
- 4.2 The Chair also noted that Friday 16th October had been identified for Members to join officers on a visit/tour of the late night economy in the city. It would involve visiting a number of premises to see how they operated and how all agencies worked together. She asked that Members contact Jim Whitelegg to confirm their attendance and that they need not stay for the whole tour.

5 PUBLIC INVOLVEMENT

- 5.1 The Chair noted that no public items had been received for the current meeting.

6 MEMBER INVOLVEMENT

- 6.1 The Chair noted that no items had been raised by Members for the current meeting.

7 LATE NIGHT LEVY

- 7.1. The Lawyer to the Committee informed the meeting that there was a need to correct the report and to take out recommendation 2.3 as it was not appropriate at this point in time. She therefore asked the Committee to note the information.
- 7.2. The Senior Technical Officer introduced the report, which detailed the proposed policy position of Brighton & Hove City Council as Licensing Authority in regard to Late Night Levy (LNL). She noted that the LNL was the power conferred on licensing authorities which enabled them to charge an annual levy to persons who are licensed sell alcohol late at night in the authority's area, as a means of raising a contribution towards the cost of policing the late-night economy. She also noted that there would be a need to go out to consultation on a proposal to introduce a levy and it was intended to report the outcome to the Committee in March 2016.
- 7.3. Members of the Committee noted the information and queried whether the levy had to be applied to the whole of the licensing authority's area and whether the income generated would be used to support current police operational activities or enable increased activities. Members also queried whether the Police & Crime Commissioner was obliged to re-invest the income from the levy in Brighton and Hove.
- 7.4. The Senior Technical Officer stated that should the levy be introduced it would have to be applied across the licensing authority's area as there was no flexibility to exclude certain areas.
- 7.5. Inspector Woolford informed the Committee that the Chief Constable had agreed that any income from a levy would only be used within the Brighton and Hove area. She also noted that any such income would be used more for preventative measures rather than operational ones e.g. street pastors or safe havens.
- 7.6. The Director of Public Health stated that he anticipated any income from a levy would be used to provide additional support at night such as providing a safe space and discussions would be held with the police to determine the best use of the resources.
- 7.7. The Committee noted that if a levy was introduced it could then result in premises seeking to vary their licences so as not to be caught by the levy. Councillor Horan asked if further information could be obtained on how this had impacted other authorities that had introduced a levy.
- 7.8. Members of the Committee expressed their concerns about the impact of a levy and whether the income would be used within the licensing area to support various initiatives and the potential additional cost it would have for those premises operating between midnight and 6am. It was therefore felt that further information was required and that a report should be brought to the November Committee meeting in the first instance.

7.9. The Director of Public Health stated that he was happy to bring a report back to the next meeting on the consultation process so that the committee could then determine whether or not to go out to consultation and then take a decision in March.

7.10. **RESOLVED:**

- (1) That officers be charged with investigating further the possibility of consulting on a proposal for a Late Night Levy (LNL),
- (2) That officers report to the Committee in November 2015 on consultation cost, design and methodology for the LNL and for the committee to decide whether to go ahead with consultation.

8 REVIEW OF STATEMENT OF LICENSING POLICY - FOR CONSULTATION

- 8.1 The Senior Environmental Health Officer introduced the report which detailed a review of the Council's Statement of Licensing Policy and the proposal to put it out to public consultation, taking into account the recommendations of the Scrutiny Panel on Alcohol.
- 8.2 Councillor Moonan queried whether there was an opportunity to extend the cumulative impact zone to areas in Hove, i.e. Brunswick & Adelaide, Central Hove and Goldsmid.
- 8.3 The Senior Environmental Health Officer stated that currently the figures showed that applications for licenses to sell alcohol were table or reducing outside of the Cumulative Impact Zone and therefore there was no evidence base to widen the zone.
- 8.4 Councillor Simson noted that the matrix referred to by the Licensing Panels was an important aspect in their decision-making; however she was concerned about its impact for residential areas and on restaurants in Stress Areas; e.g. with earlier opening hours being requested rather than later. She felt that it would be interesting to consider this when reviewing the information from the consultation exercise.
- 8.5 Councillor Wares noted that a legal challenge was being made in Europe by Brewers in regard to being sensible on strength and queried whether there was any flexibility in relation the voluntary scheme that was in place in the city, should the challenge be successful.
- 8.6 The Head of Regulatory Services stated that he was aware of the issue and had had a number of visits from various interested organisations. He noted that competition law was complicated and that the Home Office had also visited to see the approach taken in the city and had offered some advice about the council's position. However, at present there was no change anticipated, although the council was open to discuss views and listen to concerns of interested parties.
- 8.7 The Licensing & Health Manager noted that it was intended to use various means for the consultation and that as it would need to run for a period of 12 weeks, it was likely to be undertaken in the autumn and a report brought back to the March committee meeting.

- 8.8 **RESOLVED:** That the Statement of Licensing Policy (SoLP) as set out in Appendix A to the report be released for statutory and public consultation, incorporating the recommendations of the Scrutiny Panel on Alcohol, and emerging policy issues such as Sensible on Strength and off licences; and advice from the Director of Public Health, Public Health England and the Local Government Association.

9 SCHEDULE OF REVIEWS

- 9.1 **RESOLVED:** That the schedule of reviews report be noted.

10 SCHEDULE OF APPEALS

- 10.1 **RESOLVED:** That the schedule of appeals report be noted.

11 ITEMS TO GO FORWARD TO COUNCIL

- 11.1 **RESOLVED:** That no items be referred to the next Council meeting for information.

The meeting concluded at 5.35pm

Signed

Chair

Dated this

day of

2015

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 17

Brighton & Hove City Council

| | | | |
|--------------------------|----------------------------------|--|---------------------|
| Subject: | Late Night Levy | | |
| Date of Meeting: | 19 November 2015 | | |
| Report of: | Director of Public Health | | |
| Contact Officer: | Name: | Jean Cranford | Tel: 29-2550 |
| | Email: | Jean.cranford@brighton-hove.gcsx.gov.uk | |
| Ward(s) affected: | All | | |

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report sets out to update the Licensing Committee of the proposed policy position of Brighton & Hove City Council as licensing authority concerning the Late Night Levy (LNL). The levy has the support of the City Management Board, the PCC, local police and the BHCC Directors.
- 1.2 Public Health England publish local authority profiles. In June 2015, Brighton & Hove recognised reducing harmful drinking as a priority area. Various indicators showed the city was significantly worse in terms of the following indicators:
 - Alcohol specific hospital admissions for under 18's
 - Admission episodes for alcohol related mental and behavioural disorders due to alcohol use and
 - Admission for alcohol related intentional self poisoning.

2. RECOMMENDATIONS:

- 2.1 That the committee instruct officers to proceed with the formal consultation to raise the levy.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 On 25 June 2015, licensing committee resolved:
 - 1) That officers be charged with investigating further the possibility of consulting on a proposal for a Late Night Levy (LNL) and
 - 2) That officers report to the Committee in November 2015 on consultation cost, design and methodology for the LNL and for the committee to decide whether to go ahead with the consultation.Councillors also asked officers to obtain information on the impact of the LNL in other licensing authorities and the number and types of premises in Brighton & Hove that would be affected. At a recent meeting with a Home Office Official, he explained his department were considering changes to make adoption easier, while ensuring fairness to business, including looking at the geographical application of the levy and exemptions.

- 3.2 The Police Reform and Social Responsibility Act 2011: S134 and Regulations made under that section, The Late Night Levy (Application and Administration) Regulations 2102 specify the persons to be consulted. These are 'the relevant local policing body, the chief officer of police and the holders of relevant late night authorisations. The consultation is intended to target at those most affected by the levy, particularly businesses, and the police.
- 3.3 The notice of the proposal for consultation must set out the date on which the levy requirement is first to apply, the late night supply period, the permitted exemption categories (if any) which are to apply, the permitted reduction categories (if any) which are to apply and the specified proportion (see appendix 4).
- 3.4 As requested, officers have run calculations to estimate potential consultation costs:

| | | |
|---|---------------------------------------|--------------|
| Letters to the PCC, Police, interested parties and all licensed premises (483 premises) | Postage Paper, printing, costs etc | £300 £100 |
| Advertise in a locally circulated newspaper | advert costs, | Approx £300 |
| Total for consultation | approx | £700 |

Note:

1. These costs do not include officer time which is estimated at approximately 1 week total, include administrative.
 2. Consultation costs can be deducted from income collected before any split is made. (See 3.8 and 3.10). Sussex Police have offered to split consultation costs with BHCC.
- 3.5 Officers have calculated that depending at what hour the levy is 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).
- 3.6 Premises may make a free minor variation to their licence to reduce their licensed hours to avoid operating in the late-night supply period. The LNL has been implemented in 7 authorities at different times of the night. More details are provided in Appendix 1:
- :
- Newcastle, received 123 minor variations (34%). Indications show that of those premises identified as being within the levy period applied to vary their licences to reduce their hours, the majority were to remove non standard timings rather

than reduce their basic hours. (Non standard timings generally refer to bank holidays and other celebrated days like Valentines Day etc).

