

LICENSING COMMITTEE

(LICENSING ACT 2003 FUNCTIONS)

Agenda Item 5

Brighton & Hove City Council

Subject: Statement of Licensing Policy Progress Report
Date of Meeting: 24 June 2010
Report of: Director of Environment
Contact Officer: Name: **Jean Cranford** Tel: **29-2550**
E-mail: jean.cranford@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Council, as Licensing Authority, has a statutory duty to review its Statement of Licensing Policy (SoLP) every three years. This process was completed in 2007 and the revised SoLP adopted came into effect on 7 January 2008.
- 1.2 Part of the review process included the creation and adoption of a Cumulative Impact Area and Special Policy. Following a public consultation process for this, feedback, legal opinion and analysis of the proposal went to Full Council on 13 March 2008 and it was decided to adopt a cumulative impact area and special stress area.
- 1.3 It was further agreed that the cumulative impact area and special stress areas are reviewed regularly and as such we have reviewed data year on year from the implementation of the CIA and SSA's.

2. RECOMMENDATIONS:

- 2.1 That the committee asks officers to bring the results of the consultation and the revised Statement of Licensing Policy to the licensing committee in November 2010.
- 2.2 Sussex Police recommend that the cumulative impact and special stress areas are retained in their current form. This position is supported by the Council's Environmental Health Officers dealing with pollution, prevention and minimisation.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy every three years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2003 Act. During the

three year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met. The first, statutory three year period began on 7 January 2005. Subsequent three year periods, eg. beginning 7 January 2008 etc, are fixed and would not be altered by any other revisions that a licensing authority may chose to make within a period, or by any determination of a new policy.

4. CONSULTATION

4.1 Before determining its policy for any three year period or if revising a policy within a period, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- the chief officer of police for the area;
- the fire and rescue authority for the area;
- persons/bodies representative of local holders of premises licences;
- persons/bodies representative of local holders of club premises certificates;
- persons/bodies representative of local holders of personal licences; and
- persons/bodies representative of businesses and residents in its area.

The views of all these persons/bodies listed should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies that represent all parts of industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to do so.

4.2 The terms of the 2003 Act do not prevent licensing authorities consulting other bodies or persons before determining their policies. For example, certain authorities may consider it essential to consult the Crime and Disorder Reduction Partnerships (CDRPs), British Transport Police, local Accident and Emergency Departments, bodies representing consumers, local police consultative groups or those charged locally with the promotion of tourism. It may also be valuable to consult local performers, performers' unions (such as the Musicians' Union and Equity) and entertainers involved in the cultural life of the local community. Brighton & Hove City Council conducts this consultation via the Licensing Strategy Group.

4.3 Brighton & Hove City Council has a new consultation portal which will be used as part of this consultation process.

4.4 The consultation period runs for 12 weeks starting from 14 June 2010.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

Licensing fees are set at a level that officers reasonably expect will cover the cost of service provision. This includes administration and enforcement of the regime. The sex establishment licensing fee is to be set separately by a further report. Finance officers creating trading accounts for the current sex shops

consider that the fee is set at the correct level. The new sex encounter establishment licence would be part of the same regime as sex shops and it is therefore recommended that the same fee is charged for both sex shops and sex encounter establishments.

Finance Officer Consulted: Karen Brookshaw

Date:25/05/2010

Legal Implications:

- 5.2 These are set out in the report. The SoLP should follow the fundamental principles set out in the Licensing Act 2003 and statutory guidance. Adoption of a Special Cumulative Impact Policy is a major step and one which must be taken in accordance with proper procedure and legal advice in order to avoid legal challenge.

Lawyer Consulted: Rebecca Sidell

Date: 1/6/10

Equalities Implications:

- 5.3 A rebuttal presumption against new licensed premises in a CIA may reduce the ability for small businesses to open as off-licences. Affected businesses may often be operated by members of minority ethnic groups.

Sustainability Implications:

- 5.4 Licensed premises throughout the city rely on local licensing policies in ensuring there is clear guidance on the continued operation of local businesses. Maintaining a regularly reviewed policy, which has undergone public consultation, will ensure a consistency of support to licensed premises, members of the public and other stakeholders affected by these activities.

Crime & Disorder Implications:

- 5.5 CIA proposals are geographically based around evidence of crime and disorder, etc. and should assist in the council's overall aim in reducing current levels. The Special Policy promotes the four licensing objectives: public safety, the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

Risk and Opportunity Management Implications:

- 5.6 Failure to meet this statutory duty would lead to uncertainties in decision making, loss of business continuity and an inability to meet customer care standards.

Corporate / Citywide Implications:

- 5.7 The policy promotes the licensing objectives and sets out a general approach to making licensing decisions. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this Special Policy is framed around those objectives.

Proposals for new licensed premises, or for certain variations to existing ones, within a CIA will normally be refused following relevant representations unless it can be demonstrated that there will be no negative cumulative impact.

LICENSING COMMITTEE
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FUNCTIONS)

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SUPPORTING DOCUMENTATION

Appendices:

Appendix A – Sussex Police
Appendix B – Draft Statement of Licensing Policy
Appendix C – DCMS Statistical Return 2009/10
Appendix D - Environmental Health

Documents In Members' Rooms:

None

Background Documents:

None



Review of Public Place Violent Crime in Brighton and Hove

**Performance Plan Year 01/04/09 – 31/03/10
Compared With Previous 4 Years**

Chief Inspector Simon Nelson

Analyst: Anna Lalor

Purpose and Method

The purpose of this review is to establish the level of public place violent crime in Brighton and Hove (also measuring where possible where alcohol was a factor in the commission of the offence) over the last full Performance Year (April to March inclusive). This year will be compared with the previous 4 Performance Years to establish what change / shift in activity there has been in the hotspot areas, and whether any trends are developing in other parts of the City in terms of displacement etc. Levels and changes in offence categories will be examined. The results of the above will inform discussions as to how effective the Cumulative Impact Area is, as well as reconsidering its limits. The analyst was asked to produce the results in their entirety without influence or direction.

All results in this report are based on searches carried out using Full Client Business Objects. The Yearly date parameters are 01 April to 31 March for Performance Plan Years 2005/06 to 2009/10 inclusive, with input date used as the search criteria for recorded crime and disposal date for detected crime in accordance with all Police generated figures.

For reference: A map of the Division at Beat level is contained in the Appendix A, and the associated Operation Marble and Special Stress areas set out in Appendix B.

Findings

1. Recorded Levels For The Three Violent Crime Subgroups

The table below shows the yearly Public Place Violent Crime level in the whole of Brighton and Hove broken down into the three sub groups, together with the actual and % year on year change.

Violent Crime Sub Group	Recorded PPY 2009/10	Recorded PPY 2008/09	Change Between 2008/09 % 2009/10		Recorded PPY 2007/08	Change Between 2007/08 & 2008/09		Recorded PPY 2006/07	Change Between 2006/07 & 2007/08		Recorded PPY 2005/06	Change Between 2005/06 & 2006/07	
			Actual Change	% Change		Actual Change	% Change		Actual Change	% Change		Actual Change	% Change
PP Violence Against The Person	2781	2693	+88	+3.3%	4323	-1630	-37.7%	4952	-629	-12.7%	4477	+475	+10.6%
PP Sexual Offences	113	112	+1	+0.9	143	-31	-21.7%	135	+8	+5.9%	179	-44	-24.6%
PP Robbery	294	309	-15	-4.9%	316	-7	-2.2%	361	-45	-12.5%	335	+26	+7.8%
Total	3188	3114	+74	+2.4%	4782	-1668	-34.9%	5448	-666	-12.2%	4991	+457	+9.2%

The main points arising from the table above are

- There was a rise in overall Public Place Violent Crime between 2005/06 and 2006/07, largely due to an increase in Violence Against The Person, principally Public Order Harassment and secondly Assault Without Injury (see table in Section 2).
- Large overall decrease occurred between years 2006/07 and 2007/08 and 2007/08 and between 2008/09. This again was as a result of a huge change in Violence Against The Person. This was due to a decrease in Actual Bodily Harm, Assault Without Injury and in particular Public Order Harassment (especially between the latter two years). The very large change in Public Order Harassment over the years is intrinsically linked to the level of Fixed Penalty Notice issue.

Between 2009/09 and 2009/10 there was a slight overall rise in Public Place Violence of 74 offences, entirely due to an increase of 88 offences in Violence Against The Person. (It should be noted however that the Division still recorded 1803 fewer offences (-36.1%) in 2009/10 than in 2005/06). The main contributor to this rise is the increase of 108 offences in Actual Bodily Harm. This will be looked at later in more detail to establish where and when the increase has occurred.

- Public Place Sexual Offences have reduced by 66 offences (-36.9%) since 2005/06, with levels remaining stable across the last couple of years.

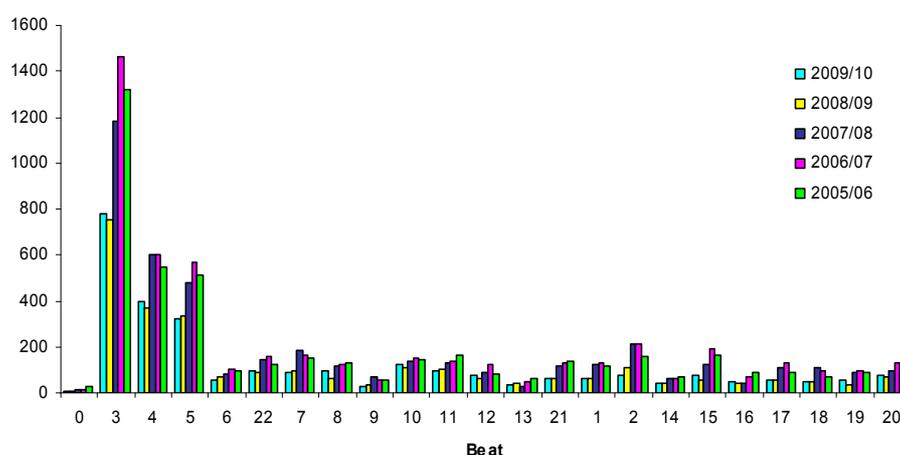
- Robbery has reduced steadily since 2006/07, with a decrease of 67 offences (-18.6%) between this year and 2009/10.

The actual numbers associated with the last two bullet points are relatively very low, with any slight movement in numbers greatly affecting the % increase/reduction.

The following chart illustrates change in the recorded levels per Beat of Public Place Violence Against The Person across the four periods

Please see map in the appendix for Beat reference

a. Public Place Violence Against The Person



As Violence Against The Person is the subgroup of Violent Crime forming the highest proportion (87%), it has the most impact on the overall performance of this crime group. Beats 3, 4 and 5 consistently record the highest proportion in the City, with any change/movement in these areas being impactful.

The chart shows that:

- Beat 3 records the highest level of offences (see table below) and has seen the greatest change over the years.
 - Between 2006/07 and 2007/08 the area had a reduction of 280 offences (-19.2%)
 - Between 2007/08 and 2008/09 a further decrease of 426 offences (-36.1%).
 - A small rise of 27 offences (+3.6%) has occurred during 2009/10.
 - A reduction of 541 offences (-40.9%) between 2005/06 and 2009/10
- Beat 4 records the second highest level for the City, and has also seen considerable reductions
 - Between 2007/08 and 2008/09 - a decrease of 232 offences (-38.5%)
 - A slight rise of 26 offences during 2009/10 (+7%)
 - A reduction of 153 offences (-27.9%) between 2005/06 and 2009/10

- Beat 5 records the lowest proportion of offences of the 'hotspot' Beats and is the only 'hotspot' beat to see a reduction in 2009/10.
 - Between 2006/07 and 2007/08 the Beat had a decrease of 89 offences (-15.7%)
 - A decrease of 142 offences (-29.7%) between 2007/08 and 2008/09
 - A reduction of 14 offences (-4.2% between 2008/09 and 2009/10)

The actual proportion of crime Beats 3, 4 and 5 have recorded have changed as follows across the five Performance Plan Years.

	2009/10	2008/09	2007/08	2006/07	2005/06
Regency Beat 3	28.1%	28.0%	27.3%	29.5%	29.5%
St Peters & North Laine Beat 4	14.2%	13.7%	13.9%	12.1%	12.3%
Queens Park Beat 5	11.6%	12.5%	11.1%	11.4%	11.5%

The above table shows that over the course of a whole year there is little fluctuation in the proportion of Violence Against The Person each volume beat records. Beat 3 has however reduced its share of offences since 2006/07 however whereas Beat 4 has increased its proportion. Beat 5 has remained the most stable in terms of proportion of crime.

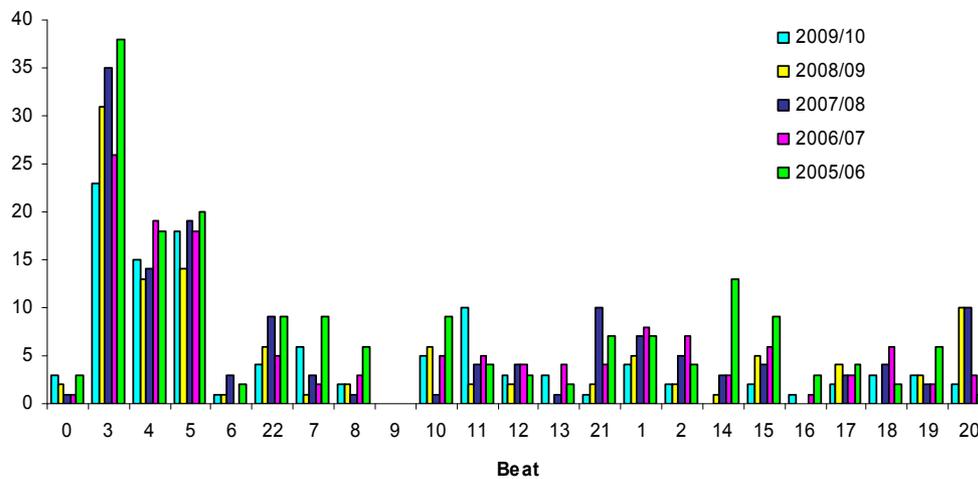
In the last report a six monthly comparison was given which showed that greater fluctuations occur with seasonality (as the table below illustrates)

	Period 1	Period 2	Period 3
Beat	Proportion formed of Division's PP Violence Against The Person Apr to Sep 09	Proportion formed of Division's PP Violence Against The Person Oct 08 to Mar 09	Proportion formed of Division's PP Violence Against The Person Apr 08 to Sep 09
Regency Beat 3	24.5%	32.3%	24.8%
St Peters & North Laine Beat 4	14.9%	13.7%	13.8%
Queens Park Beat 5	12.1%	10.8%	13.8%

This shows that:

- Beat 3 has recorded the highest volume during the Winter period, with the reduced proportion during the two Summer periods being on a par.
- Beat 5 has recorded the highest proportion during the two Summer periods, with the six months Apr to Sep 09 being lower than the same period the previous year.
- The period Oct 08 to Mar 09 and Apr 08 and Sep 09 are on a par for Beat 4, with the latter six month period seeing a rise.

