

# Licensing Panel (Licensing Act 2003 Functions)

**Agenda Item 30**  
Brighton & Hove City Council

<b>Subject:</b>	<b>Application for a New Premises Licence under the Licensing Act 2003</b>		
<b>Premises:</b>	<b>The Haunt 75-79 East Street Brighton BN1 1NF</b>		
<b>Applicant:</b>	<b>Mr Matthew Felton-Dimmack</b>		
<b>Date of Meeting:</b>	<b>3 September 2018</b>		
<b>Report of:</b>	<b>Executive Director of Neighbourhoods, Communities &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Sarah Cornell</b>	<b>Tel: (01273) 295801</b>
	<b>Email:</b>	<b>sarah.cornell@brighton-hove.gcsx.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>Regency</b>		

## FOR GENERAL RELEASE

### 1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To determine an application for a New Premises Licence under the Licensing Act 2003 for The Haunt.

### 2. RECOMMENDATIONS:

- 2.1 That the Panel determine an application for a New Premises Licence under the Licensing Act 2003 for The Haunt.

### 3. CONTEXT/BACKGROUND INFORMATION & CONSULTATION

- 3.1 The application is for a New Premises Licence under the Licensing Act 2003. The application proposes a live music venue and bar.
- 3.2 Part M (operating schedule) of the application is detailed at Appendix A proposed plan of the premises is attached at Appendix B

### 3.3 Summary table of proposed activities

	<b>Proposed</b>
<b>B) Films</b>	Every Day 11:00 to 04:00
<b>E) Live music</b>	Every Day 11:00 to 04:00
<b>F) Recorded Music</b>	Every Day 11:00 to 04:00
<b>G) Performance of Dance</b>	Every Day 11:00 to 04:00
<b>H) Anything of a similar description within e, f ,or g</b>	Every Day 11:00 to 04:00
<b>L) Late Night Refreshment</b>	Every Day 23:00 to 04:00
<b>M) Supply of Alcohol</b>	Every Day 11:00 to 04:00 On and off premises
<b>O) Hours premises are open to public</b>	Every Day 11:00 to 04:30

#### **For all of the above - Non-standard timings:**

On the day when British Summer Time commences, and on that day only, opening hours will be extended by one hour. On St Georges Day, Valentine's Day, St Patrick's Day, St Andrews Day and St David's Day opening hours will be extended by one hour. Bank Holidays Friday to Monday inclusive opening hours will be extended by one hour and from 18th December to 30th December and January 1st, opening hours will be extended from the end of permitted hours on New Year's Eve to the Start of permitted hours on New Year's Day.

On special occasions notified to the Police and Council at least 7 days in advance for the hours agreed with their consent. (with police having an absolute veto).

3.4 Cumulative Impact. The premises fall within the Cumulative Impact Area ("The Area") (see paragraphs 3.1 – 3.1.8).

#### **Representations received**

3.5 Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:

3.6 12 representations were received. They were received from local residents, local businesses, Resident Associations, local Councillors, Sussex Police & The Licensing Authority.

3.7 Representations received had concerns relating to Prevention of Crime and Disorder, Cumulative Impact, Public Safety, Prevention of Public Nuisance & Protection of Children from Harm.

3.8 Full details of the representations are attached at Appendix C. A map of the location of the premises and showing those representations within the locality is at Appendix D. Please note that Responsible Authorities, Residents Associations and reps further afield are not shown on the map but can be found at Appendix C.

#### **4. COMMENTARY ON THE LICENSING POLICY**

4.1 The following extracts from Brighton & Hove City Council Statement of Licensing Policy are considered relevant to this application and **are numbered as they appear in the policy**:

##### **1. Introduction**

1.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 (the Act) and having regard to Guidance issued by the Home Office under Section 182 of the act. The licensing authority is Brighton & Hove City Council. The purpose of this statement is to promote the licensing objectives and set out a general approach to making licensing decisions. The discretion of the licensing authority in relation to applications under the act is only engaged if 'relevant representations' are made by other persons or responsible authorities. This policy will inform the approach to be taken when deciding applications and imposing conditions when relevant representations are received. It is also intended as a guide for applicants as to what to include in their operating schedules, always recognising that if no representations are received, the application must be granted. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this policy is framed around those objectives. Each application will be given individual consideration on its merit. The scope of this policy covers the following:

- Retail sales of alcohol;
- The supply of alcohol by or on behalf of a club, or to the order of, a member of the club;
- The provision of regulated entertainment;
- The provision of late night refreshment.