Cheltenham predicted 218 premises as being affected but only 123 paid in the first year, 47 MV's were received

City of London received 18% minor variations

Chelmsford received 120 minor variations (over 60% of premises varied)

Nottingham received 30% minor variations

Islington received 25 minor variations: 350 premises pay the LNL: officers found that 37 premises had closed or surrendered their licences.

Southampton received 69 minor variations. Officers from Southampton report that some premises have varied sale of alcohol to midnight but kept other licensable activities at later hours and so the premises remain open and are still causing problems.

For the levy year from 1st April 2015 to 31st March 2016, Southampton City Council estimates that the amount of permitted deductions will be £15,000. This estimate includes £755 in postage and £1,143 in statutory notices, the remainder includes officer time incurred in the initial set up costs of the late night levy and processing applications to vary licences as defined by Regulation 9 of the Late Night Levy (Application and Administration) Regulations 2012.

- 3.7 Officers at Newcastle City Council, which has the longest experience of having implemented the levy, have advised that when they started the process of speaking to licensees re the Levy and the reasons behind needing one, they met little or no resistance. They kept the licensees engaged throughout the whole process, and they saw the need for the Levy to ensure the policing was kept on the streets during the evening / nights.

This attitude of everyone working together, being driven by the Council officers and members, continued all the way through to consultation. This resulted in there being only one premises making negative comments on the consultation. The subsequent meeting of the Council to discuss the Levy was not attended by any trade or licensees at all and was voted through unanimously.

The following information was available regarding the economic effect:

- In year two from October 2014 two premises did not pay the levy as they were having financial difficulties not associated with the Levy, and subsequently, they ceased trading. The total they were due to pay for the levy was £1,723, which indicates they were fairly small premises. That is 2 premises out of 244.
- Overall crime in Newcastle City fell by 12% during first financial year of the levy being in place, these included:
 - Violent crime 6% deduction
 - Sexual offences 7% reduction
 - Crim damage 27% reduction
 - ASB 10% reduction

Newcastle reported that 124 of the eligible levy premises reduced their hours to before midnight, mainly because the hours they had they did not use and in a lot of instances it was a reduction of only one hour.

Feedback from the Newcastle Pubwatch has been that whilst no licensee wants to pay extra tax, they believe it has been success with the funding being spent on making things better for drinkers and landlords in the city. They have

acknowledged that it has financed extra CCTV and police officers that has immediately cut crimes like mobile phone thefts in half.

Both Chief Inspector Katy Woolford, Chief Inspector of the Operations Teams of Brighton and Hove Division of Sussex Police and Chief Superintendent Nev Kemp have confirmed that "the PCC and Chief Constable have categorically and publicly confirmed that the money will be spent on initiatives within the NTE and not absorbed into the general policing costs. How the money is spent will be formally decided in partnership between the local authority and Sussex Police. Such groups in place already": The Alcohol Programme Board for example could oversee this. Sussex Police have provided a list of examples of where the funding could go to:-

Specialist interventions

- Specialist services e.g. ISVA
- Safe Space project
- Noise patrol service out of hours

Targeted interventions

- Street pastors
- Taxi Marshalls

Prevention

- Water Angel type scheme
- Training for door staff, other premises (hotels) and taxi drivers (enables link to other crime types e.g. child sexual exploitation)
- Bystander interventions
- Sustained evidence based awareness campaigns.

Other activities e.g. Mobile CTV cameras, ID Scanners for selected venues, Safe Haven phone application, crime & safety initiatives, Police operations. Further details are provided below:

Why Brighton & Hove could benefit from a Late Night Levy

The impact of alcohol in Brighton & Hove is considerable. Although alcohol supports the night-time economy and tourism, people can be a victim of alcohol-linked crime and disorder such as violence, sexual violence and abuse, criminal damage, late night noise and other anti-social behaviour.

- ✓ Alcohol related reported crime and violent crime are worse locally than nationally, with the city among the worst performing 10% of PCTs for alcohol related violent crime.
- ✓ The night time economy runs from early evening till 7am.
- ✓ Puts a strain on police and other emergency services
- ✓ Funding gaps to secure and maintain vital services.

What could this mean for Brighton?

- ✓ Maintain and enhance the reputation of the national renowned NTE in the city for people to come and enjoy, safely
- ✓ A reduction in alcohol related harm
- ✓ Prevention of people becoming victims of crime
- ✓ People / females feeling safe
- ✓ Driving standards up
- ✓ Licensed premises sharing and contributing to the cost of the keeping the NTE safe.

Sussex Police and council licensing officers would also strongly support a LNL licensing advisory panel/board to influence the levy spend, this would consist of the Licensing Authority, the Police and the trade.

3.8 The Regulatory Impact Assessment published by the Home Office for the LNL suggests that the Council might use its contribution for:

- Late night street wardens – in Brighton and Hove there are voluntary, unpaid street pastors trained at the authorities' expense.
- Late night taxi marshals – in the city the city centre ranks are marshalled, currently funded by Sussex Police and public health
- Late night CCTV – currently provided in John Street suite.

Brighton & Hove Licensing Authority would look to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy (for instance could look to fund the Council's noise patrol service with their share of the levy: this would cost in the region of £100k pa (or some portion - say £50k for Saturdays + higher risk nights?). Guidance states that specifically, these activities must have regard to the connection with the supply of alcohol during the late night supply period and related to arrangements for:

- The reduction of crime and disorder;
- The promotion of public safety;
- The reduction or prevention of public nuisance; or
- The cleaning of any relevant highway or relevant land in the local authority area.

3.9 In preliminary discussions with Sussex Police, officers have indicated that the police portion will be spent on wider policing matters such as taxi marshalling and Safe Space. This would be advantageous because these funding streams have often been insecure. It would be important to formalise financial arrangements as agencies face reducing budgets. The Police have made it clear that there would be a joint body to oversee spending.

3.10 Sussex Police suggest that LNL funding could be used for Street pastors, Mobile CCTV cameras (cost around £25k each), ID Scanners for selected venues, Safe Haven & triage, Developing a Safe Haven phone application, Crime & safety initiatives, Taxi marshals (cost of four marshal's on two ranks with CCTV and two back up response vehicles is £21.6k), Police operations (Op Marble costs approx £60/65k), Taxis kitted out to take people who may be sick (cleanable taxi treatment is: £400 per vehicle London type vehicle that can be jet washed and seats with made to measure vinyl covers. Vomit cleaning packs cost c £10 comprising apron, gloves, mask, and a powder that solidifies the sick then a scraper tool to finish), Water Angel type scheme and Red frog (costs not known but possibly voluntary or impose by licence condition where appropriate?) and breathalizer kits for those premises where there are concerns in relation to intoxication levels. There is also the Quad bike which the Councillors saw on their late night visit and really saw the benefit costs around £20k. The number of sexual assaults and injuries it has prevented is immeasurable.

3.11 Regulation 3(1) of the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 describes the categories of expenses which a licensing authority may deduct for the purposes of calculating the net amount of levy

payments for any period. Section 130(5)(a) of the Police Reform and Social Responsibility Act 2011 requires a licensing authority to publish, before the beginning of each levy year, a statement of its estimate of the amount of deductions permitted under those Regulations.

- 3.12 A licensing authority can deduct the costs it incurs in connection with the introduction or variation, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned between the police and licensing authority. Regulations have prescribed descriptions of expenses which may be deducted. Any financial risk relating to the levy revenue, such as lower than expected revenue or higher than expected costs, rests at a local level. These deductible costs may include (but are not necessarily limited to) the following:
- the preparation and publication of the consultation document, including publishing it online and sending details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol after midnight on any day;
 - the collection of levy payments;
 - the enforcement of levy payments; and
 - the cost of processing applications for a variation in relation to the introduction of the levy.
- 3.13 Guidance states that in respect of: Business Improvement Districts (“BIDs”), Licensing authorities can offer an exemption from the levy for premises which participate in BIDs that operate in the night-time economy and have a satisfactory crime and disorder focus. The Government would expect licensing authorities to carefully consider exempting eligible BIDs from the levy. It is up to the licensing authorities’ discretion to determine whether the BIDs in their area are eligible. There is currently consultation being undertaken regarding a BID which would include West Street and some of the night time element from Operation Marble area. However, it is unlikely that this will be finalised before June 2016.