b. Public Place Sexual Offences

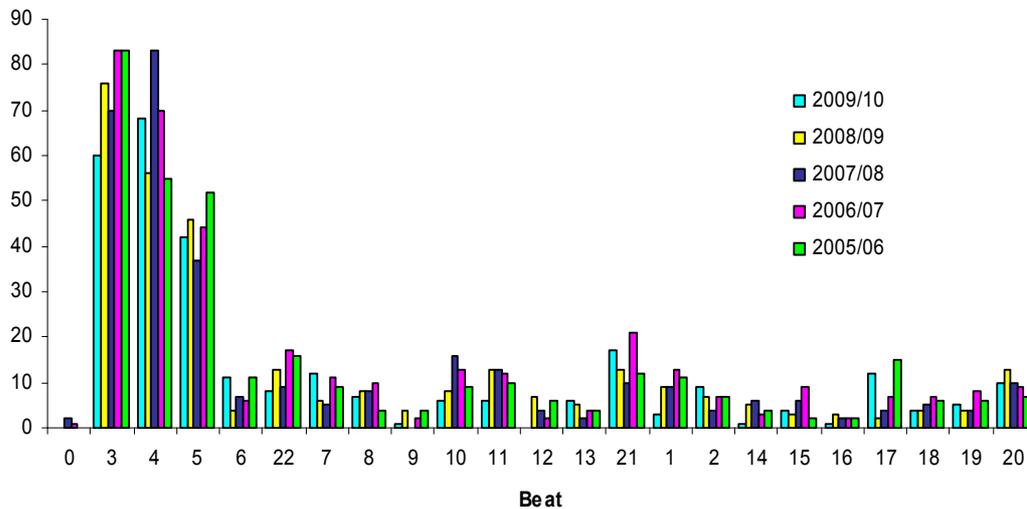


The numbers of recorded Public Place Sexual Offences for the Division as a whole are relatively very low and form an average across the 5 years of just 3.1% of the Division’s total Public Place Violence. Further analysis of the changes will not be made due to the actual numbers being too small to identify trends etc

The main areas of note from the above chart are (bearing in mind the numbers are very small)

- On Beat 3 a decrease of 8 offences (-25.8%) between 2008/09 and 2009/10 and a reduction of 15 offences (-39.4%) between 2005/06 and 2009/10.
- On Beat 11 a rise of 8 offences (+400%) between 2008/09 and 2009/10
- On Beat 21 a reduction of 6 offences (-85.7%) between 2005/06 and 2009/10
- On Beat 14 a decrease of 13 offences (-100%)

c. Robbery



As with Sexual Offences, recorded levels of Robbery are relatively very low, with this subgroup forming an average across the 5 years of 7.5% of the Division’s total Public Place Violent Crime. Further analysis of the changes in this sub group will not be made due to the actual numbers being too small to identify trends.

Beats 3, 4 and 5 record the volume of offences with the main areas of change from the chart above being:

- Beat 3 a decrease of 16 offences (-21%) between 2008/09 and 2009/10 and a reduction of 23 offences (27.7%) between 2005/06 and 2009/10
- Beat 4 an increase of 12 offences (+21.4%) and a rise of 13 offences ((23.6%) between 2005/06 and 2009/10

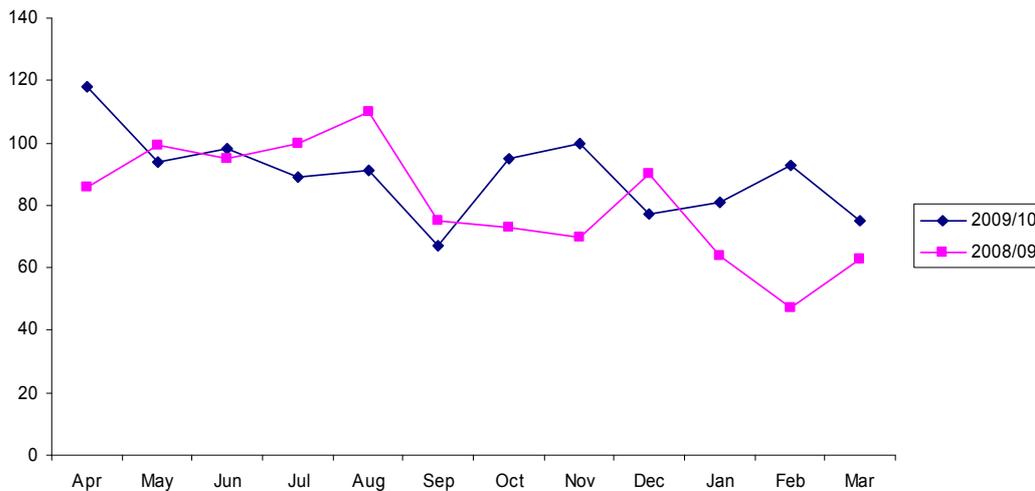
2. Which offences, locations, location types and other factors have contributed to the changes in Public Place Violence Against The Person described above?

The following table outlines the changes in recorded public place Violence against the person for the whole Division between the four quarters, broken down to offence type.

Violence Against The Person Offence Type	Recorded PPY 2009/10	Recorded PPY 2008/09	Change Between 2008/09 % 2009/10		Recorded PPY 2007/08	Change Between 2007/08 & 2008/09		Recorded PPY 2006/07	Change Between 2006/07 & 2007/08		Recorded PPY 2005/06	Change Between 2005/06 & 2006/07	
			Actual Change	% Change		Actual Change	% Change		Actual Change	% Change		Actual Change	% Change
Actual Bodily Harm	1079	971	+108	+11.1%	1398	-427	-30.5%	1675	-277	-16.5%	1832	-157	-8.6%
Assault On A Constable	90	109	-19	-17.4%	167	-58	-34.7%	153	+14	+9.2%	160	-7	-4.4%
Assault Without Injury (Common Assault)	844	872	-28	-3.2%	1165	-293	-25.1%	1140	+25	+2.2%	879	+261	+29.7%
Possession Of Weapon / Firearm	92	86	+6	+7%	169	-83	-49.1%	187	-18	-9.6%	176	+11	+6.2%
Murder	1	1	0	0	1	0	0	2	-1	-50%	0	+2	+100%
Attempt Murder	2	0	+2	+100%	0	0	0	1	-1	-100%	0	+1	+100%
Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0
Threats To Kill	11	8	+3	+37.5%	12	-4	-33.3%	19	-7	-36.8%	27	-8	-29.6%
Wounding / GBH	94	97	-3	-3.1%	107	-10	-9.3%	105	+2	+1.9%	104	+1	+1%
Public Order Harassment	465	458	+7	+1.5%	1213	-755	-62.2%	1573	-360	-22.9%	1175	+398	+33.9%
Course Of Conduct Harassment	93	84	+9	+10.7%	79	+5	+6.3%	91	-12	-13.2%	116	-25	-21.6%
Other	10	7	+3	+42.9%	12	-5	-41.7%	6	+6	+100%	8	-2	-25%
Total	2781	2693	+88	+3.3%	4323	-1630	-37.7%	4952	-629	-12.7%	4477	+475	+10.6%

It was noted in section 1 of this document that changes in the level of recorded Public Order Harassment caused the significant rises in the earlier years and reductions in the latter, hugely affecting the overall Public Place Violence figures. As also mentioned, the rise in 2009/10 compared with the previous year was due largely to an increase in Actual Bodily Harm offences.

The chart below illustrates the monthly levels for ABH across 2009/10 and 2008/09 to narrow down when the increases actually took place.



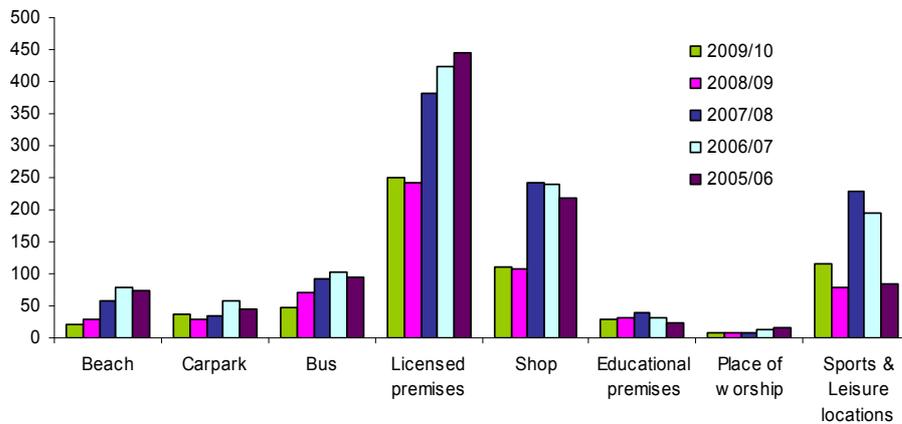
Actual Bodily Harm Per Month 2009/10 and 2008/09

There are a few months in which the levels in 2009/10 recorded significantly higher levels than in the previous year, namely

- April (which might or might not be due to late DACs input),
- October
- November
- February.

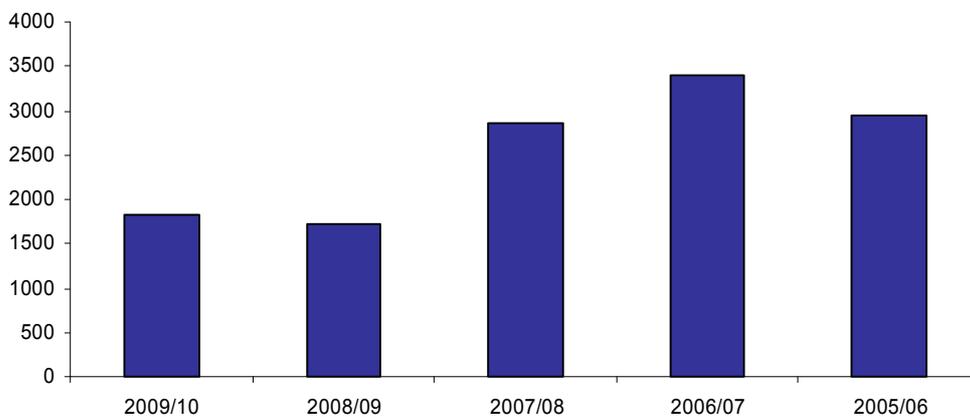
Location Types

The following charts illustrate changes in Public Place Violence Against The Person by location type over the five years. Location Road / Highways Byways has been removed from the first chart and shown separately as offences at this location type form such a high proportion of the total, that it renders the others insignificant if shown together.



Location Type Without Location Road / Highways Byways

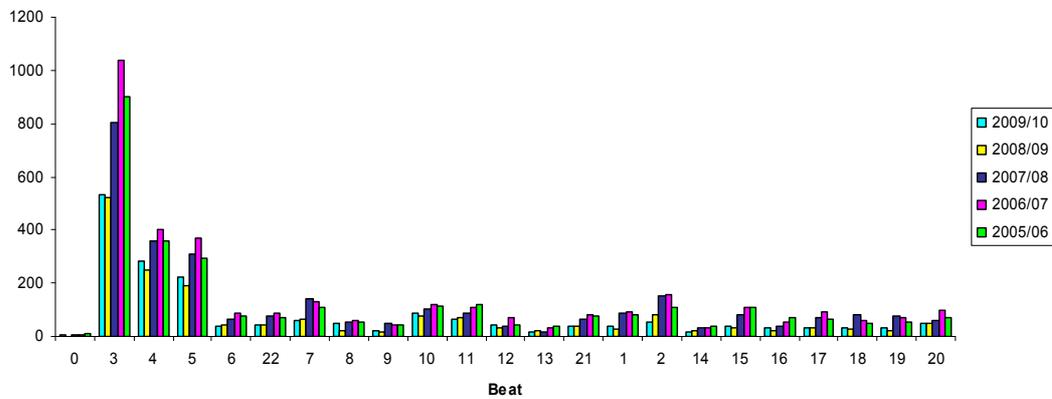
Large reductions are seen across most location types in 2008/09 compared to the previous year, with Violence Against The Person offences in Licensed Premises falling by 140 (36.7%), in shops by 55.8%. Large reductions also occurred in Sports and Leisure locations, but as this flag was only introduced post CIMs necessitating manual trawling prior to this date, the actual % reductions are subject to some ambiguity. Offences in Shop and Licensed Premises locations have seen a slight rise during 2009/10, which will be examined in more detail.



Location Type Road / Highways Byways

In the location Road / Highway Byway, a steady reduction was achieved between 2006/7 and 2008/09, with a slight rise in 2009/10. This rise will also be examined next in conjunction particularly with the rise in licensed premises during the same year.

The following chart illustrates the change over the years in location road / highway byway by Beat.

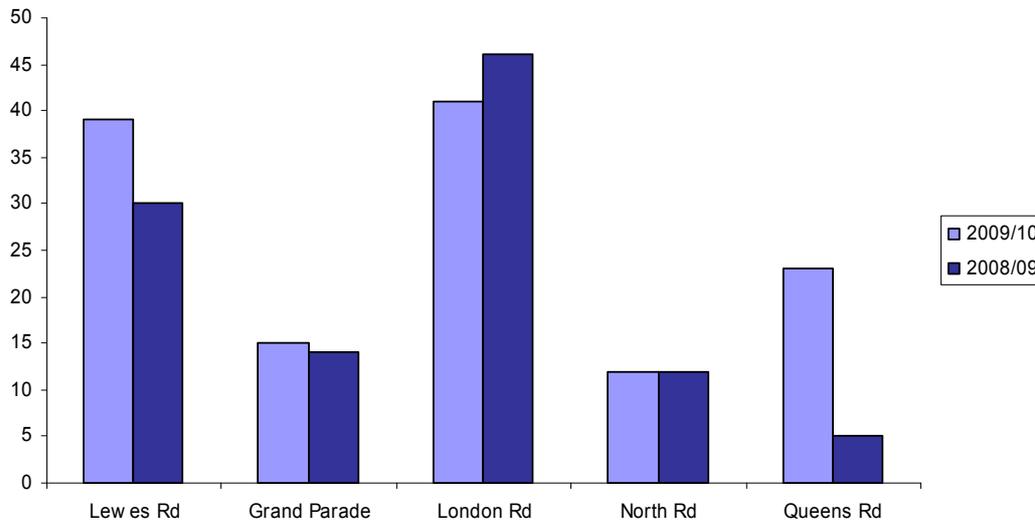


Violence Against The Person In Location Road / Highway Byway Per Beat

Unsurprisingly, Beats 3 (in particular), 4 and 5 record the highest volume, with Beat 3 experiencing the greatest reduction. Between 2006/07 and 2009/10, Violence Against The Person offences in a road decreased by 508 (-48.9%). As the volume of offences occur in this location type, any slight change to the ‘hotspot’ Beats will impact the overall Violent Crime figures. Unlike location licensed premises where only Beat 3 experienced a rise in offences between 2008/09 and 2009/10, the location road offences have increased slightly on each of the 3 ‘hotspot’ Beats, this time particularly Beats 4 and 5.