##### **1.2 The licensing objectives are: -**

- (a) Prevention of crime and disorder;
- (b) Public safety;
- (c) Prevention of public nuisance;
- (d) Protection of children from harm.

##### **1.3 Scope**

Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations; i.e. the premises and its vicinity. Each application will be

given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the act.

### **3 Special Policies and Initiatives**

#### **3.1 Cumulative impact**

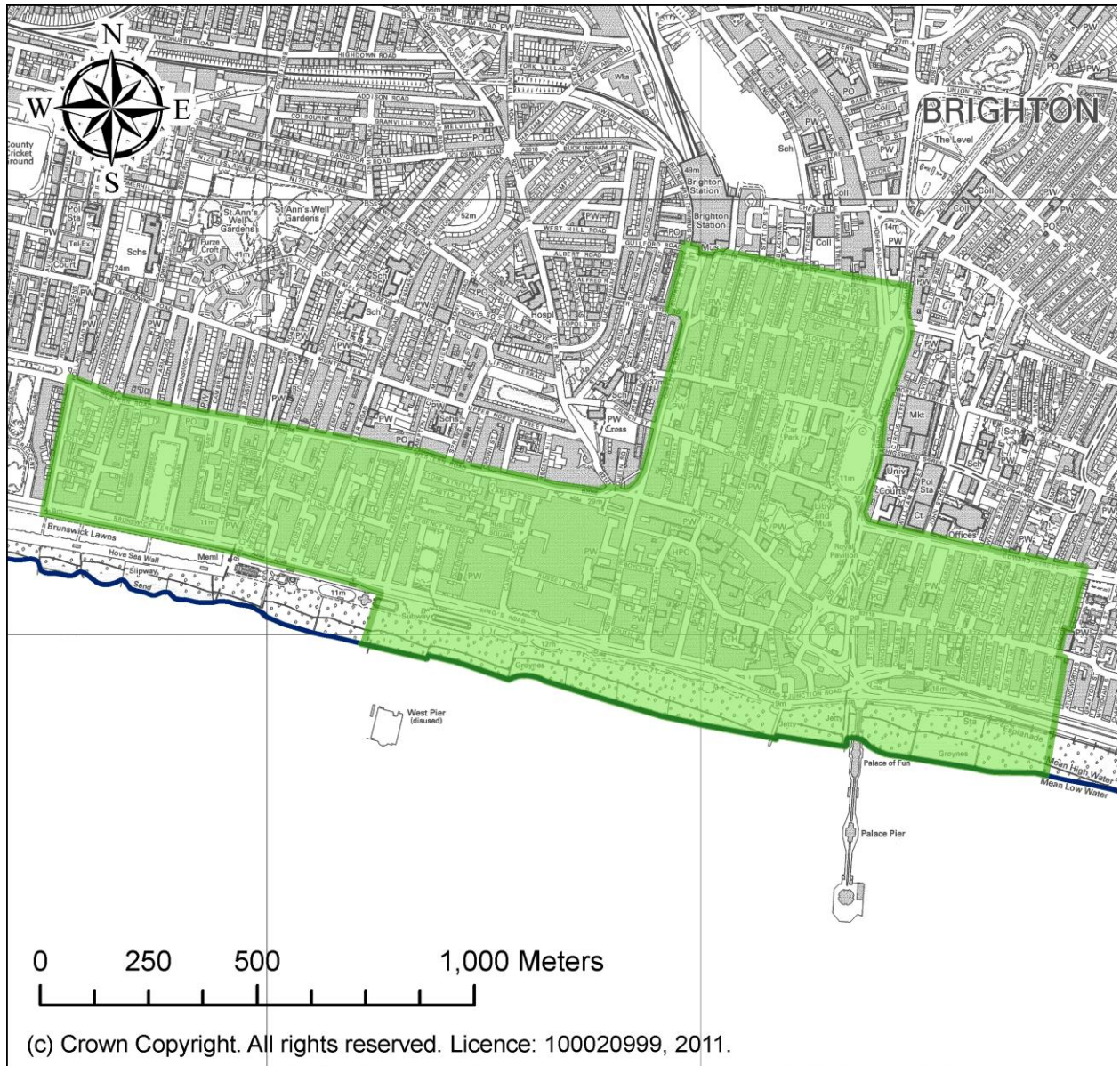
3.1.1 The licensing authority may receive representations from either a responsible authority or other persons that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is therefore a matter for the market to decide and can, in some circumstances, be a matter for planning consideration; need therefore does not form part of this licensing policy statement.