The BID consultation process has now commenced. Businesses will be consulted on whether they would like a BID to go ahead and, if so, what they would like to see in it. It depends what comes out of the consultation, but a late night element could be included as part of the BID. There may therefore be an overlap with a LNL, which could cause some confusion.

However, it is too early to say yet whether a future BID will include West Street and whether there would be a night time element. They are starting to get information back and are likely to have a better understanding by the end of the year. It was clarified that if a BID goes ahead, all businesses have to pay.

- 3.14 It is estimated that there are approximately 138 premises open until 0100, approximately 161 premises open until 0200, approximately 62 premises open until 03.00, approximately 17 premises open until 04.00, approximately 19 premises open until 05.00, approximately 15 premises open until 06.00 and approximately 71 premises which are open 24 hours (11 of these are for residents only).
- 3.15 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.

3.16 Appendix 1 shows the timeline for LNL's in other areas.

3.17 Appendix 2 shows the Late Night Levy process.

3.18 Appendix 3 shows the method of calculating the number of premises within the different hours, what their rateable value is etc., and includes potential exemption categories and reductions.

3.19 Appendix 4 shows a draft design for consultation.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

Continue working with partners and the licence trade to tackle the effects of the night time economy and look at introducing voluntary initiatives and further BIDs.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Licensing Strategy Group, Strategic Domain Group 2, finance and legal services.

6. CONCLUSION

Report to committee in March 2016 to report on progress and make a final decision, or earlier if ready.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 A Late Night Levy may generate some additional income.). The level of estimated gross income per annum from the introduction of a late night levy will be determined by the regulations and local consultation with the police, but will also be affected by the level of exemptions or reductions agreed. Appendix 3 sets out the estimated annual gross income from introducing the levy at various start times (before taking account of any exemptions).
A number of free Minor Variation Applications that would have to be dealt with, and that the introduction of LNL will require staff time to administer it.

The financial implications arising from the introduction of a levy should be laid out prior to any final decision to proceed. Clarity will also be required on the financial administration arrangements for both the collection and application of the levy income to ensure that any risks to the Council are minimised e.g. if the actual level of income collected in a given financial year is lower than the estimate on which spending decisions have been based and put in place.

Finance Officer Consulted: Name Mike Bentley

Date: 08/10/15

Legal Implications:

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

Lawyer Consulted: Rebecca Sidell

Date: 05/11/15

Equalities Implications:

- 7.3 There are no direct equalities implications.

Sustainability Implications:

There are no direct sustainability implications.

- 7.4 Any Other Significant Implications

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

SUPPORTING DOCUMENTATION

Appendices:

1. Timeline for introduction of LNLs in other areas.
2. Late Night Levy process
3. Calculation sheets
4. Draft design for consultation

Documents in Members' Rooms

None

Background Documents

None

Late night levy development around England & Wales:

Rejections of the LNL:-

- **Milton Keynes:** LNL rejected May 14 – mainly due to the level of funding it would have raised had it gone through. May look to consult again after the elections in May.
- **Tameside:** LNL rejected Dec 14 due to the economic climate and businesses financial difficulties – would reconsider if climate changed.
- **Leeds:** Agreed not to pursue the introduction of the LNL in Dec 13, better to continue working with partners, including the licence trade and carry forward existing voluntary initiatives and support a BID.
- **Woking:** Rejected Oct 13 – potential revenue would be insufficient to provide any real benefit to the town.
- **Bristol:** Agreed that the introduction of a BID in the city centre would be better than the LNL. LA confirmed March 15 that no current plans for the LNL and BID is currently progressing.

On hold, ongoing or in consultation:-

- **Plymouth:** Consultation showed that the public were in favour of the LNL & trade against it. The Cabinet postponed the implementation of the LNL in favour of working with the trade to deal with the night time economy problems & getting a clearer view of the Governments intention to review the LA03. On 3 November, Plymouth started consultation which will finish on 4 December. The proposed Late Night Levy will apply to premises that are authorised to sell alcohol at any time between 01:00 and 06:00. The proposed exemptions are for premises with overnight accommodation, theatre and cinemas, bingo halls, amateur sports clubs, community premises, country village pubs, premises contributing to the BID and premises authorised to supply alcohol for consumption on the premises between midnight and 06:00hrs only on New Year's Eve/Day every year. There would also be a reduction for members of the business led Best Practice Scheme.
- **Camden:** Consulting on the LNL Feb 15 to May 15. Camden will restart their consultation on 12 October 2015.
- **York:** Consultation in 2013 with a view to implement in April 14 but info obtained March 15 stated that they had put it on hold and were looking into a BID.
- **Cheshire East:** At Licensing Committee in Jan 14 when asked to look at the LNL, they resolved to set up a Working Group consisting of members to look at options which may reduce the harmful effects of alcohol consumption in the area. No further update March 15.
- **Lambeth:** LNL may be considered as part of the Licensing Policy review but no further update as of March 15.
- **Liverpool:** Consulting on the LNL September 15 to November 15.

LNL's approved:-

- **Newcastle-upon-Tyne:** First authority to introduce - from Nov 13 (midnight-6am). The push was from the City Council but the PCC and Police were fully on board and supportive. Decision to introduce the levy was to maintain and enhance the safe night time economy (NTE) in and around Newcastle, whilst sharing and contributing to the cost, Police spending a lot of money policing the city centre and Council on cleansing and enforcement which was not sustainable. It was time consuming to introduce and employed a consultant solicitor and project officer for a year to deal with implementation. There is a 30% reduction for members of a business-led best practice scheme and all exemption classes as listed in Appendix 3. It is too soon to say there has been an improvement but some services would have been cut had it not been for the levy and if the levy had not been implemented then it would be highly expected that crime and disorder figures would be much higher in the city centre.

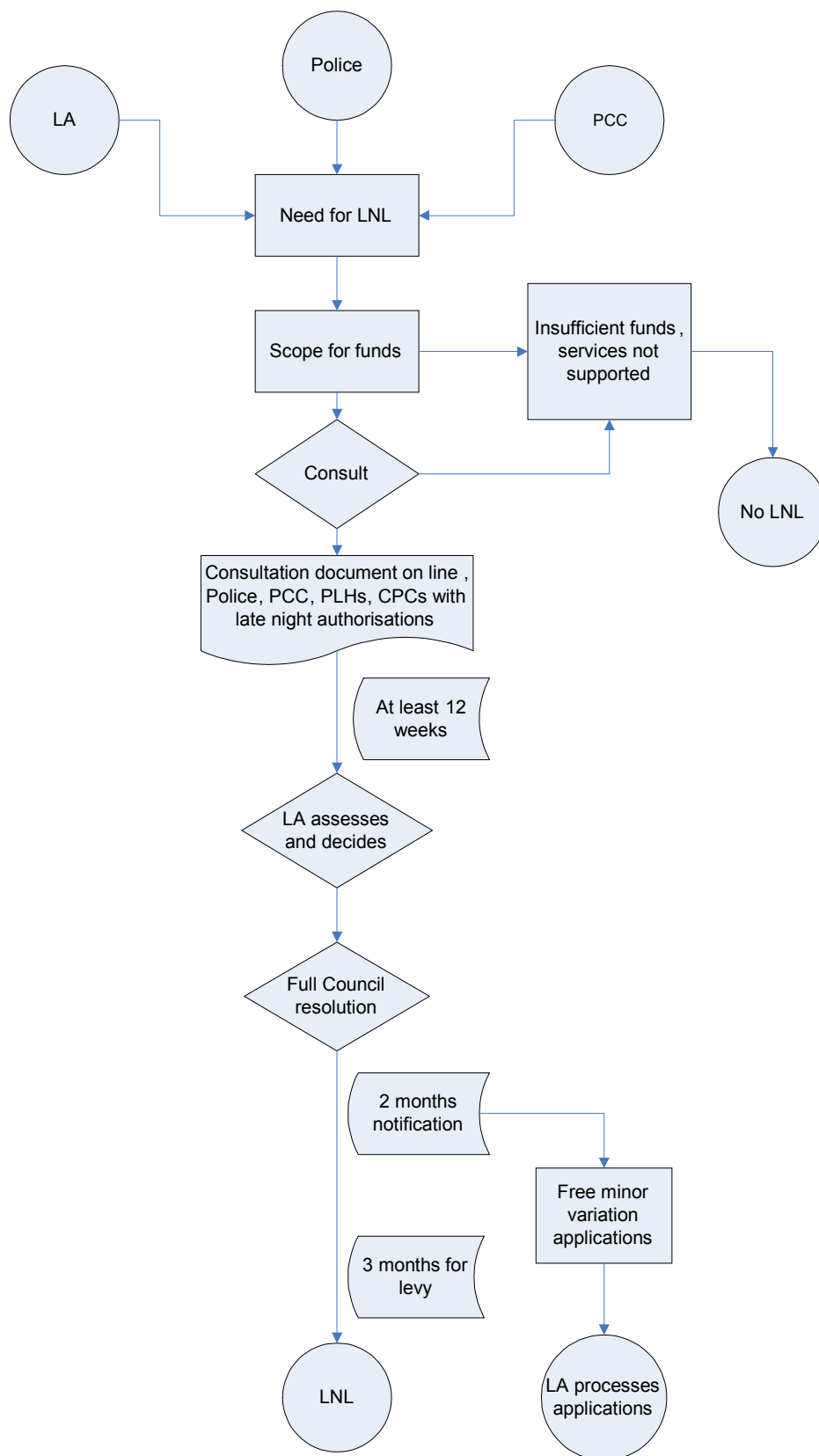
JD Wetherspoon has successfully appealed Newcastle City Council's refusal to vary the Premises Licences for 3 of its premises in the city, which variation had sought to introduce a condition removing authorisation to sell alcohol for the 'Late Night Levy period' whilst a Late Night Levy was in place.