- Beat 3 +8 offences (+1.5%)
- Beat 4 +30 offences (+12%)
- Beat 5 +32 offences (+16.9%)

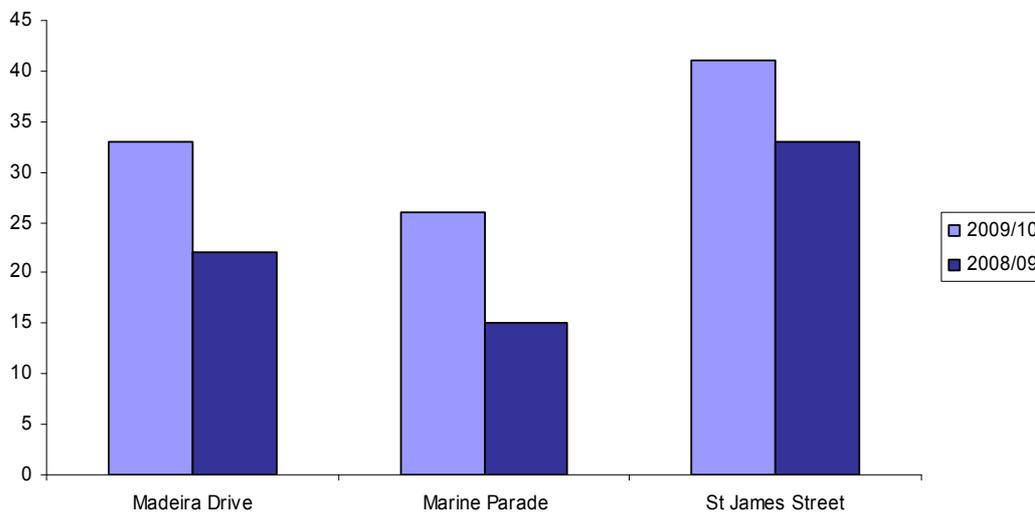
The following chart illustrates the main locations on Beat 4 (those with 10 offences or more) where the offence is recorded as having taken place in the location road / highway byway over the years 2008/09 and 2009/10 to show where the increase has taken place year on year.



Violence Against The Person Offences In Location Road On Beat 4

Whilst Grand Parade and North Street are on a par with the previous year and London Road has actually seen a decrease, Lewes Road and Queens Road are clearly both responsible for the rise on this Beat.

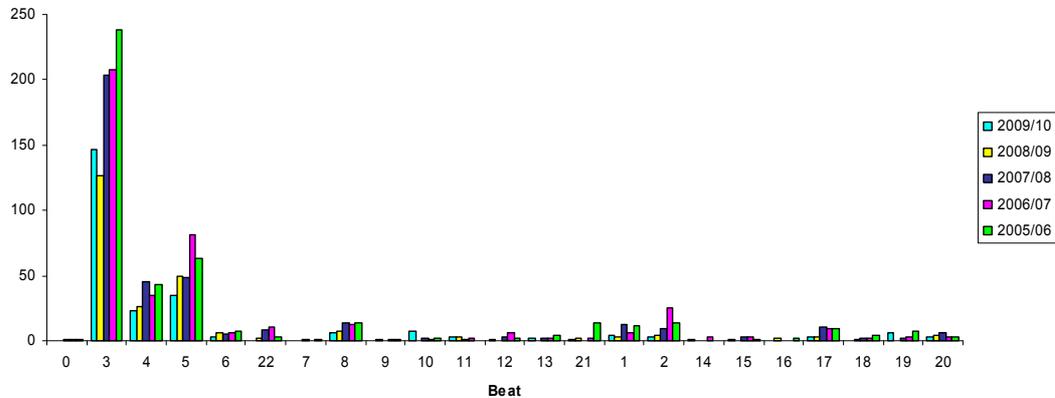
The following chart shows the same information for the other 'hotspot' Beat to experience a rise in location road, Beat 5.



Violence Against The Person Offences In Location Road On Beat 5

On Beat 5, all main location roads (with 10 offences or more) experienced an increase in Violence Against The Person in this location type.

The chart below shows the offences in the location Licensed Premises over the 5 year period per Beat.



Violence Against The Person In Licensed Premises Per Beat

Again unsurprisingly, Beats 3, 4 and 5 record by far the highest number of offences. Beat 3 shows a huge reduction since 2005/06, with the biggest drop being between 2007/08 and 2008/09. Beat 5 actually experiences a rise at this time which could indicate displacement activity. Beat 3 is the only ‘hotspot’ Beat to see a rise in 2009/10

Beat 3 was the only ‘hotspot’ Beat to experience a rise in the location licensed premises in 2009/10 compared with the previous year. The increase is in licensed premises club / nightclub and the following chart illustrates the changes in those main volume venues (where it has been possible to establish the venue). There are a large number of records where the location road has just been entered as ‘West Street’ for example, making further analysis impossible.

Proportion of Public Place Violence Against The Person Flagged As Domestic Abuse

Finally, the table below illustrates the proportion of Public Place Violence Against The Person which is flagged as Domestic Abuse, to see firstly whether the actual numbers have changed over the years and secondly how this affects the proportion of the yearly totals.

	Total Violence Against The Person	Total Violence Against The Person Flagged As Domestic Abuse	Proportion of Violence Against The Person Flagged As Domestic Abuse
2009/10	2781	205	7.4%
2008/09	2693	191	7.1%
2007/08	4323	194	4.5%
2006/07	4952	199	4.0%
2005/06	4477	176	3.9%

The table shows that whilst Public Place Violence Against The Person has fluctuated greatly, the actual numbers flagged as Domestic Abuse have remained fairly stable across the years. It is therefore the fluctuation in total VAP offences which has caused the proportions to vary. This may well be due to the fact that Public Place Domestic Abuse incidents occur across a wide selection of beats and location types and are not therefore subject to the same level of intervention as those offences occurring in a road or licensed premises location on the 'hotspot' beats.

Summary

The following is a summary of the main findings relating to this report:

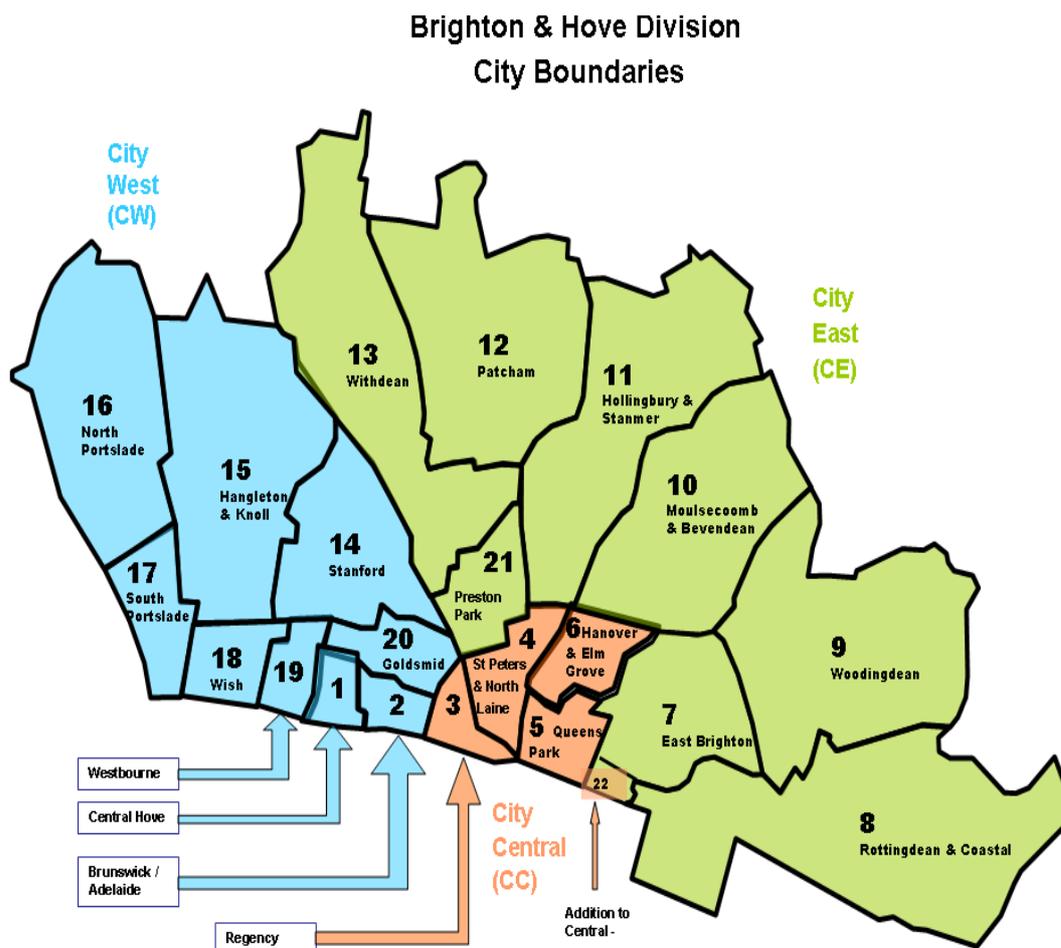
- Overall Public Place Violent Crime has reduced by 1083 offences (-36.1%) in 2009/10 compared to 2005/06, due in the main to a decrease in Violence Against The Person, in particular to reductions in Public Order Harassment. The largest reduction has been on Beat 3.
- 2009/10 has seen an increase in overall Public Place Violence of 74 offences (+2.4%) due to increases in Violence Against The Person – in particular Actual Bodily Harm Offences. Although no exact figure is available, it is certain that a number of crimes were incorrectly registered from the preceding performance year.
 - The months of April, October, November and February all showed significantly higher levels of ABH than the previous year.
 - The volume location types road and licensed premises have both seen a slight rise in 2009/10, with Beat 3 being the only 'hotspot' Beat seeing an increase in licensed premises and Beats 4 and 5 contributing most to the rise in location road.
- The proportion of PP Violence Against The Person offences flagged as Domestic Abuse has risen from 3.9% in 2005/06 to 7.4% in 2009/10. This is due to the decrease in Violence Against The Person offences however rather than an increase in Domestic Abuse.
- It is relevant to report that over the past year, licensed venues have been encouraged to report assaults to police without fear that they would be regarded as a problem premises. This has contributed to a rise in reporting as well as an increase in the associated detection rate.
- With regard to the Cumulative Impact Zone: the data support the assumption that, in spite of national trends, the city centre has not seen a significant increase in violence; and there is no evidence of displacement or emerging crime and disorder issues for the neighbouring wards.

Recommendation

Since the Cumulative Impact Area was established it has supported a positive medium term trend of a safer night time economy. Although there is only a rebuttable presumption that licence applications will be objected to, it does provide an effective platform for objections when appropriate, or appropriate conditions to ensure that the venues provide a safe and diverse environment for customers. It also supports a proportionate response within a challenging economic environment.

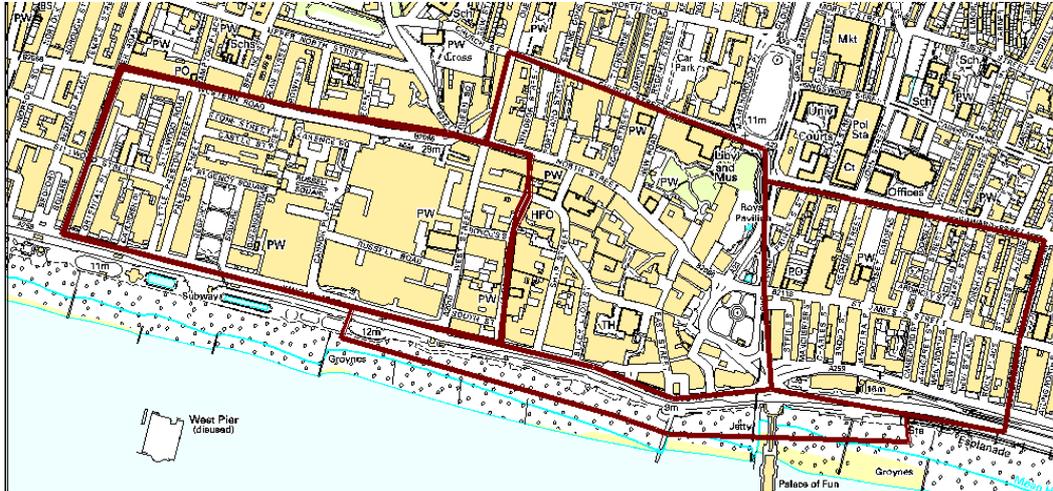
The Sussex Police and Brighton and Hove City Council licensing teams believe that the CIA contributes positively to mitigating the risks presented by the sales and consumption of alcoholic drinks. For that reason and referring to the outcomes contained in the attached analysis, it is recommended that the CIA is retained in its current form.

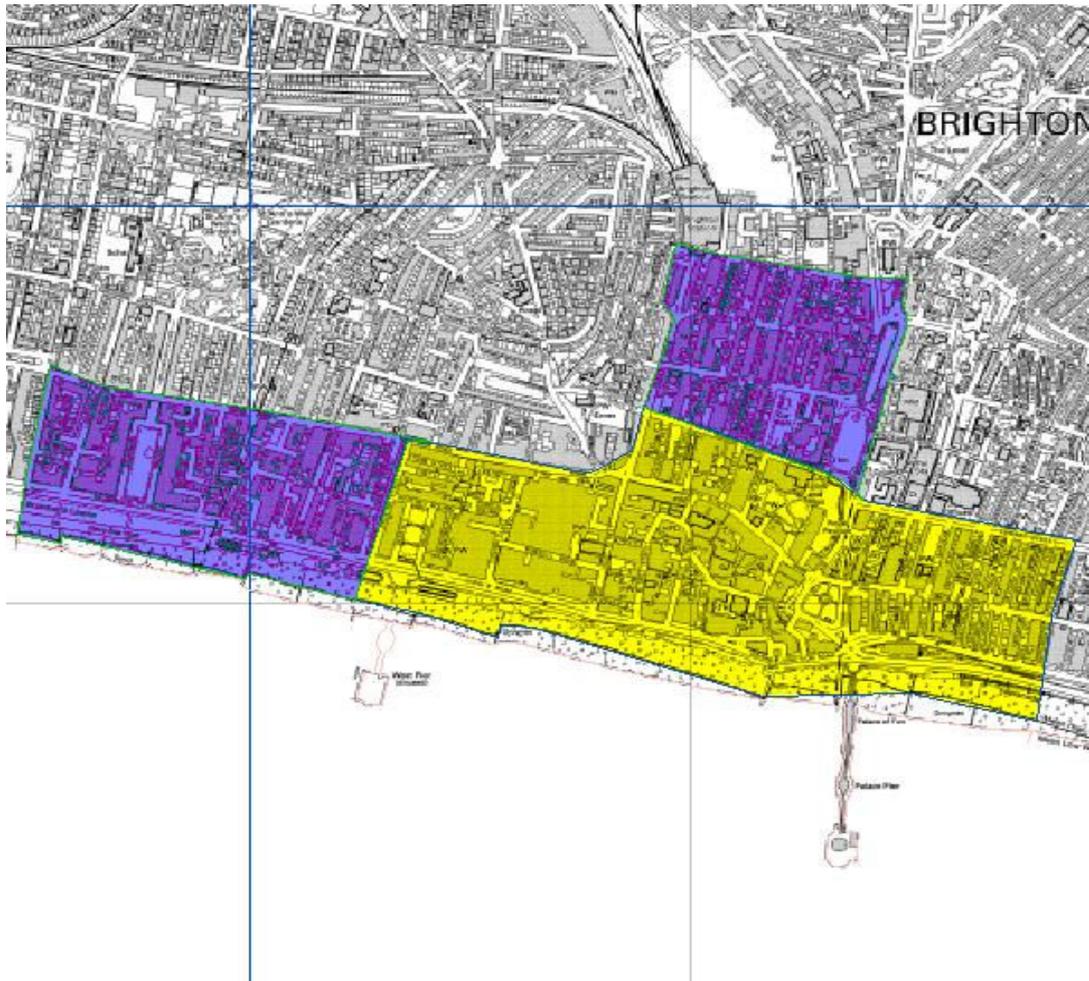
Appendix 1



Appendix 2

Operation Marble Zones and Map of Special Stress Areas (1&2)





BRIGHTON & HOVE CITY COUNCIL

STATEMENT OF LICENSING POLICY 2010



LICENSING ACT 2003

Brighton & Hove City Council: Statement of Licensing Policy 2010

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Brighton & Hove City Council: Statement of Licensing 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 guidance issued by the Department for Culture Media and Sport (DCMS) 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 interested parties 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) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the 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.