3.1.2 **Special Policy** - Cumulative Impact is defined as the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

The licensing authority, after careful consideration, has determined that the concentration of licensed premises in an area of the city centre is causing problems of crime and disorder and public nuisance, and that therefore an approach to 'Cumulative Impact' is necessary as part of its statement of licensing policy. The first Special Policy incorporating a Cumulative Impact Zone (CIZ) and Special Stress Areas (SSA's) were adopted in March 2008. Since that date, the licensing authority has kept the CIZ and SSA's under review. On 15 December 2011 Full Council resolved to expand the CIZ and the special stress area, covering 1.5% of the administrative area of Brighton & Hove City Council. On 20th November 2014 Licensing Committee resolved to confirm the current CIZ and SSA as defined in the current Statement of Licensing Policy.

3.1.3 This special policy will refer to a Cumulative Impact Zone (“the CIZ”) in the Brighton city centre, a detailed plan of which is shown below.

### Brighton & Hove City Council - Cumulative Impact Area



The Cumulative Impact Area comprises the area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Holland Road to the junction with the west side of Dyke Road at its eastern end; from there, north-east to the junction of the north side of Ayr Street with the west side of Queens Road and then northward to the north-west corner of Surrey Street junction with Queens Road; thence along the north side of Trafalgar Street eastwards to its junction with York Place and continuing south-east across to Grand Parade, then south to the junction of Edward Street; along the north side of Edward Street to the east side of its junction with Egremont Place and southward along the eastern sides of Upper Rock Gardens and Rock Gardens; southward to the mean water mark and following the mean water line westward to a point due south of the west boundary of Holland Road; northward to that point and along the west side of Holland Road to its northwest boundary and then diagonally across Western Road to its intersection with the west side of Holland Road.

- 3.1.4 The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact.
- 3.1.5 This special policy also applies to all new premises licences and club premises certificates, for example pubs, restaurants and take-away establishments. Off licences also come within this policy as they can contribute to problems of street drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.
- 3.1.6 The presumption of refusal does not relieve responsible authorities or other persons of the need to make a relevant representation. If there are no representations, the licensing authority must grant the application in terms consistent with the operating schedule submitted.
- 3.1.7 Furthermore, this special policy is not absolute. Upon receipt of a relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in the light of the individual circumstances of the case. If an application is unlikely to add to the cumulative impact of the area, it may be granted. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant, theatre or live music venue (where alcohol is not the primary activity) may be considered exceptional circumstances. The fact that a premises will be/is exceptionally well managed with a well-qualified applicant, or that there are no residential premises nearby, will not be considered exceptional.
- 3.1.8 If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that conditions would be ineffective in preventing the problems involved.

### **3.3 The Matrix Approach**

#### **The Licensing Authority will support:**

- 3.3.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time may create opportunities for violent crime and public disorder and therefore supports: mixed use venues encouraging a wider age balance.

3.3.2 A “matrix” approach to licensing decisions has been adopted and is set out below. It provides a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success or otherwise to investor and businesses making applications.

Matrix approach for licensing decisions in a Statement of Licensing Policy (times relates to licensable activities)

	<b>Cumulative Impact Area</b>	<b>Special Stress Area</b>	<b>Marina</b>	<b>Other Areas</b>
<b>Restaurant</b>	Yes (midnight)	Yes (midnight)	Yes	Yes (midnight)
<b>Café bar</b>	Yes (11.30)	Yes (midnight)	Yes	Yes (midnight)
<b>Late Night Takeaways</b>	No	Yes (midnight)	Yes	Yes (midnight)
<b>Night Club</b>	No	No	Yes	No
<b>Pub</b>	No	Yes (11pm)	Yes	Yes (midnight)
<b>Non-alcohol lead (e.g. Theatre)</b>	Yes (favourable)	Yes (favourable)	Yes	Yes (favourable)
<b>Off-licence</b>	No	No	Yes	Yes ( Up to 11pm but if in densely residential area may be earlier – see note 7 below)
<b>Members Club (club premises certificate)</b>	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes	Yes