The condition which was put on the licence after the appeal, was the condition originally requested by JD Wetherspoon on the variation, and allows the automatic resumption of the use of those hours should the Levy no longer be charged, without the need for a variation application to add the hours back onto the licence. JD Wetherspoon's must give 56 days' notice of its intention to resume the use of hours should it wish to do so.

- **City of London:** LNL came into force on 1st Oct 2014 and apply to all licensed premises which sell alcohol between midnight and 6am. There will be no exemptions, but a 30% discount will be granted to premises that have shown they operate at the standard required to achieve the City of London 'Safety Thirst' award which is given to pubs and clubs who make safety a priority. Approximately 18% of venues who would have been liable to pay the night time levy applied for a minor variation prior to implementation.
- **Chelmsford LNL-** LNL came into force on 1st Nov 2014 (hours – 1am-6am). PCC agreed to let Council keep 100% of the income otherwise they wouldn't have done it. Projects approved by the PCC but ultimately Council choice – going back into the NTE – finance ensure all done legitimately. There was no additional staff or help, relatively straightforward as long as follow legislation and guidance. Relevant exemption classes: New Years Eve (NYE), Theatres & Cinemas and hotels (guests only), no reduction schemes. Main problems: start time from 1am which affected NYE exemption so figures all skewed. Big debates with big solicitors as NYE exemption means that cannot trade until after midnight on any other day of the year so 1am LNL time severely confused this (see 4(i) Exemption Regs). Wrote to all people who were affected but a lot ignored as did not think it related to them (don't open past 1am etc) so need to chase up non responses. Too early to notice any change but there is concern to ensure that money is spent across the whole borough and not just the city centre if not possibility of being Judicial Reviewed for not spending money fairly and appropriately. Levy funds have been used to set up a removable structure

(triage/safe space) in the town centre and they are also thinking of offering borough wide training to staff, DPS, door staff etc working in the late night economy.

- **Southampton City Council:** Came into effect on 1st April 2015 (hours: 00:01 – 6am). Already had a good partnership approach to managing the NTE but there was a cost to maintain services. With all of the cuts the authority was going to struggle to maintain the funding for these initiatives. Consultation and implementation was rushed so allow plenty of time for this. Head of legal and Licensing Manager did most of the work, with a temp for one month to ID the premises liable for the levy, rest of the work absorbed by the team. Currently working on a Best Practice Scheme with the local Pub Watch to offer a 30% reduction from the levy for members. Trying to set up a group with key stakeholders such as police, PCC, trade and LA to discuss how the monies should be spent and this is then fed to the Safe City Partnership to decide. Have secured an agreement from PCC to invest the money into the NTE in the city. Officers from Southampton report that some premises have varied sale of alcohol to midnight but kept other licensable activities at later hours and so the premises remain open and are still causing problems.
- **Nottingham City Council:** Took effect from 1st November 2014 (time: midnight – 6am). No mention of reductions. Approximately 30% of premises who would have been liable to pay the late night levy chose to make a minor variation prior to implementation.
- **Islington:** Took effect from 1st November 2014 (times: 00:01 – 6am). The Council has decided to grant a 30% reduction to members of our best Practice Scheme for Late Night Premises.
- **Cheltenham:** Took effect from 1st April 2014 from midnight to 0600. The reason for implementing is the cost of policing and managing the NTE. No particular issues with the implementation apart from the increase in work including the free variations, there were no extra staff. They found a number of premises did not know (and expect) the LNL demand. This was because the manager/DPS is not the licence holder and because they corresponded with the licence holder, head office did not always disseminate the info down to the local setup. Only have the NYE exemption and a reduction for Best Bar None and pub watch. Too early to say if any change in the city centre environment.



Appendix 3

Brighton & Hove Licensing Authority predicted calculations and notes:

| Latest hour | Number of Premises | Licences revoked/surrendered |
|-------------|--------------------|------------------------------|
| 1am | 138 | 8 |
| 2am | 162 | 8 |
| 3am | 62 | 3 |
| 4am | 17 | 4 |
| 5am | 19 | 2 |
| 6am | 15 | 1 |
| 24 hour | 71 | 2 |
| | | |
| Total | 484 | 28 |

| Terminal hour | No. of premises | Levy fee | Total | Total A-E |
|----------------|-----------------|----------|------------|-------------|
| | | | | |
| <i>01.00</i> | | | | |
| A | 2 | A 299 | £598.00 | |
| B | 96 | B 768 | £73,728.00 | |
| C | 28 | C1259 | £35,252.00 | |
| D | 4 | D1365 | £5,460.00 | |
| E | 8 | E 1493 | £11,944.00 | |
| E + Multiplier | 0 | E+ 4440 | | |
| | Total: 138 | | | £126,982.00 |
| <i>02.00</i> | | | | |
| A | 9 | A 299 | £2,691.00 | |
| B | 101 | B 768 | £77,568.00 | |
| C | 36 | C 1259 | £45,324.00 | |
| D | 3 | D 1365 | £4,095.00 | |
| E | 13 | E 1493 | £19,409.00 | |
| E+ Multiplier | 0 | E+ 4440 | - | |
| | Total: 162 | | | £149,087.00 |
| <i>03.00</i> | | | | |
| A | 1 | A 299 | £299.00 | |
| B | 32 | B 768 | £24,576.00 | |
| C | 18 | C 1259 | £22,662.00 | |
| D | 2 | D 1365 | £2,730.00 | |
| E | 8 | E 1493 | £11,944.00 | |
| E + Multiplier | 1 | E+ 4440 | £4,440.00 | |
| | Total: 62 | | | £66,651.00 |
| <i>04.00</i> | | | | |
| A | 1 | A 299 | £299.00 | |
| B | 10 | B 768 | £7,680.00 | |
| C | 5 | C 1259 | £6,295.00 | |
| D | 0 | D 1365 | - | |
| E | 1 | E 1493 | £1,493.00 | |
| E + Multiplier | 0 | E+ 4440 | - | |
| | Total: 17 | | | £15,767.00 |

| | | | | |
|----------------|-----------|---------|------------|------------|
| 05.00 | | | | |
| A | 0 | A 299 | - | |
| B | 10 | B 768 | £7,680.00 | |
| C | 7 | C 1259 | £10,072.00 | |
| D | 1 | D 1365 | £1,365.00 | |
| E | 1 | E 1493 | £1,493.00 | |
| E + Multiplier | 0 | E+ 4440 | - | |
| | Total: 19 | | | £20,610.00 |
| 06.00 | | | | |
| A | 0 | A 299 | - | |
| B | 3 | B 768 | £2,304.00 | |
| C | 9 | C 1259 | £11,331.00 | |
| D | 0 | D 1365 | - | |
| E | 3 | E 1493 | £4,479.00 | |
| E + Multiplier | 0 | E+ 4440 | - | |
| | Total: 15 | | | £18,114.00 |
| 24 hour | | | | |
| A | 2 | A 299 | £598.00 | |
| B | 40 | B 768 | £30,720.00 | |
| C | 18 | C 1259 | £22,662.00 | |
| D | 3 | D 1365 | £4,095.00 | |
| E | 8 | E 1493 | £11,944.00 | |
| E + Multiplier | 0 | E+ 4440 | - | |
| | Total: 71 | | | £70,019.00 |

483 premises after midnight including 24 hour premises (this includes suspended premises).