1.4 **Consultation**

- 1.4.1 Before revising or determining policy for any three-year period, the licensing authority must consult-
- (a) the chief officer of police for the licensing authority area;
 - (b) the fire authority for that area;
 - (c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
 - (d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by the authority;
 - (e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and
 - (f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

- 1.4.2 In relation to this, its third statement of licensing policy the licensing authority has also chosen to consult the following persons or bodies:

- The Licensing Strategy Group
- Sussex Ambulance Service
- Accident & Emergency Services
- Brighton & Hove Bus and Coach Company
- Taxi Forum
- The council's Transport Planning, Planning Policy, Community Safety, Tourism, Drug & Alcohol Awareness and Economic Development departments.
- Ward Councillors
- Individual premises and personal licence holders and club premises certificate holders

Appropriate weight was given to the views of all of those who responded. The formal consultation process was completed by adoption of this policy by Council in xxxxx 2010. This policy is subject to guidance and Regulations issued by the Government including any issued after the date of publication of this Statement.

- 1.5 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

1.6 Partnership

- 1.6.1 The policy recognises the need to balance economic prosperity with community protection. Good regulation at a local level provides fair trading conditions. This creates a fair trading environment, discourages irresponsible practices and

promotes community well being. Local regulation is attuned to supporting the local economy and local businesses. Partnership between responsible authorities reduces conflict between agencies and targets resources.

- 1.6.2 This policy includes the Council's enforcement policy, in turn, based upon Home Office and DCMS advice.

1.7 Local features

- 1.7.1 The local visitor economy is characterised by three sectors: conferences, leisure and English language education. The city receives 8 million visitors per year, 20% from overseas. Locally, tourism is worth over £400 million and 10,000 jobs. 15-20% of jobs are tourism related.

In 2008, the local economy was estimated to be worth £4.2 billion. Unemployment was at 7%, higher than the regional average of 5%. 19% of people were self employed. The number of young people not in education, employment or training is high.

1.8 Culture and Tourism

- 1.8.1 Licensing policy supports entrepreneurial activity, promoting the city's businesses, supporting growth of creative industries sector, extending the business improvement district.
- 1.8.2 The cultural and tourism offer in Brighton & Hove is crucial to the ongoing economic success of the city; it brings both money and jobs. This range of work also provides solutions to some of the problems of inequality in the city.
- 1.8.3 The city's cultural offer already engages with a high number of its residents. According to the most recent National Indicator surveys undertaken at the end of 2008, well over half the population engage with the arts and just over half with our museum and library services. The footfall figures for our main central Jubilee Library run into the millions over the course of a year. The Brighton Dome programme reaches one in six households currently and around 70% of the Brighton Festival audience each year is from local BN postcodes. However, there is much more that can be done, there are challenges and a need to create further targeted activity to stretch this success.
- 1.8.4 This sector also faces challenges from the recession at the point of refreshing this strategy and needs to be forward looking in order to position itself to help the city weather and recover from the economic downturn.

- 1.8.5 Brighton & Hove faces increasing competition from home and abroad as a tourist destination both in the leisure and business tourism markets. The current economic climate, changing patterns of consumer demand, and a need to invest in infrastructure to maintain a suitable quality are significant challenges.
- 1.8.6 VisitBrighton, the City Council's tourism unit, has developed and implemented a full brand strategy and guidelines for the city's tourism offering.
- 1.8.7 The Tourism Strategy 2008-2018 in its Guiding Principles looks at responsible behaviour and aims to "look to maintain the balance between a tolerant attitude, for which the City is well known, and encouraging and welcoming appropriate behaviour especially in the evening by both residents and businesses".

1.9 Arts

- 1.9.1 Working with the Arts Commission and partners across the city, the council have established White Night, a new cultural festival for the city. White Night attracted an audience of 15,000 in its first year in 2008 and further White Night events and similar are strongly supported.
- 1.9.2 It established a new and successful Children's Festival for the city aimed at Key Stage 1 & 2, providing free events and activities and workshops across the city.
- 1.9.3 Brighton & Hove has taken a leading role in the national consortium the Cultural Cities Network.
- 1.9.4 The city's cultural offer has grown through new festivals, venues and organisations developing in or moving to the city.
- 1.9.5 The city has the highest level of current arts engagement outside London and the seventh highest out of 150 in the country at 61.2%. Brighton & Hove is known for its colourful and interesting arts and creative industries which attract tourism and new businesses. About one in five businesses and 10% of jobs are in the arts or creative industries.
- 1.9.6 The city currently hosts around 60 festivals each year including the largest arts festival in England, the Brighton Festival and its Fringe, which contributes annually £20million to our economy

1.10 The Planning Context

- 1.10.1 The recent health impact assessment recommended the integration of planning and licensing. Current adopted policies within the Brighton & Hove Local Plan recognises these concerns and makes provision for the protection of public amenity (policy QD27), whilst also addressing the issues in relation to cumulative impact from a concentration of nightclubs, bars, and pubs in particular areas (policies SR12 and SR13).

1.10.2 Emerging policy within the Local Development Framework Document, The Core Strategy is underpinned by evidence from the Community Safety, Crime and Drugs Audit 2004 which informed the strategic approach. This was developed in consultation with the Licensing Team. The overall objective is to reinforce Brighton's (policy SA2) is to promote a balanced range of complementary evening and night-time economy uses which appeal to a wide range of age and social groups, avoid a spread of large bars/pubs and night clubs and address public safety concerns.

1.10.3 Where appropriate when considering planning applications within the above policy framework planning conditions can be attached to permissions to safeguard amenity and mitigate against cumulative impact.

1.10.4 The licensing authority's preferred position is to ensure planning permission is in place before an application for a licence is made.

1.11 Crime and fear of crime

1.11.1 In the Place Survey carried out in the autumn of 2008, the residents of Brighton & Hove were asked to pick five aspects of a local area that make it a good place to live. Out of 20 choices, 55% of respondents ranked the level of crime in their top five aspects which made somewhere a good place to live. So, crime levels were the most frequently flagged issue of importance (as it was in 2003 and in 2006).

1.11.2 What has happened over the last three years

- The level of recorded crimes (around 24,500 each year) has remained stable since 2005 and is the lowest it has been for 10 years.
- Partners have achieved Beacon Status for our work in increasing safety in the night time economy and achieved a Green Flag in the Comprehensive Area Assessment for the strength of the partnership around this and reducing youth crime and disorder. Injury by violent crime is down by 7.8% and at its lowest level for five years. The Business Crime Reduction Partnership's Night Safe Scheme is considered good practice and strongly supported.
- A new Community, Crime Reduction and Drugs Strategy for 2008-2011 has been published which includes our action plans to deal with 10 priority crime areas
- Exceeded challenging targets set within the LPSA programme for reducing offending by priority and prolific offenders.

1.12 Alcohol

1.12.1 Pubs and clubs play an important role in our city's culture and economy but alcohol is a factor in at least 40% of violent crime.

1.12.2 Following development work with the Primary Care Trust and Sussex Partnership Trust and building on new investment by the PCT in alcohol treatment services,

partners have gained agreement for those new services to be initially targeted towards those whose offending behaviour is linked to alcohol misuse. The top priorities are perpetrators of domestic violence, prolific offending and violent crime. We are now developing care pathways for those and other priority groups in order that criminal justice and other CDRP services can successfully refer and help sustain people to engage and change their lives. The Licensing Enforcement Pathway is appended (appendix G). Public health stands outside the licensing regime but alcohol related hospital admissions are a concern for the city's public services.

1.12.3 Central Brighton and particularly the West Street area has been identified as a violent crime hotspot. Through effective coordination of relevant strategies and policy areas (e.g. licensing, policing and public safety) the council will seek to improve safety by encouraging a more balanced range of complementary evening and night-time economy uses which appeal to a wide range of age and social groups and managing existing late night uses within identified parts of central Brighton. Local work to reduce violent crime is coordinated through the Local Public Service Agreement / Violent Crime Action Plan. In addition, a 'Cumulative Impact Zone' within central Brighton has been adopted by the council's Licensing Committee and grants greater powers to control the number of licensed premises in the city centre.

1.12.4 Brighton & Hove scores significantly worse than the England average for a range of indicators that profile alcohol related harm.

1.12.5 For males, alcohol specific mortality, mortality from chronic liver disease, alcohol specific hospital admissions and alcohol attributable hospital admissions are all significantly worse locally than the picture seen nationally.

1.12.6 For women, alcohol specific and alcohol attributable hospital admissions are worse locally than the picture seen nationally.

1.13 Delegations

For convenience, the national scheme of delegation for determinations is set out below.

Matter to be dealt with	Full Licensing Committee	Sub-committee	Officers
Application for personal licence		If a police objection	If no relevant representation made
Application for personal licence with unspent convictions		If a police objection	
Application for premises licence/club premises certificate	If discretion engaged for major applications	If a relevant representation made	If no relevant representation made
Application for provisional		If a relevant	If no relevant

statement		representation made	representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Determination of a police objection to a temporary event notice		All cases	
Policy decisions	All cases		
Minor variations			All cases

- 1.14 In the case of minor variations, officers will refuse if they consider licensing objectives will be compromised. A full variation application may then be submitted.
- 1.15 The licensing authority shall foster ownership, co-ordination and partnership. Delivery will involve the licensing authority, the planning authority, environmental health and safety authorities, the police, the fire authority, crime and disorder reduction partnerships, town centre managers, local business, performers and their representatives, local people and their representatives, local transport authorities, transport operators and those involved in child protection. Work shall include consultation with entertainment and licensed business managers to encourage understanding and ownership of policy and good practice.
- 1.16 The Licensing Strategy Group, Business Crime Reduction Partnership, Pub and Club Watch and similar schemes, for instance with Home Office approval, will be encouraged to share information and facilitate exclusion of troublemakers.
- 1.17 In order to promote tourism, favourable consideration will generally be given to the licensing of public spaces.

1.18 Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The licensing authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:-

- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- Article 8 that everyone has the right to respect for private and family life and his home.
- Article 1 of the First Protocol that everyone is entitled to the peaceful enjoyment of his possessions (including for example possession of a licence).

1.19 EU Services Directive

The European Services Directive took effect from the 28 December 2009. It aims to ensure that licence applications and procedures are transparent and burdens on business kept to a minimum. The processes must be non-discriminatory, justified, proportionate, clear, objective, made in advance, transparent and accessible. The domestic legislation will require “any charges provided for by a competent authority which the applicant may incur under an authorisation scheme must be reasonable and proportionate to the cost of the authorisation procedures and formalities under the scheme and must not exceed those procedures and formalities”. Any fee charged for establishing a service can only be based on cost recovery and cannot be set at an artificial high level to deter service sectors from an area. Application costs can include administration, initial visits, third party costs (e.g. expert advice like a vet), management costs and local democracy costs. The directive also requires that ongoing enforcement costs should be refundable in the event of an application refusal. Council should schedule regular fee reviews.

1.20 During 2008/9, a Health Impact Assessment of flexible alcohol licensing hours in Brighton & Hove was commissioned. That study drew upon a consultation with people living and working in Brighton & Hove and a review of local data. It considered the context for alcohol licensing in the city in the light of alcohol misuse. The findings of this study have been integrated into this policy where they relate to the licensing objectives.

2.0 Prevention of crime and disorder

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.

- 2.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority recommends 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 staff 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.
- 2.2 It is expected that the designated premises supervisor (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.
- 2.3 Curfew powers introduced by S172A to E of the Licensing Act 2003 once in force will be used in areas of alcohol related offending to address disorder by early morning alcohol restriction order.
- 2.4 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 2.5 Measures put in place should support the intentions of Operation Marble (police operational order refers), which aims to prevent incidents of crime and disorder within the night time economy, at weekends.
- 2.6 **Cumulative impact** - the licensing authority may receive representations from either a responsible authority or an interested party 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.
 - 2.6.1 **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.
 - 2.6.2 The licensing authority after careful consideration has determined that the concentration of licensed premises in a small 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.

- 2.6.3 This special policy will refer to a Cumulative Impact area (“the Area”) in the Brighton city centre, a detailed plan of which is attached at Appendix A of the Statement of Licensing Policy (SoLP).
- 2.6.4 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.
- 2.6.5 Any variation application will potentially come within this special policy, including those for extensions of hours, subject always to an applicant satisfying the authority that there will be no adverse effect on Cumulative Impact.
- 2.6.6 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.
- 2.6.7 The presumption of refusal does not relieve responsible authorities or interested parties 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.
- 2.6.8 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 or theatre 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.
- 2.6.9 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.
- 2.6.10 **Special Stress Areas** - Appendix B of the SoLP details two areas of the Brighton city centre which border the Cumulative Impact area at Appendix A and which

are deemed areas of special concern in terms of the levels of crime and disorder and public nuisance experienced within them.

2.6.11 While it is not considered appropriate at this stage to include these areas within the main impact area as such, these Special Stress Areas (SSAs) are of concern to the licensing authority because of the relatively high levels of crime and disorder and nuisance experienced.

2.6.12 New and varied applications for premises and club premises certificates within SSAs will not be subject to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation will not add to the problems faced in these areas. Appendix C of the SoLP sets out a list of potential measures the licensing authority considers may be appropriate. These may be more or less appropriate depending upon the style of operation applied for.

2.6.13 On receipt of any application in SSAs, where a relevant representation has been made, the licensing authority will scrutinise the application carefully and will look at the measures proposed in the operating schedules and compare them to the measures set out in Appendix C. Where discretion has been engaged, those applications which fall short may be refused or conditions applied to comply with policy measures.

2.6.14 The Licensing Authority will keep the Cumulative Impact Area and Special Stress Areas under review. Should the authority find that problems of crime and disorder or nuisance are not improving, or are worsening, the Special Policy will be reviewed with a view to bringing the SSAs into the Cumulative Impact Area. If it is found that the above problems are receding the Special Policy may be reviewed with a view to revising the areas' boundaries.

2.6.15 Sussex Police Summary

- Overall Public Place Violent Crime has reduced by 1083 offences (-36.1%) in 2009/10 compared to 2005/06, due in the main to a decrease in Violence Against The Person, in particular to reductions in Public Order Harassment. The largest reduction has been on Beat 3.
- 2009/10 has seen an increase in overall Public Place Violence of 74 offences (+2.4%) due to increases in Violence Against The Person – in particular Actual Bodily Harm Offences. Although no exact figure is available, it is certain that a number of crimes were incorrectly registered from the preceding performance year.
 - The months of April, October, November and February all showed significantly higher levels of ABH than the previous year.