Notes on matrix

Subject to the following notes, the policy, as represented in the matrix, will be strictly adhered to:

- 1) Each application will be considered on individual merit
- 2) Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.
- 3) Departure from the matrix policy is expected only in exceptional circumstances

- 4) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
- 5) Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to offset impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts).
- 6) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, member's clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.
- 7) Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or café bars, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing and the Street Community and Drug Activity Profile. These documents are available on the following page of our website [www.brighton-hove.gov.uk/licensingact](http://www.brighton-hove.gov.uk/licensingact).
- 8) In an area where there are already several existing off-licences and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds.
- 9) Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The Licensing Authority will have regard to Noise Council guidance.



### **3.4 Night-time Economy Safeguarding Initiatives**

Safe Space, run by the YMCA Downsink Group, on West Street runs throughout the year on Fridays and Saturdays (11-3.30am) from its base in St Pauls Church, West Street. The project is intended to provide a safe place for users of the night time economy who are rendered more vulnerable due to alcohol and/or drug use. First Aid is provided by The British Red Cross with emotional and practical support from the YMCA. During the spring and summer months a mobile outreach team also operates along the seafront. Mobile teams also operate on New Year's Eve in the Kemp Town and East Street areas. The Licensing Authority supports initiatives such as The YMCA's sexual exploitation project, WiSE Project and the Brighton Beach Patrol (Quad Bike), and police vulnerability training, which increase awareness of sexual exploitation in the night time economy. These strands of work aim to speak to workers such as pub and bar staff, door staff, fast food outlets, taxi firms and hotels to encourage them to look out for signs of sexual exploitation and inform them of how to report incidents of concern. The other strands of work involve talking to customers in the city centre and on student campuses about staying safe and looking out for other people using interactive beer mats and informative leaflets. The Brighton Beach Patrol is operated by Resolve Security Solutions Ltd and utilises a quad bike and SIA security staff to patrol the beach between the Piers protecting the vulnerable from potential drownings, assaults, intoxication and safeguarding matters.

3.4.1 Sussex Police are rolling out vulnerability awareness sessions to both police staff and those working in the night time economy in Brighton and Force wide. The training is devised to ensure officers and those working in the Night Time Economy are aware of the signs of vulnerability, which can include a variety of different factors including intoxication, age, losing contact with friends, not being familiar with the area.

### **3.9 Promoters and irresponsible drinks promotions**

3.9.1 The Licensing Act 2003 makes no mention or provision for the use of promoters within licensed premises. Many of the late night bars and clubs within the Brighton & Hove Cumulative Impact Area regularly hire promoters to sell nights at their venues. In recent years with the introduction of promoters within the Brighton night time economy, several issues have arisen. This includes promoters vouching for underage customers to get them inside licensed premises where they can access alcohol, providing flyers to passers-by who throw them on the floor and irresponsible promotions for their nights. Many premises now have an agreement with their promoter for acceptable promotions and behaviour which includes the signing of a written contract of expectations. This shows premises evidencing their due diligence and ensures that promotion companies know what is expected of them. The contract could include, obligations to pick up self-generated litter, verification of ages of their customers and users of their social media, promoters being over the age of 18 and responsible advertising on social media.

3.9.2 The Licensing Authority expect licensed premises to develop staff policy and training on recognising signs of drunkenness and vulnerability, for example, offering drinking water and tips for refusing customers who appear drunk. And discourage company policies that promote bonuses and sales incentives for selling alcohol. Licensing Authority will expect necessary precautionary processes to restrict drunkenness, e.g. Licensing Guidance states happy hours should not be designed to encourage individuals to drink excessively or rapidly.

## **4 Prevention of Crime and Disorder**

4.1.1 The following details and measures are intended to address the need for the prevention of crime and disorder which may be associated with licensed premises and certificated club premises. Conditions attached to licences and certificates will, as far as possible, reflect local crime reduction strategies.

4.1.2 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.