- If the terminal hour was set at 00:01, the amount collected could be in the region of £449,116.00 (everyone selling alcohol after 00:01 inc. 24 hour premises)
- If the terminal hour was set at 01:01, the amount collected could be in the region of £322,134.00 (everyone selling alcohol after 01:01 inc. 24 hour premises)
- If it was set at 02:01, the amount collected could be in the region of £173,047.00 (everyone selling alcohol after 02:01 inc. 24 hour premises)
- If it was set at 03:01, the amount collected could be in the region of £106,396.00 (everyone selling alcohol after 03:01 inc. 24 hour premises)
- If it was set at 04:01, the amount collected could be in the region of £90,629.00 (everyone selling alcohol after 04:01 inc. 24 hour premises)
- If it was set at 05:01, the amount collected could be in the region of £70,019.00 (everyone selling alcohol after 05:01 inc. 24 hour premises)

None of the above figures takes account of exemptions.

Notes

Exemptions

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

- Premises' with overnight accommodation. This exemption is not applicable to any premises who serve alcohol to members of the public who are not staying overnight at the premises such as a bar which can be accessed by the general public.
- Theatres and cinemas

- Bingo halls
- Community Amateur Sports Clubs (CASCs)
- Community premises
- Country village pubs
- Business Improvement Districts (BIDs)
- New Year's Eve: Licensing authorities can offer an exemption from the levy for holders in relation to premises which have a late night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year.

Reductions of the levy

Licensing authorities may wish to use the late night levy to promote and support participation by premises in other business-led best practice schemes. Licensing authorities can decide, when considering the levy design, if holders whose premises participate in such schemes should benefit from a reduction to the amount they are required to pay under the levy. Eligible premises will receive a 30% reduction from the levy.

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

Brighton & Hove City Council: Draft design of consultation for late night levy.

What is a Late Night Levy?

If implemented the levy would be an additional fee to be charged to those premises licensed to sell alcohol during the supply period. The supply period must begin at or after midnight and end at or before 6 am. For example, if the supply period was set between 00.01am and 6am then every premises licensed to sell alcohol within Brighton & Hove, at any time during that period, would be subject to the levy.

Question 1

If a Late night Levy was proposed to be introduced in Brighton & Hove in order to assist in the funding of the reduction and prevention of crime and disorder in connection with the late night supply of alcohol.

a) Would you agree that a late night levy should be introduced in the Brighton & Hove? Yes/No

b) If not please give your reasons below?

(n.b. If you answer 'No' to this question, any further answers will only be taken into consideration if a Levy is introduced. Your opposition to the introduction of a Levy will still be noted and be of prime consideration in any decision made).

Question 2

The proposal would be that the Levy should be introduced for those premises who supply alcohol between the hours of 00.01 and 06.00 a.m.

a) Do you agree that if a levy was to be introduced it should operate between these times? Yes/No

b) If not, during what time period do you think the levy should operate and why?

1am – 6am

2am – 6am

Any other time span (please state which time span) _____

Reasons for your choice of time period:

Question 3

The proposal would be that the only premises that should be exempted from paying the Levy would be premises open for New Year's Eve..

a) Do you agree that there should this exemption? Yes/No

b) If not, which of the following types of premises do you think should be exempted from paying the levy? (mark each one you think should be exempted).

☐ Overnight Accommodation

☐ Theatres & Cinemas

☐ Bingo Halls

☐ Community Amateur Sports Clubs

☐ Community Premises

☐ Business Improvement Districts

☐ No Exemptions

c) If you have ticked one or more of the boxes above please give your reasons below.

Question 4

The proposal is that premises meeting the necessary 'small business rate relief' criteria should not be entitled to a reduction in Levy.

a) Do you agree that such premises should not receive a reduction? Yes/No

b) If not, please give your reasons below?

Question 5

The proposal that premises participating in a best practice scheme (Business Crime Reduction Partnership or NTE BID) should be entitled to a reduction in Levy.

a) Do you agree that such premises should receive a reduction? Yes/No

b) If not, please give your reasons below?

Question 6

The income raised from the Levy would be divided between the Local Authority and Sussex Police with 30% going to the Local Authority and 70% to the Police.

a) Do you agree that the net revenue from the levy should be split in this way? Yes/No

b) If not, please give your reasons for this and the split you feel would be more appropriate (Please remember that the Police cannot receive less than 70%).

Question 7

The income from the Levy received by the Local Authority would be spent on noise patrol, street wardens, taxi marshals, CCTV etc..

a) Do you agree with the way in which the Local Authority would spend their portion of the levy. Yes/No

b) If not, please give your reasons below and any suggestions you have for ways in which the money could be spent.

Question 8

Sussex Police are unable to commit to specific allocation of funding, they have provided a list of examples of where the funding could go to:-Specialist services e.g. ISVA, Sustain and extend Safe Space project, targeted interventions such as Street pastors and Taxi Marshalls and prevention Water Angel type scheme, Training for door staff, other premises (hotels) and taxi drivers (enables link to other crime types e.g. child sexual exploitation), Bystander interventions, Sustained evidence based awareness campaigns. Other activities e.g. Mobile CTV cameras, ID Scanners for selected venues, Safe Haven phone application, crime & safety initiatives, Police operations and a beach quad bike patrol.

Do you agree with the way in which the Police will spend their portion of the Levy? Yes/No

b) If not, please give your reasons below giving examples where possible of how you think the money would be better spent.

Question 9

Have you any other comments to make regarding the consultation on introduction of a Late Night Levy?

Thank you for completing this questionnaire. Could you please indicate below the capacity in which you are making your comments?

We are happy to accept the consultation questionnaire anonymously but if you would like to tell us who you are then please complete your details below:

Name:

Organisation you represent (if relevant):

- ✘ Licensed Premises (with licence to sell alcohol after Mid-night)
- ✘ Licensed Premises (with licence to sell alcohol no later than Mid-night)
- ✘ Non-Licensed Business (no licence to sell alcohol)
- ✘ Resident
- ✘ Councillor
- ✘ Other (please state)

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 18

Brighton & Hove City Council

| | | | |
|--------------------------|--|---------------------------------------|---------------------|
| Subject: | Gambling Act 2005 – revised policy | | |
| Date of Meeting: | 19 November 2015 17 December 2015 | | |
| Report of: | Director of Public Health | | |
| Contact Officer: | Name: | Tim Nichols | Tel: 29-2163 |
| | Email: | tim.nichols@brighton-hove.gcsx.gov.uk | |
| Ward(s) affected: | All | | |

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Gambling Act 2005 requires 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, and they must publish the statement following the procedure set out in the Act, including whom they should consult.

2. RECOMMENDATIONS:

- 2.1 That the Director of Public Health agrees to refer the final version of the Statement of Gambling Policy to Full Council for adoption. (Appended)
- 2.2 That the final Statement of Gambling Policy is presented to Full Council.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Following Gambling Commission guidance, the council's current Gambling Statement was sent to all statutory consultees. This was a "quick" consultation as an interim review with some minor amendments, including changing the date and removing out of date information.

4. CONSULTATION

- 4.1 Consultation commenced 1 September 2015 and lasted 4 weeks. The existing statement of gambling policy was sent to consultees and was available on the council's website.

- 4.2 Responses were received from one business and a solicitor representing a business in the city. The responses were evaluated. Respondents were generally in favor. No proposals were made for any changes and therefore it is proposed to maintain our existing policy with out of date information removed. (See appendix 1).
- 4.3 Before publishing the Statement, the local authority is required to publish a notice of its intention to publish a statement. This must be done no less than two weeks before the statement is published. The notice must
- a) Specify the date on which the statement is to be published
 - b) Specify the date on which the statement will come into effect
 - c) Specify the internet address where the statement will be published and the address of the premises at which it may be inspected and
 - d) Be published on the authority's website and in or on one or more of the following places
 - A local newspaper circulating in the area covered by the statement
 - A local newsletter, circular or similar document circulating in the area covered by the statement
 - A public notice board on or near the principal office of the authority's public notice board on the premises of public libraries in the area covered by the statement.
- The statement must be published at least one month before it takes effect.
- 4.4 Timetable:
- Licensing Committee 19 November 15
 - Full Council 17 December 2015
 - Advertised and published during December 2015.
 - January 2016 Revised Statement comes into effect
- 4.5 Officers are also in the process of re-writing the Gambling Statement of Principles in light of the forthcoming changes to the Licensing Conditions and Code of Practice (LCCP) and Guidance for Local Authorities (GLA), to incorporate the new social responsibility requirements which come into force in April 2016 for which we will carry out a 3 month consultation.
- 4.6 Officers recently carried out a test purchase operation of 6 gambling premises in Brighton & Hove, working with the Gambling Commission. 3 out of 6 premises failed the test purchase. This information has been passed to the relevant Primary Authority and Gambling Commission for any further action.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no financial implications arising from the production of this statement, as licensing fees are set at a level that will be cost neutral to the licensing authority.