- The volume location types road and licensed premises have both seen a slight rise in 2009/10, with Beat 3 being the only 'hotspot' Beat seeing an increase in licensed premises and Beats 4 and 5 contributing most to the rise in location road.
- The proportion of PP Violence Against The Person offences flagged as Domestic Abuse has risen from 3.9% in 2005/06 to 7.4% in 2009/10. This is due to the decrease in Violence Against The Person offences however rather than an increase in Domestic Abuse.
- It is relevant to report that over the past year, licensed venues have been encouraged to report assaults to police without fear that they would be regarded as a problem premises. This has contributed to a rise in reporting as well as an increase in the associated detection rate.
- With regard to the Cumulative Impact Zone: the data support the assumption that, in spite of national trends, the city centre has not seen a significant increase in violence; and there is no evidence of displacement or emerging crime and disorder issues for the neighbouring wards.

Sussex Police Recommendation

Since the Cumulative Impact Area was established it has supported a positive medium term trend of a safer night time economy. Although there is only a rebuttable presumption that licence applications will be objected to, it does provide an effective platform for objections when appropriate, or appropriate conditions to ensure that the venues provide a safe and diverse environment for customers. It also supports a proportionate response within a challenging economic environment.

The Sussex Police and Brighton and Hove City Council licensing teams believe that the CIA contributes positively to mitigating the risks presented by the sales and consumption of alcoholic drinks. For that reason and referring to the outcomes contained in the attached analysis, it is recommended that the CIA is retained in its current form.

2.7 The Licensing Authority will support:

- 2.7.1 Diversity of premises - this attempts to ensure that there is a mix of the different types of licensed premises and attract 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 in turn may 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 encourages: mixed use venues, varying hours of business and a wider age balance.

- 2.7.2 Favourable consideration will be given to promoting the city's cultural quarter, live entertainment in pubs, food led operations, developing LGBT venues, particularly around St. James's Street, promoting a family leisure area on the sea front with a more adult leisure centre at night.
- 2.7.3 Café Bars - the licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following conditions that will prevent the premises becoming a public house.
- The sale of intoxicating liquor and other beverages shall be waiter/waitress service for consumption by persons seated at tables.
 - Substantial food shall be available at all times. Licensees should be aware that breach of such conditions is likely to lead to appropriate enforcement action.
- 2.7.4 Restaurants with outside service - the licensing authority will also consider applications from restaurants that request to serve alcohol to areas adjacent to or immediately outside their premises. In addition to the above conditions for café bars, the licensing authority will require evidence that the applicants have an agreement with the local authority to use the area as defined on a plan provided. The following condition may also apply: -
The sale and supply of alcohol for consumption off the premises shall be restricted to an area licensed by the Local Authority for use of the public highway as shown on the plan deposited and such area shall be defined by a physical barrier acceptable to the licensing authority.
- 2.7.5 Geographical spread of licensed premises - spreading the siting of large venues (those with a capacity in excess of 250 people) across the city reduces the problems of dispersing large numbers of people leaving premises in close proximity at the same time. Taxi and bus queues can be flash points for public disorder and violence. A good geographical spread coupled with increased taxi ranks and bus stops near venues reduces waiting time and the potential for crime and disorder. Food led operations are promoted.
- 2.7.6 Care, control and supervision of premises: The Licensing authority supports the Business Crime Reduction Partnership. Where appropriate premises licence holders are encouraged to become members of the BCRP for the deterrence to violent crime that such membership provides. The NightSafe radio scheme is also promoted as an operational requirement for city centre bars, clubs and pubs.

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, e.g. type of licence, capacity, operating hours restrictions.

- 2.7.7 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, 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.
- 2.7.8 This policy recognises the use of registered Door Supervisors as members of the extended police family as 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 unit, which will be in need of regular review. This policy endorses the use of units following such guidance and standards in appropriate circumstances.
- 2.7.9 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.
- 2.7.10 High volume vertical drinking establishments (HVVD's) may, where necessary and appropriate, have conditions attached relating to: a prescribed capacity, the ratio of chairs and tables to be provided for customers based on capacity and the presence of SIA registered security teams.
- 2.7.11 Enforcement will be achieved by the enforcement policy appended (Appendix D).
- 2.7.12 ny enforcement checks will include outside drinking areas, looking particularly at noise and customer smoking areas.

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

2.7.14 In order to support local crime prevention strategies applications for regulated entertainment such as performance of dance, not necessarily unlawful, for purpose of sexual stimulation of persons admitted to the premises, including exposure of breasts, genitals, urinary or excretory organs during entertainment will be carefully scrutinised and regard will be had to the following:

2.7.15 When considering applications within this policy, the Licensing Authority will have particular regard to whether the premises are in the vicinity of:

- residential accommodation;
- schools and English Language Schools;
- places of worship;
- other premises where entertainment of a similar nature takes place;
- community centres; and
- youth clubs.

2.7.16 Where appropriate, the Licensing Authority will also take into account the cumulative effect of a number of such premises on the character of the area. Where such applications are made the licensing authority will expect operating schedules to address the following matters and will include such conditions as are necessary to promote the licensing objectives.

- A. A code of conduct for dancers and appropriate disciplinary procedures, developed in consultation with the Police and the Council.
- B. Rules of conduct for customers, developed in consultation with the police and the council.
- C. Procedures to ensure that all staff employed in the premises have pre-employment checks including suitable proof of identity, age and (where required) permission to work.
- D. The exclusion of persons under 18 from the premises when such activities are taking place.

2.7.17 Conditions to regulate may prohibit physical contact between customers and performers and may include:

- Dressing room security
- Displays
- CCTV

2.7.18 Section 2.6.13 may be revoked once licensing of SEVs takes effect.

2.7.19 The BCRP NightSafe scheme is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety objective across the licensed trade.

2.7.20 Health Impact Assessment

The licensing authority's response to this public consultation is as follows:

- *Schemes to recognise well managed licensed premises will be supported*
- *Enforcement of licensing conditions, underage sales and offences will be dealt with having regard to the enforcement policy appended*
- *Trading Standards will offer business support to premises licence holders and staff*
- *Applications for food based operations will be supported*
- *24-hour licenses to off-licensed premises would be refused where justified*
- *Ward Members and EHOs should make representations on behalf of residents concerned for anonymity where appropriate*
- *The licensing inspection programme will be prioritised and risk based*
- *Taxi-marshalling is supported*
- *Diversification of the night-time economy in Brighton & Hove and non-alcohol-related leisure activities available in the city is strongly supported.*

2.8 ALCOHOL DISORDER ZONES

The licensing authority has adopted the government's favoured approach, only exploring ADZs as a last resort and following a request from the Chief Officer of Police, and receipt of evidence for the need in a tightly defined area.

The authority promotes the business improvement district and expansion to address crime, disorder and nuisance.

3 Public Safety

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.

3.1 Club owners and promoters will be expected to have regard to "Safer Clubbing: guidance for licensing authorities, club managers and promoters". The licensing authority will seek to ensure that licensed premises are designed and run in a way which maximises the safety of customers and staff. In order to minimise disputes and the necessity for hearings, it would be sensible for applicants to consult with all responsible authorities when operating schedules are being prepared.

- 3.2 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 (recognised by Community Safety Strategy).
 - (c) use of security personnel, such as door supervisors, licensed by the Security Industry Authority (recognised by the Community Safety Strategy).
 - (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.
- 3.3 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 as recognised by the Community Safety Strategy and Policing Strategy. Applicants may be required to consult local transport operators and are encouraged to support the use of public transport through the provision of advice, contact details, etc.
- 3.4 Policy recognises that the numbers of late night revellers can lead to service delivery pinch-points, for example at city centre taxi ranks. Frustration and restlessness in queues can lead to anti-social behaviour and public disorder which can be controlled by, for example, taxi marshalling systems. Operators whose customers contribute to the night-time demand for taxis may wish to consider assisting in the provision of resources for such systems or similar schemes.
- 3.5 Control of public safety at high profile commercial or sporting events or other large scale events may be supported by police powers of closure of licensed premises.
- 3.6 Where appropriate, licence holders or their authorised representatives will attend Event Planning Teams or Safety Advisory Groups and similar meetings prior to large events and shall be part of Event Liaison Teams during such events. Due regard shall be had to relevant guidance and publications including, for example: HSE publications “Event Safety Guide” and “Managing Crowds Safely”; LACoRS publication – “Managing Large Events”.

4 Prevention of Public Nuisance

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.

- 4.1 Planning, building control and licensing will be properly separated to avoid duplication and inefficiency. Granting of licences will not relieve applicants of the need to apply for planning permission or building control consent and there is an expectation that these issues will have been explored before licensing applications are submitted. Applicants are recommended to obtain correct planning consents prior to applying for a licence to avoid potentially inoperative licences.
- 4.2 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).
- 4.3 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.
- 4.4 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.
- 4.5 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.
- 4.6 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.
- 4.7 Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours in the city centre, on busy main roads and in the central leisure area. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood. Licensed premises in residential

neighbourhoods will normally have a terminal hour no later than 2330. In mixed neighbourhoods they will normally have a terminal hour of no later than 0200 hours to counter noise disturbance to residents as informed by the health impact assessment and requested by licensing strategy group.

4.8 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 4.10)

4.9 **Smoking Advice**

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 must not be 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 staff maintain order outside venues and protect customer safety. 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.

4.10 Licensed premises should normally display signs at exits inculcating customers to leave in a quiet, peaceful, orderly manner.

4.11 *Health Impact Assessment*

The licensing authority's response to this public consultation exercise is as follows:

- *There is no presumption in favour of later terminal hours generally*
- *Minor variations to licenses will be processed expeditiously*
- *The Cumulative Impact Areas (CIA) and Special Stress Areas (SSAs) will include all locations where there are residents in the vicinity of licensed premises when there is an evidential basis to justify.*
- *Low-level impacts and noise levels as a result of alcohol consumption are legitimate considerations for licensing reviews*
- *Information about the licensing process using leaflets and the Council's website will be available for residents*
- *The Council will publicise its statement of licensing policy, enforcement policy and information to assist applying for licence reviews and making representations for licence applications*
- *The local character provided by small local public houses is recognised. Policy supports the need to support small local businesses, providing information and business support to assist successful businesses*
- *Policy recognises the need to mediate between residents and licensed premises where noise and other nuisance/disturbance occurs late into the night/early morning where appropriate. Enforcement action will have regard to the Council's enforcement policies*
- *Normally the terminal hour in residential areas will not exceed 2330 hours*
- *Normally the terminal hour in mixed areas will not exceed 0200 hours*
- *Normally in city centre leisure areas favourable consideration will be given to later terminal hours.*

5 Protection of Children from Harm

The following details and measures are intended to address the need for the protection of children from harm; this includes moral, psychological 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).

- 5.1 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, the committee recommend that 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)
- 5.2 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 physical, moral 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.
- 5.3 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 off licence sales to under 18 year olds and carry out age challenges to reduce underage drinking in pubs and licensed venues. Police cadets may be used for this purpose
 - (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 CRB checked

5.4 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.

5.5 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 2.

5.6 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. Nothing in this policy shall seek to override child supervision requirements contained in other legislation or regulations. The licensing authority recognises the Children, Families and Schools section as being competent to advise on matters relating to the protection of children from harm. Applicants shall copy their applications to the Local Safeguarding Children Board (LSCB) in its capacity as the responsible authority. Copies should be sent care of the Police. The booklet 'What to do if you are worried about a child' is available from the LCSB and is downloadable from the council's licensing web pages.

5.7 Children and Young Persons Overview and Scrutiny Council reported on Reducing Alcohol Related Harm to Children and Young People to Licensing Committee who agreed:

- 5.7.1 Trading standards and the police undertake ongoing enforcement operations around under-age sales and test purchasing. Sussex Police, BCRP and RUOK undertake work concerning proxy purchases and counterfeit ID as part of the partnership support work with Community Safety and Trading Standards.
- 5.7.2 Trading standards have a programme of business support for local businesses to avoid under-age sales.
- 5.7.3 In determining applications and reviews, applications can only be dealt with on their individual merit. Use of schemes like Think 21 and Challenge 25 are appropriate on a case by case basis. Normally a Challenge 25 condition will be appropriate.
- 5.7.4 A clear causal link between price discounting and disorder will normally lead to the imposition of conditions prohibiting irresponsible promotions.
- 5.7.5 The cumulative impact area boundaries and supporting evidence will be kept under review. The CIA is recommended for review as part of the statement of licensing policy, informed by:
1. Sussex Police report of public place violent crime 09/10
 2. Environmental health noise statistics for 09/10
 3. Overview and Scrutiny reports
 4. Health impact assessment of licensing report
 5. Licensing enforcement policy (following Home Office & DCMS advice on problem premises)
 6. Licensing Guidance.

5.8 **Best Practice to protect children from harm**

The Council passed a Notice of Motion that licensing committee recommend best practice for both on and off premises to take on board on a voluntary basis, in order to promote responsible licensing.

- 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

The council will support accreditation schemes, such as best bar none and purple flag, where appropriate and subject to resources.

5.9 *Health Impact Assessment*

The licensing authority's response to this public consultation process is as follows:

- *Enforcement decisions of under-age sales from licensed premises will be taken with regard to enforcement policy appended*
- *Safe Space and refuges for potentially vulnerable people is supported*
- *The council will make a telephone number available for reporting licensing offences and concerns*

6 Integration of Strategies

- 6.1 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 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 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
 - Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice
 - Having regard to the Home Office Safer Clubbing Guide
- 6.2 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, in line with statutory requirements and the council's Inclusion Policy, for example communities of interest such as: lesbian, gay, bisexual and transgender people; disabled people; racial and ethnic groups; religious and faith groups.
- 6.3 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.
- 6.4 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.

- 6.5 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.
- 6.6 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.
- 6.7 Where appropriate, matters for consideration in licensing applications will not duplicate matters considered as part of any planning application. Licensing decisions will take into account any relevant planning decisions either by the Planning Applications Committee or following appeals against decisions taken by that committee and will not normally cut across such decisions.
- 6.8 **Other regulatory regimes**
This policy avoids duplication with other regulatory regimes wherever possible. The following notes are made with regard to specific regimes:-

Health and Safety: Certain premises will be the subject of health and safety enforcement by the local authority or the Health and Safety Executive (HSE). If other existing law already places certain statutory responsibilities on an employer or operator of premises, for example the Management of Health and Safety at Work Regulations 1999, it will not be necessary to impose the same or similar duties on the premises licence holder or club. However, existing duties will not always adequately cover specific issues that arise on the premises in connection with, for example, certain types of entertainment, and where additional and supplementary measures are necessary to promote the licensing objectives, necessary, proportionate conditions will need to be attached to a licence.

Fire Safety: premises and their operators will be regulated by general duties under current fire safety regimes and the Regulatory Reform (Fire Safety) Order 2005 rather than licensing provisions.

Noise: Statutory and Public nuisances are dealt with by the local authority's Environmental Health department under the Environmental Protection Act 1990, Noise Act 1996 and associated legislation. Noise from commercial premises may often fall under review powers set out in licensing provisions and closure powers in antisocial behaviour provisions.

Race Relations: the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, obliges public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups. The local authority's race equality scheme produced under these obligations shall include reference to this statement of licensing policy.

