

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 14

Brighton & Hove City Council

Subject: Statement of Licensing Policy 3 year review

Date of Meeting: 18 November 2010
Full Council 16 December 2010

Report of: Strategic Director of Place

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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 last completed in 2007 and the revised SoLP adopted came into effect on 7 January 2008.
- 1.2 The council must now set a Statement of Licensing Policy which must come into effect by no later than 6 January 2011.

2. RECOMMENDATIONS:

- 2.1 That the committee refers the revised Statement of Licensing Policy to Full Council for adoption on 16 December 2010.

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.

- 3.2 Part of the previous 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.
- 3.3 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.
- 3.4 Although the government has put forward proposals to 'rebalance' the Licensing Act 2003, the position in relation to local authority policy reviews under the Licensing Act 2003 remains unchanged. The Institute of Licensing has advised that authorities should not attempt to pre-empt any changes to the current legislation, and policies should be based only on the law as it currently stands. Proposals to remove the three yearly requirements for reviewing licensing policy statements are not likely to be implemented in time to change the current primary legislative requirements to review licensing policies in January 2011.

4. CONSULTATION

- 4.1 Before determining its policy for any three year 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 (see appendix C).

- 4.3 Brighton & Hove City Council has a new consultation portal which was used as part of this consultation process.
- 4.4 The consultation period ran for 12 weeks starting from 14 June 2010. The responses received are at Appendix B. The views and comments have been considered and incorporated into the policy as appropriate, as shown in appendix B.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

The costs of providing this revised statement of Licensing Policy will be met from within existing licensing revenue budgets. There are no further direct financial implications.

Finance Officer Consulted: Karen Brookshaw

Date: 12.10.10

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. Appropriate weight has been given to the views of those who responded to the consultation.

Lawyer Consulted: Rebecca Sidell

Date: 4.11.2010

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.

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SUPPORTING DOCUMENTATION

Appendices:

Appendix A – Statement of Licensing Policy

Appendix B – List of responses received

Appendix C – Licensing Strategy Group terms of reference

Appendix D - Licensing Strategy Group minutes of meeting 12/10/10

Documents In Members' Rooms:

None

Background Documents:

None

BRIGHTON & HOVE CITY COUNCIL

STATEMENT OF LICENSING POLICY 2011



LICENSING ACT 2003

Brighton & Hove City Council: Statement of Licensing Policy 2011

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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
- Residents' Associations
- Generally via the licensing pages of the Council's website and also via the Council's Consultation Portal.

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 on 16 December 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 multi-agency partners across the city, the council have established White Night, a cultural festival for the city. White Night attracts an audience of more than 15,000 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 £20 million 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 recognise these concerns and make 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 have 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 The statement of licensing policy will be integrated with the Local Strategic Partnership's Transport policies.

1.14 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

- 1.15 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.
- 1.16 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.
- 1.17 The Licensing Strategy Group, Business Crime Reduction Partnership, Pub and Club Watch, Door Supervisors Business Forum and similar schemes, for instance with Home Office approval, will be encouraged to share information and facilitate exclusion of troublemakers.

1.18 In order to promote tourism, favourable consideration will generally be given to the licensing of public spaces.

1.19 **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).

1.20 **EU Services Directive**

The European Services Directive took effect from 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.

1.21 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 expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection. It is the duty of the DPS to train staff on induction concerning conditions on their premises licence.
- 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 and that staff are authorised by the DPS.
- 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. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the City Centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night time economy and the responsibly run businesses within it.
- 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 including Minor Variations 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.

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: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age

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

- 2.7.2 Favourable consideration will be given to promoting the city's cultural quarter, live entertainment in pubs, food led operations, developing LGBT and other communities of interest 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 and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP

NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.

- 2.7.7 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.
- 2.7.8 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.
- 2.7.9 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 units, which will be in need of regular review. This policy endorses the use of units following such guidance and standards in appropriate circumstances. A copy can be found on the licensing pages of the council's website.
- 2.7.10 The development of codes of practice and general operating standards for security companies is encouraged for local businesses; premises operators are urged to ensure that security services, when engaged, are provided by suitably

qualified businesses operating to recognised standards and who should be working towards SIA accreditation.