Finance Officer Consulted: Michael Bentley

Date: 08/10/15

Legal Implications:

- 5.2 Local authority responsibilities include: upholding licensing objectives, publishing a three year licensing policy, determining applications for premises licences and regulating members clubs – club gaming and machine permits. The Licensing Committee established under section 6 of the Licensing Act 2004 has authority to exercise functions under the Gambling Act 2005 with the exception of: a resolution not to issue casino licences, the three year licensing policy (full council) and setting fees.

Lawyer Consulted: Rebecca Sidell

Date: 08/10/15

Equalities Implications:

- 5.3 Protecting children and other vulnerable persons from being harmed or exploited by gambling is one of the licensing objectives. The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. "Vulnerable persons" will not be defined but for regulatory purposes the assumption is that this group includes people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. Operators should encourage where appropriate, strategies for self help and provide information on organisations where advice and help can be sought.

With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments..

Sustainability Implications:

- 5.4 None.

Crime & Disorder Implications:

- 5.5 Gambling Commission Inspectors will have the main enforcement/compliance role. The police and licensing authority officers have powers of entry and inspection.

Risk and Opportunity Management Implications:

- 5.6 Gambling licensing objectives are:
- (a) Preventing gambling from being a source of crime and disorder, being associated with crime and disorder, or being used to support crime
 - (b) Ensuring gambling is conducted in a fair and open way
 - (c) Protection children and other vulnerable persons from being harmed or exploited by gambling.

Corporate / Citywide Implications:

- 5.7 Licensing authorities licence all gambling premises in the city: casinos, bingo, betting, tracks, adult gaming centres, family entertainment centres as well as administering notices and granting gaming permits.

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1: Analysis of responses

Appendix 2: Revised Gambling Statement

Documents In Members' Rooms:

None

Background Documents:

None

Summary of responses

Responders R1-R3 Trade

| From: | Response | <i>whether accommodated or reasons not</i> |
|--|--|--|
| Gosschalks Solicitors acting for the Association of British Bookmakers (ABB) | <p>The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.</p> <p>This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.</p> <p>The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.</p> <p>The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.</p> <p>It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling</p> | Support for current policy |

| | | |
|--|---|--|
| | <p>rates. This is factually incorrect.</p> <p>Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.</p> <p>As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.</p> <p>Working in partnership with local authorities</p> <p>The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.</p> <p>There are a number of examples of the ABB working closely and successfully in partnership with local authorities.</p> <p>LGA – ABB Betting Partnership Framework</p> <p>In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.</p> | |
|--|---|--|

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the

"...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a

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| | <p>national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.</p> <p>Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: <i>"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."</i></p> <p>Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said: <i>"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."</i></p> <p>Primary Authority Partnerships in place between the ABB and local authorities</p> <p>All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.</p> <p>These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.</p> <p>For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.</p> | |
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| | <p>By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.</p> <p>Local area risk assessments</p> <p>With effect from 6th April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.</p> <p>Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.</p> <p>The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.</p> <p>Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to</p> | <p>To be included in next policy (currently being worked on).</p> |
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| | <p>their own operational processes informed by Statements of Principles and the local area profile.</p> <p>The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.</p> <p>Local Area Profiles – Need for an evidence based approach</p> <p>It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.</p> <p>This would distort the “aim to permit” principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.</p> <p>A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.</p> <p>We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.</p> | <p>To be included in next policy (currently being worked on).</p> |
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| | <p>Concerns around increases in the regulatory burden on operators</p> <p>Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.</p> <p>Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.</p> <p>Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.</p> <p>Employing additional licence conditions</p> <p>The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.</p> | |
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| | <p>This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.</p> <p>Specific Policy Comments</p> <p>The ABB welcomes your light touch approach to the draft gambling policy and in particular, the acknowledgement that as far as betting offices are concerned, there is no evidence that betting offices have historically required door supervision and that there is no evidence that betting machines give rise to any concerns.</p> <p>The ABB also welcomes the acknowledgement within paragraph 4.2 that many betting offices are already located near schools. Operators already have policies and procedures to ensure that those under 18 cannot bet or indeed enter the premises and all staff are trained in this regard.</p> <p>As far as paragraph 2.17 is concerned, the policy would benefit from slight expansion to acknowledge that whilst the authority may limit the number of betting machines when there is evidence to do so, it cannot limit the number of gaming machines.</p> <p>Conclusion</p> <p>The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.</p> <p>ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory</p> | <p>Support for current policy</p> |
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| | <p>compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.</p> <p>Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.</p> | |
| Elizabeth Speed for Luxury Leisure | <p>On behalf of Luxury Leisure, I make the following comments in response to the above consultation draft (the "Draft"):-</p> <ol style="list-style-type: none"> 1. As the Authority will appreciate, in matters of regulation under the Gambling Act 2005, it is subject to the Regulators' Code. That code imposes a number of obligations on the Authority, including one that it should carry out its activities in a way that supports those it regulates to comply and grow. Additionally, when designing and reviewing policies, the Authority must, among other things, understand and minimise the negative economic impact of its regulatory activities and regulate and minimise the costs of compliance of those it regulates. Further, the Authority should take an evidence-based approach in determining priority risks and recognise the compliance record of those it regulates. We suggest the Draft be amended to include an express statement that the Authority recognises that it is subject to and will comply with the Regulators' code in relation to matters of gambling licensing and enforcement. 2. The Draft acknowledges the existence of mandatory and default conditions which apply to each premises licence, which as the Authority will | |

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| | <p>appreciate, should not be duplicated by conditions attached by the Authority. The Authority will also appreciate that it is fundamental that each application is dealt with on its own merits. However, reference is made at Paragraph 9 to an Appendix of a “pool of model conditions”, which we do not have and cannot find on the website. This conflicts with the principle of each application being dealt with on its merits and may conflict with or duplicate areas already covered by the LCCP or mandatory or default conditions. We cannot comment in detail as we have not seen them. We would however point out that section 169 of the 2005 Act does not suggest a pool of conditions should be referred to or adopted – it simply says that conditions may be attached.</p> | |
| | <p>3. Finally, as the Authority appreciates, children can take part in some gambling. As such, it is not appropriate to say, as is proposed at Paragraph 2.10, that children should not be in close proximity to gambling - plainly they are permitted to be so in relation to gambling they are permitted to participate in.</p> | <p>Agreed: children can be allowed in family entertainment centres</p> |



Brighton & Hove City Council
Gambling Statement

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1. Brighton and Hove City Council: Gambling Statement

1 Introduction

1.1 This statement has been prepared in accordance with the provisions of the Gambling Act 2005. Its purpose is to promote the gambling objectives, give weight to views of consultees listed below and set out a general approach to making gambling decisions. Brighton & Hove City Council as the licensing authority in relation to gambling must carry out its functions with a view to promoting the gambling objectives and this statement is framed around those objectives. Each application will be given individual consideration on its merit. The scope of this Policy covers the following:

- Avoidance of unnecessary duplication or inefficiencies by properly separating the planning and gambling regimes in operation
- Demand for gaming premises
- Principle to be applied in exercising functions under Section 15 of the Act with respect to inspection of premises and the power under Section 346 of the Act to institute criminal proceedings
- Principle to be applied to determine whether a person is an interested party in relation to a premises licence, or in relation to an application for or in respect of a premises licence
- Consideration of applications
- Statement regarding casino resolution
- Information exchange
- Statement of principles

1.2 The gambling objectives are:-a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime; b) Ensuring that gambling is conducted in a fair and open way, and; c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.3 The statutory consultees are:-
(a) the chief officer of police for the authority's area;
(b) such persons as the licensing authority considers to represent the interests of persons carrying on gambling businesses in the authority's area;
(c) such persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

1.4 In addition to consultees in 1.3 above, a list of the persons or bodies consulted can be found at (12) on page 10.

Due consideration was given to all those who responded – the consultation period commenced 1 September 2015 and lasted 4 weeks.