4.1.3 It is expected that the DPS will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.

4.1.4 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

4.1.5 Measures put in place should support the intentions of Operation Marble (police operational order), which aims to prevent incidents of crime and disorder within the night time economy, at weekends. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the city centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night time economy and the responsibly run businesses within it.

## **4.2 Sussex Police**

4.2.1 The Police have experienced a shift in peak times during the policing of the night time economy with an increasing demand for resources further into the early hours of the morning. This may be indicative of individuals coming out later into the night time economy due to changes in disposable income. This is coupled with the increases in 'pre-loading,' when individuals coming into the night time economy have already consumed alcohol purchased at home. There has also

been a noticeable increase in licensing activity mid-week. This has been partly due to the large student population taking advantage of a more affordable week night economy. Likewise, licensed venues have encouraged a wider customer base by hosting regular themed nights and offering discounted alcohol and entry. These trends provide obvious challenges to both the licensed on-trade and the police when assessing and responding to levels of drunkenness.

- 4.2.2 Dispersal from the city centre during the late evening and early morning continues to provide policing challenges. Over recent years, there has been a proliferation of off-licences and late night refreshment venues along the city's arterial routes. This has led to incident 'hot spots' where patrons from the night time economy continue to interact, albeit away from any safety measures afforded by on-licences. As such, Sussex Police support the Council's Special Policy in offering guidance to both applicants and the Licensing Committee in relation to off-licences and late night refreshment licences.
- 4.2.3 Sussex Police have a growing concern that, despite staff training in age-restricted sales, under age individuals are still being served alcohol in some of the city's licensed premises. As such, regular intelligence-led 'test-purchase' operations are conducted. Between December 2013 and July 2014, 21 off-licences and 13 on-licences were tested. 38% of the off-licences failed in contrast with a 85% failure rate with the on-licences; indicating a considerable risk in this area of the trade. It is anticipated that initiatives, including the introduction of identification scanning machines at premises throughout the city, will go some way to mitigate this risk. Sussex Police also continue to work alongside the Business Crime Reduction Partnership to tackle the problem of those who use false identification to enter licensed premises and purchase alcohol.
- 4.2.4 Brighton and Hove Police are working closely with venues and other organisations within the city to protect vulnerable people from becoming victims of crime. This includes such measures as offering vulnerability training and supporting initiatives such as mobile teams of volunteers actively checking peoples well-being.
- 4.2.5 Policing the night time economy continues to provide a challenge and in the climate of limited resources and newly emerging problems, Sussex Police support maintaining the Council's Special Policy which defines cumulative impact and special stress. Sussex Police also recognise and support businesses which are aware of their social responsibilities and as such, actively contribute towards keeping Brighton and Hove a safe and enjoyable city

### **4.3 Care, control and supervision of premises**

- 4.3.1 The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible

authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.

4.3.2 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff. The police may ask for conditions which support such measures to be imposed when licensing applications are granted, eg type of licence, capacity, operating hours restrictions.

4.3.3 Following the grant of a licence, the management and supervision of the premises, in so far as it might impact on crime and disorder, will continue to be monitored. Particular attention will be paid to any licensed premises where there is evidence of criminal activity or any association with racist or homophobic crime. The licensing authority will keep itself well briefed on the nature, location and type of premises where alcohol related violence and disorder are occurring so it can take full account of the facts and avoid exacerbating problems as required by the Community Safety Strategy. Where licensed premises are found to cause nuisance or be associated with disorder or unreasonable disturbance, the review process may be invoked, and powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier closing times. Such action to restrict the operation may be taken for trial periods to allow businesses an opportunity to remedy existing disorder, nuisance or disturbance.

4.3.4 This policy recognises the use of registered Door Supervisors All Door Supervisors will be licensed by the Security Industries Authority. Mobile security units and similar systems are in use by some premises operators as a means of providing security cover at very short notice at premises which may not normally require a permanent security presence. The Licensing Strategy Group has sought to define the standards and operating guidance for such mobile units, which will be in need of regular review. This policy endorses the use of units following such guidance and standards in appropriate circumstances. A copy can be found on the licensing pages of the council's website.

4.3.5 The development of codes of practice and general operating standards for security companies is encouraged for local businesses; premises operators are urged to ensure that security services, when engaged, are provided by suitably qualified businesses operating to recognised standards and who should be working towards SIA accreditation.