2.7.11 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.

2.7.12 Enforcement will be achieved by the enforcement policy appended (Appendix E).

2.7.13 Any enforcement checks will include outside drinking areas, looking particularly at noise and customer smoking areas.

2.7.14 Adult Entertainment

This relates to regulated entertainment such as the live performance of dance which is for the purpose of sexually stimulating any member of the audience and including exposure of breasts, genitals, urinary or excretory organs during the entertainment. It could include, but may not be limited to, lap dancing, pole dancing, table dancing, and strip tease. Premises which are classified as Sexual Entertainment Venues (SEVs) will be dealt with under the Council's Sex Establishment policy 2010.

2.7.15 It is important that applicants state in their operating schedules whether adult entertainment is going to be provided on an infrequent basis. If no such intention is stated then the Licensing Authority will normally add a condition that there will be no adult entertainment.

2.7.16 If applicants wish to provide adult entertainment, 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.

2.7.17 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.

2.7.18 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 licences 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.

2.9 Street drinking

The area around the Level is considered high risk for street drinkers and the Licensing Authority will have regard to prevention of crime and disorder by virtue of street drinking and anti-social behaviour when considering applications in this area.

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 Normally in the city centre, pubs and clubs will be expected to operate using polycarbonate or toughened/shatterproof glass.
- 3.3 Conditions may be imposed in accordance with operating schedules to protect public safety including where justified:-
- (a) provision of closed-circuit television and panic buttons.
 - (b) use of shatterproof drinking vessels, bottles requiring use of toughened glass or plastic should normally be required unless applicants can show exceptional reasons (recognised by Community Safety Strategy).
 - (c) use of 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.
- 3.4 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, provision of dedicated taxi phones etc.
- 3.5 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.
- 3.6 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.
- 3.7 Where appropriate, licence holders or their authorised representatives will submit event safety plans and operating manuals, 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. The Licensing Authority will have regard to Noise Council guidance.
- 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 While each application will always be considered on its merits, as an indication the St James's Street area and the North Laines/area will be considered residential neighbourhoods, and East Street a mixed neighbourhood.

4.9 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 below).

4.10 **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 are not taken onto the highway unless there is a tables and chairs licence permitting use. A system should be adopted to prevent theft and 'spiking' of drinks, and reminding customers not to leave unattended items.
- Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.
- Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters will also be turned off.

- Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.
- Employ staff and or SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.
- Ensure door supervisors maintain order outside venues and protect customer safety. BCRP supports the use of Night Safe. Radio net and other pager systems and pub watch schemes can be used to provide for rapid police response and alert other venues where customers and staff are endangered.
- Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats above. By changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.
- Use CCTV to manage outside areas.

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

4.12 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 sales to under 18s in on and off sales licensed premises.
 - (c) Further take-up of proof of age schemes will be promoted
 - (d) In-house, mystery shopper type schemes operated by local businesses will be supported
 - (e) Providers of events specifically catering for unaccompanied children should consider whether all staff at such events need to be 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 but will be subject to advice within the Event Safety Guide. Nothing in this policy shall seek to override child supervision requirements contained in other legislation or regulations. 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 including training 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. This is now reflected in the new mandatory conditions which can be found on the licensing pages of the council's website.
- 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 In line with statutory requirements and the council's Inclusion Policy, the Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, for example communities of interest such as: lesbian, gay, bisexual and transgender people; disabled people; racial and ethnic groups; religious and faith groups.

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 and can be found at appendix H. In addition the Licensing Authority will have regard to its published Licensing Enforcement Policy in making enforcement decisions (Appendix E). 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. All members of the Licensing Committee will be trained on Licensing Act 2003 and S182 Guidance. The Licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre - such as imposing indirect costs out of proportion to the income of the licence holder and to the risks presented. Only 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 E.