Community relations: Integration of corporate strategies with licensing policy will include the Inclusive Council Policy which recognises the Council's role, as a community leader, to promote community cohesion and good relations between diverse communities.

Measures to address prevention of crime and disorder recognise the need to improve well being and safety of all the communities in the City.

Licensing policy supports the crime and disorder reduction partnership's crime reduction strategy. In particular it seeks to confront and reduce racist, homophobic, transphobic and religiously motivated crimes, incidents and anti-social behaviour.

Anti-Social Behaviour Act 2003: provides that if the noise from any licensed premises is causing a public nuisance an authorised environmental health officer would have the power to issue a closing order in respect of it effective for up to 24 hours. This complements the Police powers under the act to close licensed premises for temporary periods.

Litter and Smoking: City Clean contractors have Clean Neighbourhoods powers to enforce premises operators' responsibilities to keep frontages clear of litter.

Disability Discrimination Act: applications for new premises or for variations involving changes to the layout of premises, are reminded to have regard this legislation.

Gambling Act 2005: in relation to casinos and bingo clubs, the principal purpose is gaming. The sale of alcohol and the provision of entertainment in such premises is incidental to gaming and in determining whether to permit entertainment that constitutes regulated entertainment under the Act, gaming license committees and / or the Gambling Commission will have taken into account relevant government guidance. Accordingly it is felt that the licensing objectives will have been, or will be in the main, adequately considered by such committees and duplication of conditions should be avoided when considering applications under the 2003 Act where relevant representations have been made.

- 6.9 **Enforcement** - the enforcement of licensing law and the 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 a more efficient deployment of Police and Local Authority staff commonly engaged in licensing enforcement. In addition the Licensing Authority

will have regard to its published Commercial Premises Enforcement Policy in making enforcement decisions. In order to better target enforcement resources, inspections will also 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. Joint Intelligence Meetings are organised and include officers from responsible authorities

- 6.10 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
 - The Health Act 2006
 - The Violent Crime Reduction Act 2006
 - Policing and Crime Act 2009

7 Live Music, Dancing & Theatre

- 7.1 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.
- 7.2 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. 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 necessary, proportionate and reasonable licensing conditions should impose any restrictions on such events.
- 7.3 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.

8 Reviews

- 8.1 Reviews represent a key protection for the community. Where the licensing authority considers action necessary under its statutory powers it will take

necessary steps to support the licensing objectives. Action following review will be informed by licensing enforcement policy – appendix D. .

- 8.2 Where style of operation of a premises leads to applications concerning likelihood of racist, religiously motivated, homophobic or transphobic crimes or incidents, the review process should also support the community safety policy. Action should be proportionate and licences would normally be suspended or revoked in these circumstances to deter further incidents.

9 Contact Details, Advice and Guidance

- 9.1 Guidance notes to accompany this policy and details about the licensing application process, including application forms, can be found:

- E-mail ehl.safety@brighton-hove.gov.uk
- Via www.brighton-hove.gov.uk (search under Licensing Act 2003 and follow the relevant links, for example to the Licensing Applications page for a weekly update of applications received)
- 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 292196

- 9.2 Advice and guidance to applicants may also be sought from:

The Police and Fire Authority by contacting them at:

Police

Licensing Unit
Police Station
Holland Road
Hove
BN3 1JY
Tel: 01273 665523

Other responsible authorities:

Health & Safety

For non-council owned premises:
Environmental Health & Licensing
Bartholomew House
Bartholomew Square
Brighton BN1 1JP
Tel: 01273 294429

Planning

Development Control
Hove Town Hall
Norton Road

East Sussex Fire and Rescue Service

Brighton & Hove Fire Safety Office
Hove Fire Station
English Close
Hove
BN3 7EE
Tel: 01323 462130

For council parks & other council-run premises:

Enforcement Liaison Officer, HSE
Phoenix House
23-25 Cantelupe Road
East Grinstead RH19 3BE
Tel: 01342 334200

Child Protection

Chair of Brighton & Hove ACPC
Di Smith, Director of Brighton & Hove
Children Families & Schools

Hove
BN3 1PT
Tel: 01273 290000

Kings House,
Hove BN3 2SU
Tel: 01273 29000

Environmental Health:
Environmental Protection Team
Bartholomew House
Bartholomew Square
Brighton, BN1 1JP
Tel: 01273 290000

Trading Standards:
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP
Tel: 01273 290000

Please note the above were correct at time of publication but may be subject to change; please contact the Licensing Authority if you have queries regarding the above contact points.

APPENDIX A

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 Spring Street 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 Queens Road junction with Church Street; thence along the north side of Church Street eastwards to its junction with Marlborough Place and continuing south-east across to the north-western 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 Preston Street; northward to that point and along the west side of Preston Street to its northwest boundary and then diagonally across Western Road to its intersection with the west side of Spring Street

APPENDIX B

Brighton & Hove City Council – Special Stress Areas

The areas recommended for further monitoring and detailed guidance within the Special Policy comprise the following as pictured below:-



Area 1 - an area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Spring Street and along the north side of Western Road, Hove to its intersection with the west side of Holland Road; southward along the west side Holland Road to its end and then due south across the Kingsway to the mean water mark; along the mean water mark eastwards to the intersection with the boundary of the cumulative impact area and along that boundary northwards to the intersection of Western Road, Brighton with the west side of Spring Street.

Area 2 – an area bounded by and including: from a point on the west side of the Surrey Street / Terminus Road intersection adjacent to Guildford Road eastwards along the north side of Trafalgar Street to its eastern end; due east across York Place to the east side of Richmond Place; southward along the east side of Richmond Place and Grand Parade to the cumulative impact area’s Edward Street boundary; westwards along the cumulative impact area’s northern boundary to the north-west corner of the Church Street junction with Queens Road; north along the west sides of Queens Road and Surrey Street to the point on the west side of the Surrey Street / Terminus Road intersection adjacent to Guildford Road.

APPENDIX C

Measures to be included for consideration in SSAs are:

Matters that would normally be expected in operating schedules -

- the adoption of a "Challenge 21" policy 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
- systems to ensure any SIA doorstaff or Mobile Support Unit personnel display appropriate badges when on duty

Items to which positive consideration would be given -

- membership of Brighton 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

Matters that might be recommended for appropriate restrictions -

- entry to premises by under 18s after certain times
- consumption of food and drink in smoking areas
- access to outside seating areas after certain times

Areas of best practice in licensing

The Licensing Strategy Group agreed the following best practice list, some of which would be more appropriate to off sales rather than on sales. All should take into account the new mandatory conditions:

- Awareness of the problem of proxy sales
- Signage
- Selling to underage people
- Staff training
- Challenge 25
- Pass scheme
- Voluntary restriction of high strength alcohol
- Membership of BCRP
- Use of polycarbonate glass
- Lockable glass bins emptied at appropriate times
- Staff training against the four licensing objectives and including conditions on licence
- Trading Standards Business Support
- Risk assessments

LICENSING ENFORCEMENT POLICY

1.0 STATEMENT OF OBJECTIVES

1.1 The Environmental Health & Licensing service is committed to the Council's core priorities. This policy gives detail on how the Council's priorities:

- *Protect the environment while growing the economy;*
- *better use of public money;*
- *reduce inequality by increasing opportunity;*
- *fair enforcement of the law;*
- *open and effective leadership.*

and will inform the enforcement actions taken. Amendments to prioritise will be embedded automatically.

1.2 This service policy promotes efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code.

1.3 In certain instances the service may conclude that a provision in the Code is either not relevant or is outweighed by another provision. It will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

1.4 The service pursues a positive and proactive approach towards ensuring compliance by:

- Supporting the better regulation agenda;
- Helping make prosperity and protection a reality for the City's community;
- Helping and encouraging regulated entities to understand and meet regulatory requirements more easily;
- Responding proportionately to regulatory breaches; and
- Protecting and improving public health and the environment.

1.5 This policy is based on the seven 'Hampton Principles' of:

Economic Progress: Regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection;

Risk Assessment: Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources in the areas that need them most;

Advice and Guidance: Regulators should provide authoritative, accessible advice easily and cheaply;

Inspections and other visits: No inspection should take place without a reason;

Information requirements: Businesses should not have to give unnecessary information or give the same information twice;

Compliance and enforcement actions: The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions; and

Accountability: Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take.

1. 6 The rights and freedoms given under the Human Rights Act, particularly Article 6 and 8, will be observed, as will the provisions of the Regulation of Investigatory Powers Act.

2.0 SCOPE OF THE POLICY

- 2.1 This policy supports and supplements specific guidance on enforcement action contained in the Statutory Code of Practice for Regulators, Brighton & Hove City Council's Corporate Enforcement Policy, Statutory Codes of Practice and relevant guidance documents and guidelines issued by Government Departments and co-ordinating bodies.
- 2.2 This policy relates to actions taken to educate and enforce legislation where non-compliances have been identified or have a realistic potential to occur.
- 2.3 The policy is limited to those enforcement activities lead by the Head of Environmental Health & Licensing.

3.0 TRAINING

- 3.1 Officers undertaking enforcement duties will be suitably trained and qualified so as to ensure they are fully competent to undertake their enforcement activities.

4.0 MANAGEMENT SYSTEMS

- 4.1 The service will maintain management systems to monitor the quality and nature of enforcement activities undertaken, so as to ensure, so far as is reasonably practicable, uniformity and consistency.

5.0 ENFORCEMENT OPTIONS

- 5.1 The service recognises the importance of achieving and maintaining consistency in its approach to enforcement. Statutory Codes of Practice and guidance issued by Government Departments, other relevant enforcement agencies or professional bodies will therefore be considered and followed where appropriate.
- 5.2 Sanctions and penalties will be consistent, balanced, fairly implemented and relate to common standards that ensure individual's, public safety or the environment is adequately protected. The aim of sanctions and penalties are to:
- Change the behaviour of the offender;
 - Eliminate any financial gain or benefit from non-compliance;
 - Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
 - Proportionate to the nature of the offence and the harm caused; and
 - Aim to deter future non-compliance.
- 5.3 Criteria to be taken into account when considering the most appropriate enforcement option include:
- the potential of the offence to cause harm;
 - confidence in the offender;
 - consequences of non compliance;
 - likely effectiveness of the various enforcement options.
- 5.4 Having considered all the relevant options the choices for action are:
- **Informal Warning:** All advice issued will be given in writing and specify the nature of the breach or offence, and the actions required to remedy the issue. An informal warning may be included with the advice, and may accompany higher-level actions, such as Enforcement Notices or Voluntary Surrender:
 - **Licence review:** Licence review power will be used where an application for review relates to one or more of the licensing objectives.
 - **Taxi licence:** Taxi licence suspension or revocation will be used to protect public safety. Other sanctions such as DSA testing will be used to protect public safety and in accordance with the taxi licensing policy (Blue book).
 - **Simple Caution:** The issue of a Simple Caution by an authorised officer may be undertaken as an alternative to prosecution where it is considered unnecessary to involve the courts, and the offender's response to the problem makes repeat offending unlikely, or the offender's age or health make it appropriate. Cautions may only be issued where the offender makes a clear and reliable admission of guilt and understands the significance of acceptance.
 - **Prosecution:** A prosecution is appropriate where there is a breach of a legal requirement, such that public safety, health, economic or physical well-being or the environment or environmental amenity is adversely affected.

The Crown Prosecutor's Code of Evidential and Public Interests tests must be met in all cases. However, certain circumstances will normally justify prosecution to prevent the undermining of the service's enforcement responsibilities.

- Failure to comply with an Enforcement Notice
- Declining a Simple Caution
- Continued, reckless, negligent or pre-meditated non-compliance.
- Failure to pay a fixed penalty.
- Non-cooperation, acts of obstruction or threats of physical harm or abuse.
- **Injunctions:** Injunctive action as a means of preventing an activity or course of action likely to result in significant risk to public or community safety or economic wellbeing of consumers and businesses.

5.5 If the Department is considering taking enforcement action which it believes may be inconsistent with that adopted by other authorities, the matter will be referred to the appropriate local co-ordinating body.

6.0 INFORMAL WARNING

6.1 Informal action may be taken when:-

- the act or omission is not serious enough to warrant formal action or
- from the individual's/enterprise's past history it can be reasonably expected that informal action will achieve compliance or
- confidence in the individual/enterprise's management or ability to resolve the matter is high or
- the consequences of non-compliance will not pose a significant risk to public health, public safety, animal welfare or the environment.

6.2 When an informal approach is used to secure compliance with regulations, written documentation issued will:-

- contain all the information necessary to understand what is required and why;
- indicate the regulations contravened, measures which will enable compliance with legal requirements and that other means of achieving the same effect may be chosen;
- clearly differentiate between legal requirements and recommendations of good practice. Such a differentiation will also be made when verbal advice is given.

7.0 SIMPLE CAUTIONS

7.1 A Simple Caution may be issued as an alternative to a prosecution. Cautions may be issued to:-

- deal quickly and simply with less serious offences;
- divert less serious offences away from the courts;
- reduce the chances of repeat offences.

7.2 The following factors will be considered when deciding whether a Caution is appropriate:-

- evidence of the suspect's guilt
- has a clear and reliable admission of the offence been made either verbally or in writing
- is it in the public interest to use a Caution as the appropriate means of disposal when taking into account the public interest principles set out in the Code for Crown Prosecutors.
- the suspected offender must understand the significance of a simple caution and give an informed consent to being cautioned.

7.3 No pressure will be applied to a person to accept a Simple Caution.

7.4 The 'cautioning officer' will be the most appropriate officer from Service Director, Service Assistant Director, Head of Service Environmental Health Manager or Licensing Manager. The Cautioning Officer must not have taken an active part in investigating the case.

7.5 Should a person decline the offer of a simple caution a prosecution will be recommended.

8.0 PROSECUTION

8.1 The Department recognises that the decision to prosecute is significant and could have far reaching consequences on the offender.

8.2 The decision to undertake a prosecution will be taken after proper consultation in accordance with the Scheme of Delegation for the Council's functions. The decision to proceed with a prosecution will normally be taken following legal advice. The matters to be taken into account when deciding if the issue of proceedings is proportionate include:-

- the seriousness and nature of the alleged offence;
- the role of the suspect in the commission of the offence;
- any explanation by the suspect or any agent or third party acting on their behalf;
- was the suspect in a position of trust, responsibility or authority in relation to the commission of the offence;
- is there evidence of premeditation or disregard of a legal requirement for financial reward;
- risk of harm to the public, an individual or the environment;
- relevant previous history of compliance;
- reliability of evidence and witnesses
- any mitigating or aggravating circumstances or the likelihood that the suspect will be able to establish a defence;
- suspect's willingness to prevent a recurrence of the offence;

- the need to influence future behaviour of the suspect;
- the likely penalty to be imposed; and
- a prosecution is in the public interest, there is realistic prospect of conviction and sufficient evidence to support proceedings.

8.3 All relevant evidence and information will be considered before deciding whether to instigate proceedings in order to enable a consistent, fair and objective decision to be made.

8.4 Where an act or omission is capable of constituting both a summary and either way offence, when deciding which offence to charge the following will be considered:-

- the gravity of the offence;
- the adequacy or otherwise of the powers of the summary court to punish the offence;
- the record of the suspect;
- the suspect's previous response to advice or other enforcement action;
- the magnitude of the hazard;
- any circumstances causing particularly great public alarm;
- comments from the Council's Solicitor's Office.