4.3.6 Enforcement will be achieved by the enforcement policy.

## **5 Public Safety**

5.1 The following details and measures are intended to address the need for the protection of public safety which may be associated with licensed premises and certificated club premises.

- 5.1.1 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 5.1.2 Normally in the city centre, pubs and clubs will be expected to operate using polycarbonate or toughened/shatterproof glass.
- 5.1.3 Conditions may be imposed in accordance with operating schedules to protect public safety including where justified:
- (a) provision of closed-circuit television and panic buttons.
  - (b) use of shatterproof drinking vessels; bottles requiring use of toughened glass or plastic should normally be required unless applicants can show exceptional reasons.
  - (c) use of door supervisors, licensed by the Security Industry Authority.
  - (d) requirement of a minimum of a licensed door supervisor for every 100 customers in nightclubs and large city centre pubs or as indicated by risk assessment.
  - (e) occupant capacity conditions will be applied where appropriate.
  - (f) the provision of designated and suitably trained first aiders.

## **6 Prevention of Public Nuisance**

- 6.1 The following details and measures are intended to address the need for the prevention of public nuisance which may be associated with licensed premises and certificated club premises.
- 6.1.1 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (e.g. in order to smoke).
- 6.1.2 Applications for new licences or for the extension in size of licensed premises should not normally be granted if the premises will use amplified or live music and operate within or abutting premises containing residential accommodation except that occupied by staff of the licensed premises. A condition may be

imposed on new licences that entertainment noise shall be inaudible in any residence. Noise emanating from within licensed premises should not normally be audible outside.

- 6.1.3 Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.
- 6.1.5 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.
- 6.1.6 Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. The council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy (see 6.2 below).

## 6.2 Smoking Advice

### 6.2.1 Premises licence holders will be expected to:

- Develop a management plan on how to manage smoking on your premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented. Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.
- Comply with any planning conditions restricting the use of outdoor areas.
- Ensure that any structures used by smokers comply with the design criteria detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc. have the relevant planning permission.
- Ensure any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with. There may be conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence you may find it necessary to request a variation of your licence.
- Licence tables and chairs on the Public Highway under the provisions of the Highways Act 1980. These licences may have conditions restricting the times that the area can be used.
- Ensure drinks, glasses and bottles are not taken onto the highway unless there is a tables and chairs licence permitting use. A system should be adopted to prevent theft and 'spiking' of drinks, and reminding customers not to leave unattended items.
- Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.
- Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters will also be turned off.
- Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.
- Employ staff and/or SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.
- Ensure door supervisors maintain order outside venues and protect customer safety. BCRP supports the use of Night Safe. Radio net and other pager systems and pub watch schemes can be used to provide for rapid police response and alert other venues where customers and staff are endangered.
- Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats

above. By changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.

- Use CCTV to manage outside areas.

6.2.2 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

## **7 Protection of Children from Harm**

7.1 The following details and measures are intended to address the need for the protection of children from harm; this includes emotional and physical harm which may be associated with licensed premises and certificated club premises (for example the exposure too early to strong language and sexual expletives, e.g. in the context of film exhibitions or where adult entertainment is provided). It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions (unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely).

7.2 Licensees should note the concern of the authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, all licensees should work with a suitable 'proof of age' scheme and ensure that appropriate identification is requested prior to entry and when requesting alcohol, where appropriate. Appropriate forms of identification are currently considered to be those recommended by police, trading standards officers and their partners in the Licensing Strategy Group (e.g. passport, photo driving licence or pass card).

7.3 It is the licensing authority's expectation that all staff responsible for the sale of intoxicating liquor receive information and advice on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent under age sales. The licensing authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of emotional or psychological harm to them. Each application will be considered on its own merit but particular areas that will give rise to concern in respect of children are to be found in section 5.3 below.

7.4 To reduce alcohol-induced problematic behaviour by under 18 year olds, to enforce underage purchase and drinking laws and to assist in the protection of children from harm, the licensing authority supports the following measures:-

- a) Police should exercise powers (Confiscation of Alcohol (Young Persons) Act 1997) to remove alcohol from young people on the street
- b) Police and trading standards should implement test purchasing to reduce sales to under 18s in on and off sales licensed premises
- c) Further take-up of proof of age schemes will be promoted
- d) In-house, mystery shopper type schemes operated by local businesses will be supported
- e) Providers of events specifically catering for unaccompanied children should consider whether all staff at such events need to be DBS checked



7.5 The licensing authority will not seek to require that access to any premises is given to children at all times – under normal circumstances this will be left to the discretion of the licensee. The following areas give rise to concern in respect of children, who will normally be excluded from premises:

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is commonly provided;
- where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons.