1.5 This policy will come into force on 1 January 2016 by resolution of Full Council in December 2015 and will be reviewed and published at least every three years.

The review process will be undertaken using the same principles as the initial consultation process. The policy will also be under review in the interim periods; any revisions required by either process will also be the subject of consultation. It is also subject to guidance issued by the Government including any issued after the date of publication of this Statement.

- 1.6 Local Features** The population of Brighton & Hove is approximately 250,000, but this number increases significantly in the summer months with the influx of tourists. Eight million people visit this city-by-the-sea each year and it is also one of the top 10 most popular UK destinations for overseas visitors, with over 310,000 staying visitors per year and supporting over 13,000 local jobs. Brighton Marina is one of the largest in Europe, and the City is a major centre for heritage and culture, hosting the largest annual international arts festival in England every May. There are also two Universities, a City College and a large number of language schools, which together make the City very popular with students from many parts of the world. Thirty five percent of the population is aged 20-39, which is much higher than the national average. This is quite different from the large retirement age population associated with many coastal cities and reflects the City's reputation among young people as an attractive place to live.

The Office of National Statistics figures for 2003 show that in the three year period from 1998 to 2001 there has been a trend of increasing numbers of hotels, restaurants and bars in the city. Hotels have increased by 22%, restaurants by 16% and bars by 12% - this trend has not showed signs of change to date. This would seem to reflect the growing importance of the tourism and leisure industries to Brighton & Hove: increasing diverse groups of young people are attracted here as a leisure destination. A burgeoning music industry, a vibrant pub and club culture and being a place to party ensures that the city is on the leisure map. Brighton & Hove is also a major, internationally recognised leisure destination for the gay community. The city's proximity to London means that it is able to attract high spend, short stay visitors who are drawn to the pub and club scene in the city's centre.

- 1.7** The City of Brighton & Hove already provides many gambling facilities. There are two racetracks. Brighton Racecourse on Whitehawk Down has been a site of organised public racing since the late eighteenth century. Brighton and Hove were two of the 53 permitted areas in Great Britain with four casinos under the 1968 Act. There are numerous bingo and betting premises. As a seaside resort, there is a history of amusement arcades, likely to become family entertainment centres or adult gaming centres.

- 1.8** The types of applications covered by the licensing authority of Brighton & Hove City Council and relevant to this statement are:-

- To license premises for gambling activities
- To consider notices given for the temporary use of premises for gambling
- To grant permits for gaming and gaming machines in clubs
- To regulate gaming and gaming machines in alcohol licensed premises
- To grant permits to family entertainment centres for the use of certain lower stake gaming machines
- To grant permits for prize gaming
- To consider occasional use notices for betting at tracks

- To register small societies' lotteries

1.9 Family Entertainment Centres Applicants for permits for family entertainment centres will be required to submit enhanced criminal records bureau certificate and declaration from an applicant that he or she has not been convicted of a relevant offence.

1.10 Gambling decisions and functions may be taken or carried out by the licensing committee of Brighton & Hove City Council or delegated to the licensing sub-committee or in appropriate cases by officers of the authority. As many of the decisions will be purely administrative in nature, the principle of delegation to officers is adopted in the interests of speed, efficiency, and cost effectiveness. The terms of delegation of function are set out below.

1.11 The licensing authority shall foster ownership, coordination and partnership.

| Matter to be dealt with | Full Council | Sub-Committee | Officers |
|---|--------------|--------------------------|---------------------------|
| Three year licensing policy | X | | |
| Policy not to permit casinos | X | | |
| Fee setting (when appropriate) | | | X |
| Application for premises licence | | If a representation made | If no representation made |
| Application for a variation to a licence | | If a representation made | If no representation made |
| Application for a transfer of a licence | | If a representation made | If no representation made |
| Application for provisional statement | | If a representation made | If no representation made |
| Review of a premises licence | | X | |
| Application for club gaming/club machine permits | | If a representation made | If no representation made |
| Cancellation of club gaming/club machine permits | | X | |
| Applications for other permits | | | X |
| Cancellation of licensed premises gaming machine permits | | | X |
| Consideration of temporary use notice | | | X |
| Decision to give a counter notice to a temporary use notice | | X | |

Work shall include consultation with business managers to encourage understanding and ownership of policy and good practice.

1.12 Nothing in this policy shall undermine any person from applying for a variety of permissions under the Act and appropriate weight will be given to all relevant representations. Such representations will not include those that are frivolous or vexatious.

1.13 Human Rights

In considering applications, and taking enforcement action, licensing authorities are subject to The Human Rights Act and in particular the following relevant provisions of the European Convention on Human Rights:-

- Article 1, Protocol 1 - peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest.
- Article 6 - right to a fair hearing.
- Article 8 - respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life; and
- Article 10 – right to freedom of expression.

Licensing Authorities should be aware that moral objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers). In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being met.

2 Fundamental Principles

2.1 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

2.2 Applicants for premises licences will have to hold an operating licence from the Gambling Commission before the premises licence can be issued. The licensing authority will not need to investigate the suitability of an applicant since the Commission will have already done so for both operating and personal licences.

2.3 If, during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.

2.4 Licensing authorities will need to consider the location of premises in the context of this objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems e.g. with organised crime, the authority should think about what controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence. Section 169 of the Act allows the authority to impose conditions to prevent disorder.

2.5 Consideration may be given to imposition of conditions concerning:

- Security and door supervision – guarding premises against unauthorised access or occupation, or against outbreaks of disorder or against damage may only be undertaken by Security Industry Authority licensed personnel.
- As set by regulation.

2.6 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

2.7 Ensuring that gambling is conducted in a fair and open way

Generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter dealt with under the operating licence or personal licence.

- 2.8 In relation to the licensing of tracks, the licensing authority's role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. Off-course operators with on-course facilities may be required to hold a separate betting premises licence for this area but this will not be a mandatory requirement and will be at the discretion of the racecourse and the betting operator.

- 2.9 Conditions may be imposed as set by regulation.

2.10 Protecting children and other vulnerable persons from being harmed or exploited by gambling

With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises that are adult-only environments. Children must be protected from being "harmed or exploited by gambling" which in practice means preventing them from taking part in or being in close proximity to gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

- 2.11 Specific measures to prevent this may include:-

- a) Supervision of entrances
- b) Segregation of gambling from areas frequented by children
- c) Supervision of gaming machines in non-adult gambling specific premises
- d) Gaming machines in betting shops should not be visible from outside the premises
- e) Enhanced CRB checks may be required for all applicants in relation to Family Entertainment Centres and declaration from an applicant that he or she has not been convicted of a relevant offence

These considerations will be particularly relevant on tracks (where children will be permitted in the betting areas on race-days).

- 2.12 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. "Vulnerable persons" will not be defined but for the purposes of this policy the assumption is that this group includes people who from a common sense perspective, a provider of gambling services would be expected to assess as unlikely to be able to make informed or balanced decisions about gambling, due to a learning disability, mental health problem, a known compulsion to gamble or the effects of alcohol or drugs.

Operators should make information publicly available via leaflets etc about organisations that can provide advice and support, both in relation to gambling itself and to debt e.g. GamCare, Gamblers Anonymous, Gordon House Association, National Debtline, local Citizens Advice Bureaux and independent advice agencies.

- 2.13 Consideration must be given, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such

considerations will need to be balanced against the authority's objective to aim to permit the use of premises for gambling.

- 2.14 The licensing authority recognises the Children and Young People's Trust as being competent to advise on matters relating to the protection of children from harm. Applicants shall copy their applications to: Children and Young People's Trust Assistant Director (Children's Social Care) King's House, Hove, BN3 2LS in its capacity as the responsible authority.
- 2.15 Children are permitted to enter family entertainment centres and may play category D machines.
- 2.16 Consideration may be given to imposing conditions concerning
- Installation of cash dispensers (ATMs) on premises (e.g. location)
 - As set by regulation.
- 2.17 Bookmakers shops: While the authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.

3. Avoidance of unnecessary duplication or inefficiencies by properly separating the planning and gambling regimes in operation

- 3.1 This policy shall avoid unnecessary duplication or inefficiencies by properly separating the planning and gambling regimes in operation. Where appropriate, matters for consideration in gambling applications will not duplicate matters considered as part of any planning application.
- 3.2 The Licensing Committee should provide regular reports to the Planning Committee on the situation regarding licensed premises in the area. Such reports may include: the general impact of gambling related crime and disorder, numbers and types of applications per ward, results of applications/appeals, details of closing times, such other information as the committee deems appropriate.