8.5 As a general rule an individual or business will be given a reasonable opportunity to comply with the law although in some circumstances prosecution may be undertaken without giving prior warning e.g.

- the contravention is a particularly serious one;
- the integrity of the licensing framework is threatened.

9.0 Home Office and Government Advice: Problem premises on probation

9.1 The licensing authority supports the strategies of interventions and tough conditions to be assembled into packages released on 2008. The current version is appended (appendix A).

10. APPEALS

If any person is unhappy with the action taken, or information or advice given they will be given the opportunity of discussing the matter with the relevant team manager, Head of Service or Assistant Director.

Any such appeal does not preclude any aggrieved person from making a formal complaint about the service or any officers. Any such complaint will be dealt with in accordance with Corporate procedures and guidance.

Complaints that are not dealt with by the council's complaints procedure are listed in corporate policy and include:

- Complaints where the complainant or another person has commenced or intends to commence legal proceedings against the council.
- Complaints where the council has commenced or intends to commence legal proceedings against the complainant or another person relating to the matter of complaint.

11. **SHARED ENFORCEMENT ROLES**

Lead agency status between Sussex Police, East Sussex Fire and Rescue Service and the council's trading standards, environmental health and licensing officers are determined between the agencies at county level. The current position is appended (appendix H).

“PROBLEM PREMISES ON PROBATION” – RED AND YELLOW CARDS : HOW IT WOULD WORK

The problem

1. In many cases, revocation of a premises licence effectively kills any business which is focussed on retailing alcohol. This means that not only the business owner suffers, but most people working there will lose their livelihoods. Many of these workers will be entirely innocent of any wrong-doing. There is also an impact on those who rely indirectly on income from the premises – such as local food suppliers or cleaning contractors, and the closure of a premises can deprive some communities of their local shop or restrict local consumer choice. Enforcement agencies that apply for reviews and local councillors sitting on licensing committees are well aware of this potential impact and it can lead to a reluctance to use the powers in the Act to revoke the licence instantly for any failure to promote the licensing objectives. This risks patchy enforcement and uneven solutions to alcohol-related problems around the country.
2. In addition, in many cases, enforcement agencies will prefer to negotiate additional voluntary conditions with problem premises against the threat of review as an immediate, pragmatic and less bureaucratic solution. While this may be a reasonable approach in many cases, there is a risk that some premises are not being dealt with as firmly as necessary, particularly given the level of test purchase failures. Nor are voluntary agreements particularly visible, lessening the deterrent effect on other premises.
3. Government wishes to support the enforcement agencies and licensing authorities by providing clear guidance on a “yellow card / red card” system, which would ensure a firm response to problems, but which give premises an opportunity to reform. The intention is that such a system would be highly visible and send a clear message to alcohol retailers, and the public, that action will be taken against those who act contrary to the licensing objectives and the law.
4. The proposed interventions below would not prevent the giving of an instant red card in an appropriately serious case. It should be realised that a “test purchase” failure often masks multiple offences that have gone undetected.

Supporting enforcement agencies

5. The Government will encourage enforcement agencies – mainly the police, trading standards officers and environmental health officers – to seek more reviews in the knowledge of the yellow card/red card system described below. This will mean not giving formal warnings. It will

mean that on identifying problem premises, the licensing authority will be engaged faster than it might have been in the past.

6. Enforcement agencies would be encouraged to seek reviews when local intelligence suggests that individual premises are selling to children or causing other crime problems or causing noise nuisance.
7. Under the law, the licensing authority must then hold a hearing so long as the application relates to one of the four licensing objectives and is made by a responsible authority or by an interested party like a local resident or another local business.

First intervention

8. Responsible authorities will be encouraged to propose a package of touch new conditions to be added to the existing conditions which are designed to combat the identified problem. The kinds of conditions that we have in mind are set out in Annex A. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises. Such action should be supplemented where appropriate by:
 - Removal of the designated premises supervisor and his/her replacement (the manager is removed);
 - Suspension of the licence for between 1 day and 3 months according to the circumstances.
 - Restriction on trading hours – cutting hours of trading in alcohol.
 - Clear warning that a further appearance will give rise to a presumption of revocation.
9. If appropriate following review, the licensing authority should consider these packages of conditions and actions to challenge problem premises more aggressively.
10. For example, requiring a major supermarket to make all alcohol sales through a single till manned by a person aged 25 years or older in order to tackle sales to underage. Over a year, this would potentially cost such a supermarket £millions. It would also make them reflect on their levels of supervision at other stores.
11. In addition, enforcement agencies should make the premises in question a priority for test purchases and more regular inspections.
12. The aim would be to put the premises on probation. Effectively, they are given a yellow card. They are put on notice that the next offence or breach would mean an automatic second intervention – a red card.

Second intervention

13. In the absence of improvement, enforcement agencies should seek another review. The licensing authority again must grant a hearing.
14. If satisfied on the issue of the lack of improvement, the licensing authority should look to **revoke the licence**. The action should be publicised in the area as an example to other retailers.

Implementation

15. Requires:
 - Development with the Home Office of a toolkit and guidance for police, trading standards and ethos;
 - Initial letters to Leaders of local authorities and Chief Executives;
 - Ultimately, stronger statutory Guidance to be laid in Parliament for licensing authorities themselves.
16. Central Government cannot tell licensing authorities what to do. The review powers are devolved to them. Similarly, central Government cannot direct enforcement agencies how to enforce the law. It would remain their judgement when and how to act.

ANNEX B:

POSSIBLE TOUGH CONDITIONS TO BE ASSEMBLED INTO PACKAGES

n.b. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises.

GREATER CONTROL OVER SALE

1. Designated checkout(s) for alcohol sales (supermarket). Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
2. Personal licence holder/DPS to be on site at all times during sales of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
3. Personal licence holder/DPS to supervise and authorise every individual sale of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
4. SIA registered security staff to be present at points of sales to support staff refusing sales to u-18s and drunks.
5. Alcohol sales only to be made only by person aged not less than 25 years. Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
6. CCTV installed at all points of sale and recorded. Recordings can be examined by a constable or trading standards officer to determine sales to minors or drunks.
7. The licensed premises shall join the Business Crime Reduction Partnership scheme.

TRAINING

8. All staff to read and sign a declaration that they understand the law every time they start a shift.
9. Train all staff engaged in selling alcohol in alcohol awareness (not just personal licence holders). All new staff to be trained within two weeks of commencing employment. Evidence of training to be retained in writing and to be available for inspection by any authorised person and training standards officers. Impact on all licensing objectives.

ALCOHOL SALE BANNED AT CERTAIN HOURS

10. No alcohol sales Mon – Fri between 4pm and 8.30pm. Impact on protection of children from harm or targeted hours reflecting times when local intelligence indicates under 18s may be purchasing alcohol.

11. No alcohol sales – Friday to Sunday. Impact on all four licensing objectives.

ALCOHOL DISPLAYS

12. No displays of alcohol or advertising of alcohol promotions that can be seen from outside the premises.
13. No alcohol stocks promoted alongside goods likely to appeal to children (e.g. confectionary, toys).

CUTTING DOWN ON SHOPLIFTING

14. SIA registered security staff to be present at alcohol aisles during opening times to prevent attempted under age sales or theft.
15. Location of alcohol stocks/displays not to be sited near the entrance/exit to deter shoplifting.
16. No direct public access to alcohol products – like tobacco, alcohol to be kept behind a dedicated kiosk.

NAMING AND SHAMING

17. Display an external sign/yellow card to state which of the licensing act objectives they have breached and what action has been taken against them.

OTHERS

18. Maintain a log of all under attempted purchases from those who appear to be under 18 or drunk.
19. Children aged under [18 years] not to be present or (not more than one child at any one time) on premises (other than children living on the premises or of the people working on the premises); or only children under 18 accompanied by an adult to be permitted on the premises during retailing hours. Impact on protection of children from harm.
20. Products to be labelled (a label stuck to the bottle or can) to show the details of the shop from which it was bought. Purpose would be to provide evidence of unlawful sales if product found commonly in possession of persons under 18.
21. Designated single items – beer, alcopops and cider – not to be sold to any person. Impact on protection of children from harm. Purpose would be to reduce sales to children and drunks. Alternative would be to prescribe sales of beer, alcopops and cider in quantities of less than four.
22. CCTV installed, monitored and 24 hour recordings kept for a week and made available to constables and persons authorised under the 2003 Act to help identify attempted proxy purchasing.

23. Where there is no designated smoking area, readmission after midnight should normally be prohibited.

Film classification

- 1.1 The British Board of Film Classification (BBFC) and the Licensing Authority are the classification bodies for films shown in the city, and as such has the right to issue film classifications to films that are shown in premises such as cinemas. Recent films that have been classified in Brighton and Hove City Council have been for the Duke of York's and Sallis Benney Theatre. Some films and film festivals are sponsored by Brighton and Hove City Council (BHCC) and/or the Arts Council and under such circumstances it could be imprudent to refuse permission.
- 1.2 In practice, officers may view films in advance, and determine classification, commonly after consultation with the Chairman. There is also no process to refer films to the Licensing Committee for classification where those films give rise to concerns regarding the licensing objective "the protection of children from harm."
- 1.3 The British Board of Film Classification (BBFC) classifies films to be exhibited in cinemas on behalf of Licensing Authorities, and as such Brighton and Hove rarely uses its right to classify films.
- 1.4 Under the Licensing Act 2003 any premises that has permission to show films as part of their permitted licensable activity, such as a cinema, has mandatory conditions attached to the licence regarding the exhibition of films. Premises that were previously licensed under the Cinemas Act 1985 will also have additional conditions attached, unless an application has been made to remove these. A schedule of the relevant conditions is attached as **APPENDIX 1**.
- 1.5 The Licensing Authority can be requested to classify a film that has not yet been classified by the BBFC. A typical example of this would be a locally made film, such as a student production, to be shown at a film festival in the borough.
- 1.6 A distributor of a film can appeal to the Licensing Authority against a decision of the BBFC.
- 1.7 Any classification issued by the Licensing Authority only applies when the film is exhibited within the city, and does not effect the classification in other areas.

Current Process

- 2.1 Where a request is made to classify a film, a full copy of the film is requested. An officer will view the film and assess the film against guidelines issued by the BBFC. Officers will then issue a certificate with a classification for each film viewed. Conditions are attached to a waiver, and these are shown on **APPENDIX 2**.
- 2.2 A decision will be made at an officer level regarding the classification to be issued. This decision will be based on the BBFC guidelines and in agreement with the Chairman of the Licensing Committee.
- 2.3 Where a number of films are received at the same time, officers will view all the films submitted and issue a certificate prior to screening.
- 2.4 The following extract from Brighton & Hove Licensing Policy is considered relevant to this report:

“5.5 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”.

- 2.5 Classification Requirements when films are not viewed in advance

Requests for an 18 certificate classification requirements be determined on an officer basis subject to the conditions shown in **APPENDIX 2**. An 18 certificate would be issued based only on the synopsis of the film and would be appropriate in the following cases:

- (a) A film festival
- (b) A one off screening of a film
- (c) A trailer for a film

- 2.6 Any request to classify a film will be considered by the licensing authority and must be accompanied by both the synopsis of the film and a full copy of the film in DVD or video format.
- 2.7 All requests must be made with a minimum of 7 days notice of the proposed screening or 28 days for multiple requests.
- 2.8 It is recommended that officers from the Licensing Authority view the entire film and assess against the BBFC guidelines, and a recommendation is made on the classification.
- 2.9 Where the appropriate classification is deemed to be a rating up to and including 15, then a classification will be issued by officers.

2.10 In sensitive cases, officers would consult with the Chairman or Deputy.

Mandatory Conditions - Licensing Act 2003

The Conditions detailed below are mandatory conditions required to be placed on all Premises Licenses where the showing of films is authorised under the Licensing Act 2003

Exhibition of films

S 20; mandatory condition: exhibition of films

- the admission of children is to be restricted in accordance with the following
 - (a) where the film classification body is specified in the licence, unless subsection (3)(b) of S 20 applies, admission of children must be restricted in accordance with any recommendation made by that body
 - (b) where the film classification body is not specified, or [(S20 (3)(b)] the relevant licensing authority has notified the holder of the licence that this subsections applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority

Additional Conditions Attached to Cinema Licences

Embedded Conditions:

- Cinematographic (Safety) Regulations 1955
- Cinemas Act 1985
- Licence to Use Premises for Cinematograph Exhibitions

Conditions Attached to an 18 Certificate Film Classification Requirements where films have not been viewed in advance

The conditions listed below are attached by BHCC on all waivers to the film classification requirements:

1. The films must not encourage or incite crime; or lead to disorder; or stir up hatred against any section of the public in Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex; or promote sexual humiliation or degradation of or violence towards women.
2. The films must not have the effect such as to tend to deprave and corrupt persons who see them.
3. The films must not contain a grossly indecent performance thereby outraging the standards of public decency.
4. Persons under the age of 18 must not be admitted to any such film exhibitions.

Licensing Enforcement Pathway

Licensing incident: Apparent offence, injury or incident

or



Report

Trading Standards
Contact 01273 292523
then press option 2

294429
Ehl.safety@brighton-hove.gov.uk
Council – Environmental
Health & Licensing

0845 6080999
Sussex Police
Licensing Unit contact 665523



Consideration by responsible authorities at joint intelligence exchange (Sussex Police, BHCC trading standards, environmental health and licensing, East Sussex Fire & Rescue Service)



Assign lead investigator responsibility (Lead Agency agreement)



Investigation – Licensing Enforcement Policy

Offence	Offender(s)	Defences/Exceptions
Consumption on relevant premises of alcohol by under 18 or knowingly allowing the consumption to occur	Under 18 or person in capacity to prevent	(1) Lack of knowledge (2) Table meal exception
Delivering alcohol sold or supplied on relevant premises to	Person working on premises	(1) Lack of knowledge (2) Exceptions in s151(6)

under 18		
Allowing anybody else to deliver alcohol sold or supplied on relevant premises to under 18	Person working on premises in capacity to prevent delivery	(1) Lack of knowledge (2) Exceptions in s151(6)
Sending an under 18 to obtain alcohol sold or supplied on relevant premises for consumption off the premises	Any person	(1) Lack of knowledge (2) Exception for Test Purchase Operations (3) Under 18 works on relevant premises in capacity involving delivery of alcohol
Sale or supply of alcohol to under 18	Any person or a club	(1) Due diligence (if act by another person) (2) Belief that individual over 18 and reasonable steps taken to establish age or no reasonable suspicion under 18
Allowing sale or supply of alcohol to under 18	Any person authorised to prevent	Lack of knowledge
Purchase/supply (or attempt to purchase/supply) of alcohol by or on behalf of under 18 Purchase/supply (or attempt to purchase/supply) of alcohol for consumption on relevant premises by under 18	Under 18 or person purchasing on behalf of	S149(1) – exception if done as part of Test Purchase Operations S149(4) – table meal exception S149(3) or (4) – no reason to suspect under 18
Sale or supply (or attempt) or allowing sale or supply of alcohol to person who is drunk	Any person in capacity to prevent	Lack of knowledge
Obtaining or attempting to obtain alcohol for consumption on relevant premises by drunk person	Any person	Lack of knowledge