Options may include:

- limitations on the hours when children may be present;
- age limitations (below 18);
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

7.6 Licensees of premises giving film exhibitions will be expected to include in their operating schedules arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases where such certificates have not been granted, the licensing authority. The licensing authority does not intend to adopt its own system of film classification. The licensing authorities procedures for dealing with unclassified films are appended at **Appendix E of the Statement of Licensing Policy.**

7.7 Where children are expected to attend a public entertainment, appropriate adult supervision will be required to control the access and egress of children and to protect them from harm. This will normally be an adult member of staff for every 100 children. Where the entertainment is music and dancing, 2 persons, licensed by the Security Industry Authority (door supervisors) should be employed for every 100 children but will be subject to advice within the Event Safety Guide. Nothing in this policy shall seek to override child supervision requirements contained in other legislation or regulations. For exclusively under 18 events reference should be made to police guidelines (available from the Police Licensing Unit, Brighton tel. 101). The licensing authority recognises the Director of Childrens Services as being competent to advise on matters relating to the protection of children from harm. Applicants shall copy their applications to the Director of Childrens Services in its capacity as the responsible authority. Copies should be sent care of the Police. The “What to do” booklet is a national one and can be accessed here: <http://www.brightonandhovelscb.org.uk/wp-content/uploads/What-to-do-if-a-child-is-being-abused.pdf> Probably also worth getting him to put in that if you are concerned about a child locally to contact the

Multi-Agency Safeguarding Hub (MASH) on 01273 290400, or you can contact Sussex Police on 101. If they think a child is in immediate danger to dial 999.

- 7.8 Trading standards and the police undertake ongoing enforcement operations around under-age sales and test purchasing. Sussex Police, BCRP and undertake work concerning proxy purchases and counterfeit ID as part of the partnership support work with Community Safety and Trading Standards.
- 7.9 Trading standards have a programme of business support including training for local businesses to avoid under-age sales.

## **8 Integration of Strategies**

- 8.1 The licensing authority shall secure the proper integration of this policy with local crime prevention, planning policy, transport, tourism and cultural strategies by:-
- Liaising and consulting with the Sussex Police, Community Safety Forum, Sustainability Commission representatives and following the guidance in community safety and crime and disorder strategy
  - Liaising and consulting with Public and Alcohol Programme Board
  - Liaising and consulting with the East Sussex Fire & Rescue Service
  - Liaising and consulting with the Local Strategic Partnership, Safety Advisory Group (Emergency Planning) and Equalities and Social Justice Consultation Forum
  - Liaising and consulting with the Planning authority
  - Liaising and consulting with the Highways authority
  - Liaising and consulting with local business and business associations. Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols
  - Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice
- 8.2 In line with statutory requirements and the Council's Inclusion Policy, the Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, for example communities of interest such as: lesbian, gay, bisexual and transgender people; disabled people; racial and ethnic groups; religious and faith groups.
- 8.3 This policy supports the aims of the tourism strategy, recognising the benefits for the tourism economy of creating a safer and more attractive city centre and improving competitiveness with other European cities. The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that it considers these matters.
- 8.4 The Licensing Committee should receive relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.

- 8.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening. Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.
- 8.6 The licensing authority will have regard to the need to disperse people quickly and safely from the city centre to avoid concentrations which may produce disorder and disturbance.