4. Demand for gaming premises

- 4.1 Unmet demand is not a criterion for a licensing authority in considering an application for a premises licence under the Gambling Act. Each application must be considered on its merits without regard to demand.
- 4.2 The licensing authority may comment on the location of premises in so far as the location relates to the licensing objectives. The general principals that will be applied when determining whether the location of proposed gambling premises is acceptable (with or without conditions) will reflect the licensing objectives. So for example, the authority will consider very carefully whether applications for premises licences in respect of certain gambling premises located very close to a school, or a centre for gambling addicts should be granted in light of the third licensing objective. (Many betting offices are located near schools or in residential areas but under 18's are not permitted on the premises. The location of racecourses will not have altered and

cannot be transferred to another location). However, each application will be considered on its merits and will depend on the type of gambling that it is proposed will be offered in the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will have to be taken into account.

5. Interested parties

- 5.1 Section 158 of the Act defines interested parties as persons who:
- a) live sufficiently close to the premises to be likely to be affected by the authorised activities
 - b) have business interests that might be affected by the authorised activities; or
 - c) represent persons who satisfy a) or b).

Persons who fall into c) above may include trade associations, trade unions, residents associations and tenants associations, and ward councillors or MPs.

Whether a person is an interested party with regard to particular premises will be considered on a case-by-case basis, judging each on its merits. The size of the premises and the activities taking place will be taken into account. Larger premises may affect people over a broader geographical area compared to smaller premises offering similar facilities.

6. Principle to be applied in exercising functions under Part 15 of the Act with respect to inspection of premises and the power under Section 346 of the Act to institute criminal proceedings

- 6.1 The Enforcement Concordat (now called the Regulatory Compliance Code) will be accepted as best practice. The Better Regulation Executive and Hampton review of regulatory inspections and enforcement will be used as models, as follows:
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
 - Consistent: rules and standards must be joined up and implemented fairly;
 - Transparent: regulators should be open, and keep regulations simple and user friendly; and
 - Targeted: regulation should be focused on the problem, and minimise side effects.

7 Statement regarding casino resolution

- 7.1 The licensing authority has not taken a decision to pass a resolution not to issue casino licences. The effect of a resolution would be not to issue new casino licences in Brighton & Hove.

8 Information Exchange and Integration of Strategies

- 8.1 The Commission may require authorities to provide information about applications covered by the gambling authority. This information will be provided in the format

requested by the Commission.

- 8.2 This Policy will follow corporate guidelines regarding data protection and freedom of information. Where valid representations are received, a copy is sent to the applicant in order to facilitate discussions on the matters raised.

Please note: *names and addresses of those making representations will usually be disclosed to applicants.*

- 8.3 The gambling authority shall secure the proper integration of this policy with local crime prevention, planning, tourism and cultural strategies by:-
- Liaising and consulting with the Sussex Police, HM Revenue & Customs and the Community Safety Strategy representatives and following the guidance in community safety and crime and disorder strategy,
 - Liaising and consulting with the planning authority,
 - Liaising and consulting with tourism, stakeholder groups, business groups such as the City Centre Business Forum and the economic development functions for the Council.
 - Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols
- 8.4 The Statement of Gambling Policy will support the aims of the tourism strategy recognising the benefits for the tourism economy by creating a safer and more attractive City centre and improving competitiveness with other European Cities.
- 8.5 The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area, the employment situation of the area and the need for new investment and employment where appropriate to ensure that it considers these matters.
- 8.6 Planning permission is not a guarantee that permission to provide gambling will be granted. The two regimes work separately.

9. Standard Conditions

Appendix 2 (Section 169 of the Act) contains a pool of model conditions that may be imposed or excluded by the licensing authority. The Act provides that conditions may be attached to premises licences. Conditions may be attached in a number of ways:

- They may be attached automatically, having been set out on the face of the Act including mandatory and default conditions from the Secretary of State, or
- They may be attached to premises licences by licensing authorities. The authority should take decisions on individual conditions on a case-by-case basis and choose suitable and appropriate conditions to suit the specific needs of an individual premises' operation.

10. Enforcement

- 10.1 The enforcement of gambling law and the inspection of licensed premises will be detailed in the Protocol between the Gambling Commission, Brighton & Hove City Council and Sussex Police. This protocol will monitor compliance with the provisions of the Act and with licence conditions, and the investigation of suspected offences.

- 10.2 In general, the approach of the Commission will be that the authority which issues a licence or permit should take the lead in ensuring compliance with the licence and any conditions attached to it, including compliance with relevant codes of practice.
- 10.3 The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

11. Contact Details, Advice and Guidance

- 11.1 Further details for applicants about the gambling and application process, including application forms, can be found:

- By contacting the Health & Safety and Licensing Team at: Bartholomew House, Bartholomew Square, Brighton BN1 1JP
- By telephoning them on 01273 294429
- By faxing on 01273 292169
- E-mail ehl.safety@brighton-hove.gov.uk
- Via www.brighton-hove.gov.uk (search under Licensing Act 2003 and follow the gambling links)
- Via Customer Services Contact Centre
- Gambling Commission, Victoria Square House, Victoria Square, Birmingham B2 4BP
- Police Licensing Unit, Police Station, John Street, Brighton BN2 2LA Tel: 01273 665523
- Fire Authority East Sussex Fire and Rescue Service, Brighton & Hove Fire Safety, Office, Hove Fire Station, English Close, Hove, BN3 7EE, Tel: 01323 462130
- Planning, Development Control, Hove Town Hall, Norton Road, Hove, BN3 1PT, Tel: 01273 290000
- Environmental Health, Pollution Team, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP, Tel: 01273 290000
- Child protection - Children and Young People's Trust, Assistant Director, (Children's Social Care), King's House, Hove, BN3 2LS
- HMRC, National Registration Unit, Betting and Gaming, Portcullis House, 21 India Street, Glasgow, G2 4PZ. Tel: 0845 010 9000

12. Consultation was undertaken with the following:-

- the chief officer of police for the authority's area; and HM Revenue & Customs
- persons representing the interests of persons carrying on gambling businesses in the authority's area – including existing casino operators, the British Casino Association, betting shops and the Association of British Bookmakers, bingo premises, operators of amusement facilities in the area, the Racecourse Association, Brighton Business Forum;
- persons who represent the interests of persons who are likely to be affected by the Act including faith groups, local residents and tenants associations, voluntary and community organisations working with children and young people, operators of small

lotteries, organisations working with people who are problem gamblers, medical practices or primary care trusts, and advocacy organisations such as Citizens Advice Bureau, The Money Advice Trust and National Debtline, GamCare, Members and trade unions.

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| LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS) | Agenda Item 19 Brighton & Hove City Council |
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Reviews table Dec 2014 – November 2015

| <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> |
|--|---|-----------------------------------|---|
| Metrobet 56 Boundary Road, Hove | N/A | 19.12.14 | Conditions added |
| Regency Arcade Units 1-4 West Street | N/A | 19.12.14 | Conditions added |
| Regency Arcade Unit 2 West Street | N/A | 19.12.14 | Conditions added |
| Regency Arcade Unit 3 West Street | N/A | 19.12.14 | Conditions added |
| Regency Arcade Unit 4 West Street | N/A | 19.12.14 | Conditions added |
| Lewes Road Post Office 6 Lewes Road | N/A | 13.02.15 | Licence surrendered before hearing |
| Northern Lights 6 Little East Street Brighton BN1 1HT | N/A | 27.01.15 | Conditions added to licence and SRA hours reduced to 1am on weekends |
| Oxygen 75 West Street Brighton BN1 2RA | N/A | 01.05.15 | Revoked |
| Golden Grill 5 Pool Valley Brighton BN1 1NJ | N/A | 11.09.15 | Revoked |
| The Bulldog 31 St James's Street Brighton BN2 1RF | N/A | 21.09.15 | Suspended from midnight for 1 month and conditions added |

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 20

Brighton & Hove City Council

Schedule of Licensing Appeals: Date of Meeting: 19th November 2015

| Premises | Appellant | PTR | Hearing | Outcome |
|---|---------------------------|------------|-----------------------------|---|
| Oxygen, 75 West Street, Brighton | Premises licence holder | | 13/14 th October | Decision to revoke substituted for decision to suspend the licence for 3 months, reduce hours and attach conditions |
| The Bulldog, 31 St James's Street, Brighton | Police and Licence holder | 13.11.15 | | |
| The Golden Grill, 5 Pool Valley, Brighton | Licence holder | | | |