LEAD AGENCY STATUS

Offence / Issue	Police	Local / Licensing Auth	Fire & Rescue	Trading Standards
<u>Licensing Objective 1:</u> Crime and Disorder				
Offences of failing to notify changes in details <i>Section 33(6) Licensing Act 2003</i>		Lead		
Offences of failing to display licences or certificates <i>Section 57(4) Licensing Act 2003</i>		Lead		
Unauthorised use of premises for licensed activities <i>Section 136 Licensing Act 2003</i>		Lead		
Exposing alcohol for unauthorised sale <i>Section 137 Licensing Act 2003</i>	Shared Lead	Shared Lead		
Keeping alcohol on premises for unauthorised sale <i>Section 138 Licensing Act 2003</i>	Shared Lead	Shared Lead		
Allowing Disorderly Conduct on Licensed Premises <i>Section 140 Licensing Act 2003</i>	Lead			
Obtaining/supplying alcohol to drunk <i>Sections 141 / 142 Licensing Act 2003</i>	Lead			
Drunkenness in Premises <i>Section 143 Licensing Act 2003</i>	Lead			
Keeping of smuggled goods <i>Section 144 Licensing Act 2003</i>	HMC&E	HMC&E		
False statements made for purposes of the Act <i>Section 158 Licensing Act 2003</i>		Lead		
Enforcement of closure order <i>Section 169 Licensing Act 2003</i>	Lead			

Offence / Issue	Police	Local / Licensing Auth	Fire & Rescue	Trading Standards
Prohibition of alcohol sales at service / garage areas <i>Section 176 Licensing Act 2003</i>	Shared Lead	Shared Lead		
Public Drunkenness <i>Section 12 Licensing Act 1872</i>	Lead			
Underage drinking <i>Section 169 Licensing Act 1964</i>	Shared Lead			Shared Lead
Misuse of Drugs <i>Section 4 Misuse of Drugs Act 1971</i>	Lead			
Anti Social Behaviour <i>Section 1 Crime & Disorder Act 1998 (ASBO)</i>	Shared Lead	Shared Lead		
Acceptance of accredited proof of age cards		Lead		
Provision of effective CCTV in and around premises		Lead		
Employment of SIA licensed door staff	Shared Lead	Shared Lead		
Requirements to provide toughened or plastic glasses		Lead		
Provision of secure deposit boxes for confiscated items (sin bins)	Shared Lead	Shared Lead		
Provision of litterbins, other security measures such as lighting		Lead		

<u>Licensing Objective 2:</u> Public Safety:	Police	Local / Licensing Auth	Fire & Rescue	Trading Standards
Sales of alcohol on vehicles <i>Section 156 Licensing Act 2003</i>	Lead			
Overcrowding of premises		Shared Lead	Shared Lead	
Use of special effects such as lasers, pyrotechnics, smoke machines and foam		Shared Lead	Shared Lead	

Offence / Issue	Police	Local / Licensing Auth	Fire & Rescue	Trading Standards
Blocked or locked means of escape		Shared Lead	Shared Lead	
Provision of sufficient number of people employed to secure safety of patrons		Lead		
Regular testing and certification of systems and appliances		Shared Lead	Shared Lead	

<u>Licensing Objective 3:</u> Public Nuisance:				
Public nuisance from noise		Lead		
Public nuisance from litter		Lead		
Public nuisance from persons leaving the premises	Shared Lead	Shared Lead		
Public nuisance from odour		Lead		
Effective public transport		Lead		
Adequate public lighting/security lighting		Lead		

<u>Licensing Objective 4:</u> Protection of Children from harm:	Police	Local / Licensing Auth	Fire & Rescue	Trading Standards
Exposure to explicit films/plays <i>Sections 74 & 76 Licensing Act 2003</i>		Lead		
Requirements for children to be accompanied by an adult <i>Section 145 Licensing Act 2003</i>		Lead		

Sale of Alcohol to Children <i>Section 146 Licensing Act 2003</i>				Lead
Sale of liqueur confectionery to children under 16 years <i>Section 148 Licensing Act 2003</i>	Lead			
Purchase, acquisition or consumption of alcohol by or for children <i>Sections 149 & 150 Licensing Act 2003</i>	Lead			
Delivering to or sending a child to obtain alcohol <i>Sections 151 & 152 Licensing Act 2003</i>	Lead			
Unsupervised sales by children <i>Section 153 Licensing Act 2003</i>	Lead			
Confiscation of sealed containers of alcohol and unsealed <i>Confiscation of Alcohol (Young Persons) Act 1997</i>	Lead			
Provision of sufficient number of staff to secure protection of children from harm <i>Section 12(1) Children and Young Persons Act 1933</i>		Lead		
Concerns of moral/psychological harm		Lead		
Concerns over physical harm	Shared Lead	Shared Lead		
Exposure to drugs, dealing or taking	Lead			
Exposure to gambling	Shared Lead	Shared Lead		
Exposure to activities of adult/sexual nature	Shared Lead	Shared Lead		
Exposure to incidents of violence/disorder	Lead			
Exposure to environmental pollution such as noise or smoke		Lead (with HSE)		

Offence / Issue	Police	Local / Licensing Auth	Fire & Rescue	Trading Standards
Exposure to special hazards i.e. suitability of the premises		Lead		
Limitation on hours when children may be present on all or parts of premises	Shared Lead	Shared Lead		
Exclusions by age when certain activities are taking place		Lead		

DCMS return



LICENSING STATISTICAL BULLETIN 2010: ALCOHOL, ENTERTAINMENT & LATE NIGHT REFRESHMENT



The Department for Culture, Media and Sport is responsible for compiling a National Statistics bulletin on alcohol, entertainment and late night refreshment under the Licensing Act 2003.

This year's exercise is consistent with the previous questionnaire (*see link below*), following the first Licensing Act 2003 data collection exercise in 2006/07. However some questions have been removed as part of DCMS' commitment to reduce the burden on Local Authorities in completing statistical returns. Also a couple of new questions have been added to reflect changes to the licensing regime. The information will continue to inform our ongoing monitoring of the licensing regime, and provide evidence for future collections (e.g. which questions we will continue to ask, the frequency of the collection etc.). The guidance and help information has been expanded this year. Please refer to this information if in any doubt about how to respond to a particular question.

We are therefore asking all Licensing Authorities in England and Wales to complete a 2-part questionnaire and to provide contact details below:

PART 1

Licences in force in your area and the activities authorised at 31st March 2010

PART 2

Applications and notices received between 1st April 2009 and 31st March 2010

Licensing Authority (select from list)

Brighton & Hove

Licensing Software Supplier and version (e.g. LALPAC ver. 4+, in-house software etc.)

Uniform

Name of person responsible for filling in the return

Jean Cranford

e-mail[Jean Cranford](mailto:Jean.Cranford@brighton.gov.uk)**Telephone**

01273292550

Date Completed (dd/mm/yy)

14/05/10

Contact Details

The previous Alcohol, Entertainment and Late Night Refreshment Bulletin, published in 2009, can be found at:

http://www.culture.gov.uk/reference_library/publications/6387.aspx

**PART
1**

NUMBER OF LICENCES IN FORCE ON 31 MARCH 2010

Please **complete all white cells**, and as many **yellow** cells as possible. All values entered to the cells should be numerical, so please use 0 where the answer is 'none'. Any cells left blank will be assumed to be unknown.

Q1		Number of Premises Licences and Club Premises Certificates in Force <i>(please include premises with no fee applicable here)</i>		
		Premises Licences	Club Premises Certificates	Personal Licences
Total		1378	49	3710
Q2a		Number of Premises Licences and Club Premises certificates permitted to sell or supply alcohol		
		Premises Licences	Club Premises Certificates	
<i>Total (taken from Q1 above)</i>		1378	49	
Licensed to sell or supply alcohol (<u>On-sales only</u>)		315	37	
Licensed to sell or supply alcohol (<u>Off-sales</u>)		390		

	<u>only</u>		
	<u>Both</u> on and off sales or supply of alcohol	669	12
	Licences <u>not</u> permitted to sell or supply alcohol	4	0
		ok	ok
Q2b	Number of Premises Licences and Club Premises certificates by licensable activity authorised		
		Premises Licences	Club Premises Certificates
	Any Premises Licences with Late Night Refreshment	926	
		ok	
	Any regulated entertainment	1196	
	<i>of which:</i>	ok	
	(a) Plays	158	
	(b) Films	326	
	(c) Indoor sporting events	175	
	(d) Boxing or wrestling	25	
	(e) Live music	846	
	(f) Recorded music	1129	
	(g) Performance of dance	446	
	(h) Entertainment similar to live music, recorded music or dance	519	
	(i) Facilities for making music	515	
	(j) Facilities for dancing	613	

(k) Facilities for entertainment similar to making music or dancing

293

ok

ok

Note: Multiple activities can apply to a particular premises. If possible, please record all activities applicable to each licence or certificate.

Q3

Number of premises with 24-hour alcohol licences by premise type

Premises with 24-hour licences

Total

142

of which, premises in:

ok

Pubs, Bars and Nightclubs

70

Supermarkets and Stores

36

of which:

Large supermarkets

5

Other convenience stores

31

ok

Hotel Bars

29

of which:

Open 24 hours to guests and public

	Open 24 hours to guests only			
	Sum of split does not equal total			
	Other Premise Types			
Q4	Number of Cumulative Impact Areas			
	Total			

PART 2	LICENCE ACTIVITY BETWEEN 1 APRIL 2009 AND 31 MARCH 2010	
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Please **complete all white cells**, and as many **yellow** cells as possible. All values entered to the cells should be numerical, so please use 0 where the answer is 'none'. Any cells left blank will be assumed to be unknown.

PART 2	Questions 5-7 relate to the licence application activity over the 12 month period.	
Q5	Number of licences applied for, granted and refused by type of licence	

	Applications made	Granted	Refused
New Premises Licence	65	62	3
Variation to Premises Licence	48	47	1
New Club Premises Certificate	0	0	0
Variation to Club Premises Certificate	2	2	0
Minor Variations to Licence or Certificate	18	17	1
Remove DPS Mandatory Condition (Community Premises)	0	0	0
New Personal Licence	479	477	2
Transfer of Premises Licence	162	162	0
Q6	Number of applications that went to a committee hearing		
	Premise Licence/Club Premises Certificate applications	48	
	Personal Licence applications	0	
Q7a	Number of completed reviews by type of licence		
	<i>(Note: also include any completed expedited reviews here)</i>		
	Total completed reviews	11	
	<i>of which reviews of:</i>		
	Premises Licences (following application)	10	

	Premises Licences (following application by police for <u>expedited review</u>)	1	ok
	Premises Licences (following closure orders under S.161 of Act)	0	
	Club Premises Certificates (following application)	0	
		ok	
Q7b	Reason for completed review <i>(Note: more than one reason may apply to each review)</i>		
	Crime & Disorder	3	
	Protection of Children	2	
	Public Nuisance	7	
	Public Safety	0	
		ok	
Q7c	Number of completed reviews instigated by each of the following Responsible Authorities		
	Police	5	
	Trading Standards Officers	0	
	Environmental Health Officers	5	
	Local Residents	1	
	Other Responsible Authorities or Interested Parties (Please state in comments box below)	0	
		ok	
		ok	
Q8	Action taken following completed reviews <i>(Note: more than one action may apply to each completed review)</i>		

Total completed reviews (taken from Q8a above)

11

No action taken

0

ok

Operating hours modified

2

Licensable activity partially restricted

0

Licensable activity completely excluded

0

Other conditions added or modified

9

Designated Premises Supervisor removed (Premises Licences only)

0

DPS mandatory condition reinstated (Community Premises)

0

Licence or Certificate suspended

4

Licence revoked or Club Premises Certificate withdrawn

2

Q9

Number of Expedited review applications

(Note: more than one interim step may apply per review)

Total number of applications for expedited reviews

1

Number of expedited review applications withdrawn or rejected

0

Number of cases where no interim steps were taken

0

Number of cases where interim steps were taken

1

of which:

ok

Operating hours modified	0
Licensable activity partially restricted	0
Licensable activity completely excluded	0
Other conditions added or modified	0
Designated Premises Supervisor removed	0
DPS mandatory condition reinstated	0
Licence suspended	1

ok
ok

Q10 Number of licences surrendered, lapsed, revoked, forfeited, suspended or withdrawn

	Premises Licences	Club Premises Certificates	Personal Licences
Surrendered	13	0	0
Lapsed	0	0	
Revoked			2
Forfeited			0
Suspended by a court	0		0
Closure notice	2		
Withdrawn (section 90)		0	

Q11 Number of appeals completed

	Appeal against application decision	0	
	Appeal against licence review decision	4	
Q12	Number of Temporary Event Notices		
	Valid Temporary Event Notices given to Licensing Authority	847	
	Temporary Event Notices withdrawn	2	
	Temporary Event Notices received following modification with police consent	0	
	Counter Notices given following police objection	0	
THANK YOU FOR COMPLETING THE QUESTIONNAIRE			
Please check the Error Summary for possible data entry errors and blank answers			

Prevention of Public Nuisance

The Environmental Protection Team remains part of the Environmental Health and Licensing Service. The Environmental Protection Team responds to all domestic and commercial noise complaints in the City. Over the past two years the total number of noise complaints received has remained fairly consistent. In 2008/9 3396 noise complaints were received compared to 3370 in 2009/10. This includes noise complaints relating to licensed premises

Under the provisions of the Licensing Act 2003 the Environmental Protection Team is the 'responsible authority' for noise and the prevention of public nuisance.

As a 'responsible authority' the Environmental Protection Team continues to inspect all applications for new premises licences and licence variations. Where there are concerns relating to public nuisance a representation is made. Licence reviews have also been requested to prevent public nuisance. Applying licence conditions which mitigate and control noise has been a valuable tool to prevent public nuisance.

Joint Intelligence Meetings continue to be a valuable forum for exchanging information relating to licensed premises. These are routinely attended by all the Licensing Act 2003 'responsible authorities'. In addition, the City Council's out of hours noise patrol service provides an excellent opportunity to investigate late night noise from licensed premises

The majority of noise from licensed premises relates to noise from live and amplified music, and noise from people. Noise from people includes noise from people inside the premises, and noise from people using outside areas (inc the Highway adjacent to the premises). The Health Act 2006, and the ban on smoking inside premises, continues to bring complaints relating to noise from smokers outside.

During 2008/09 393 noise complaints were received in relation to licensed premises compared to 339 in 2009/10. It is pleasing to note that this shows a 9% reduction in the complaints received. There are a number of factors that could explain this reduction:

- New powers provided for dealing with noisy licensed premises such as the extension of night time noise offence controls
- The second year of operation of increased teams of noise officers on summer week end nights
- The prioritized, risk based inspection program of licensed premises
- The joint intelligence exchange between responsible authorities
- Strong relationship between licensed trade, customers & community.

- Partnership approach reduces conflict between agencies and targets resources better.
- Proper standards of public protection is salient in current economic climate, supporting local economic vitality. Robust enforcement against rogues but supporting legitimate business by risk based consistent regulation

For both 2008/9 and 2009/10 33% of noise complaints from licensed premises were in the Cumulative Impact Area. Again for both years 15% of noise complaints from licensed premises were in the Special Stress Areas.

These findings demonstrate that the Cumulative Impact Policy plays a key part preventing public nuisance and I would recommend that it continues as extant policy.

Annie Sparks
Environmental Health Manager