## **8.8 Enforcement**

- 8.8.1 The Enforcement of licensing law and inspection of licensed premises is detailed in the Protocol between Sussex Police, the East Sussex Fire & Rescue Service and Brighton & Hove City Council. This protocol reflects the need for more efficient deployment of Police and Local Authority staff commonly engaged in licensing enforcement and can be found at **Appendix D (Lead Agency Status) of the Statement of Licensing Policy**. In addition the Licensing Authority will have regard to its published Licensing Enforcement Policy in making enforcement decisions in accordance with Brighton and Hove City Council's Statement of Licensing Policy (**Appendix B**). In order to better target enforcement resources, inspections will be undertaken outside of normal office hours and the sharing of information between all enforcement agencies will be encouraged through joint meetings or similar arrangements.
- 8.8.2 Attention is drawn to the targeting of agreed problem and high risk premises requiring greater attention as identified in the protocol. A number of other council and government policies, strategies and guidance documents must be taken into account to complement the policy, including:
- Community Safety & Crime Reduction Strategy
  - Drugs and alcohol strategies – local alcohol harm reduction strategy
  - Objectives of the Private Security Industry Authority
  - The Anti-Social Behaviour Act 2003/ASBPC Act 2014
  - The Health Act 2006
  - The Violent Crime Reduction Act 2006
  - Policing and Crime Act 2009

## **10 Live Music, Dancing & Theatre**

- 10.1 This policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues the potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. The impact of licensing on regulated entertainment, particularly live music and dancing, will be monitored. Where indications are that such events are being deterred by licensing requirements, the policy will be revisited with a view to investigating how such situations might be reversed.

- 10.2 The Licensing Committee represents the general interests of a community in determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. All members of the Licensing Committee will be trained on Licensing Act 2003 and S182 Guidance. The Licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre - such as imposing indirect costs out of proportion to the income of the licence holder and to the risks presented. Only appropriate, proportionate and reasonable licensing conditions should impose any restrictions on such events.
- 10.3 The licensing committee will support the cultural zones, outdoor eating areas, food led operations, community pubs, live entertainment and protect living conditions in mixed use areas.

## **APPENDIX A – Licensing Best Practice Measures**

Best Practice Measures to be included for consideration, in particular in SSA:

Matters that would normally be expected in operating schedules:

- the adoption of a policy (e.g. Challenge 25) with acceptable proof of id as per existing Statement of Licensing Policy
- all off sales to be made in sealed containers for consumption away from the premises
- a smoking policy which includes an assessment of noise and litter created by premises users
- the use of plastic or polycarbonate drinking vessels and containers, especially in outside areas or after specified hours
- a policy in relation to searching customers and for drugs, weapons, seized or lost and found property
- use of a refusals book for registering attempts to buy alcohol by under-age persons or refusals to those intoxicated
- the installation of a digital CCTV system by liaison with, and to a standard approved by, Sussex Police
- policies for dispersal of customers which may include signage regarding taxi services' telephone numbers and advice to respect neighbours and minimize noise

Items to which positive consideration would be given:

- membership of Business Crime Reduction Partnership, Pubwatch, Neighbourhood Watch or similar schemes
- use of 'NightSafe' radio system or similar accredited scheme
- regular training and reminders for staff in respect of licensing legislation, policies and procedures; records of which should be properly recorded and available for inspection
- records of regular checks of all parts of the premises in relation to drug use

- systems in place to ensure details of barred clients are exchanged with other operators
- giving an agreed minimum notice of special events (screening of major sports events, birthday parties, adult entertainment, etc.) to relevant authorities and use of appropriate additional measures at such events

Recommend best practice for both on and off premises

- Staff must be aware of the risk of the problem of proxy sales and offer assistance to responsible authorities to deter offences
- Signage on premises should set out legal duties
- Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders
- Staff training – in addition to personal licence holders training, staff must be adequately trained for duties
- Challenge 25 would be the norm, particularly in the off licence trade
- Signage – proxy sale – deterrence

## 5. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

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

*Finance Officer Consulted : Monica Brooks*

*Date: 13/08/18*

### Legal Implications:

- 5.2 The licensing authority must act to promote the four licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

*Lawyer Consulted: Rebecca Sidell*

*Date: 09/08/18*

### Equalities Implications:

- 5.3 Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

Sustainability Implications:

- 5.4 Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Appendix A – Part M (operating schedule) of the Application
2. Appendix B – Proposed Plan of Premises
3. Appendix C – Representations
4. Appendix D – Map of area

**Documents in Members' Rooms**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016 as amended 24th March 2016.

Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018.

Public Health Framework for assessing Alcohol Licensing. Annual Report – Ward. 3rd edition. Public Health Intelligence. October 2017

**Background Documents**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016 as amended 24th March 2016.