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:

East Sussex Fire and Rescue Service

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

Health & Safety

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

For council parks & other council-run premises:
Enforcement Liaison Officer, HSE
Phoenix House
23-25 Cantelupe Road
East Grinstead RH19 3BE
Tel: 01342 334200

Planning

Development Control
Hove Town Hall
Norton Road
Hove
BN3 1PT
Tel: 01273 290000

Child Protection

Chair of Brighton & Hove ACPC
James Dougan,
Children Families & Schools
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 292523

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

Recommend best practice for both on and off premises

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

APPENDIX D

The following measures are to be considered best practice for premises to ensure safe and peaceful dispersal of their patrons.

Dispersal Policy

Every venue should prepare and implement a dispersal policy. Such a policy would set out the steps the venue will take at the end of the trading session to minimise the potential for disorder and disturbance as customers leave the premises. The policy should be in place prior to a venue beginning to trade and should be kept under review to address new issues as they arise. While preparing their policy, operators should consider the local statement of licensing policy and any relevant conditions attached to the premises licence. A dispersal policy might include the following elements:

Transport

Probably the biggest single factor triggering disorder and disturbance is a lack of public and private transport at the end of the evening, preventing the swift dispersal of customers away from the venue. There are a number of steps operators can take to reduce transport related problems:

- Promote safety on leaving, for example through operating a concierge service and providing a safe place for customers to wait for taxis (particularly lone females);
- Advertise reliable services by providing free phone numbers for licensed minicabs and details of nearby taxi ranks, bus timetables or other local transport networks.
- Agree an operating policy with local private and public hire vehicles, for example banning the sounding of horns after 11pm;
 - Discuss with the council the location of taxi ranks to ensure they are easily accessible without causing bottlenecks outside venues;
 - Consider, in discussion with the police and council, the use of stewards to act as marshalls at bus stops and taxi ranks; and
- Work with the local authority and transport providers to agree bus routes, stops and timetables.

Road Safety:

Should the venue exit onto a public highway, operators should ensure separation of customers and traffic – if necessary by the installation of permanent or removable barriers.

Car Parking

If appropriate, operators could advise customers of the best car park to use (either through their website or on printed material) so that they leave in a direction with minimum disturbance to local residents. Operators might also be able to negotiate with local car park operators to allow customer usage.

Staffing

During the last half hour of trading, the service points in each bar may be reduced and some staff reallocated to collect glasses or work in the cloakroom. This will assist customer departure and reduces the potential for people to carry glassware out of the premises.

Cloakroom

The cloakroom should be set up in order to assist the swift return of coats with staffing and control systems increased in the period prior to closure.

Music & Lighting (internal)

During the last 20 minutes of trading, the DJ may typically play slower music and reduce the volume of the music played. In addition, lighting levels can be manipulated to encourage the gradual dispersal of patrons during the last part of trading and the drinking up period (see winding down).

Lighting (external)

Operators have found that the use of bright lights at the exit of the venue encourages customers to leave more quietly. Operators should liaise with the local council to establish guidelines on the positioning of these lights which will also prompt customers to leave the area quickly and enhance CCTV coverage.

Minimising Noise on Exit

If possible, a manager should be in the area close to the main exit to oversee the end of night departure period. DJ announcements should be used to remind customers to be considerate on leaving the premises. While highly visible notices can be placed in the foyer requesting exiting customers to leave quietly and to respect neighbours and their properties.

Bottles or glasses

Signage should make clear that customers will not be allowed to leave the premises with bottles or glasses. This policy should be supported by a vigilant door team searching customers where necessary. If appropriate, bins can be provided at exits for use by customers. Operators could also provide advice on any drinking ban in the area.

Litter

Operators should send out a 'Rubbish Patrol' following closure. This patrol will pick up bottles, flyers, food wrappings etc in the immediate vicinity of the premises. As well as clearing rubbish, the patrol acts as another set of eyes and ears identifying potential disorder. Their activity, particularly sweeping the pavement, will also encourage customers to vacate the area outside the premises.

Door staff

The door team play a key role in the implementation of several aspects of any dispersal policy:

- encouraging customers to drink-up and progress to the exit within a venue throughout the latter part of drinking-up time;
- drawing the attention of exiting customers to the notices in the foyer and ask them to be considerate;
- ensuring the removal of all bottles and glasses from departing customers;
- actively encouraging customers not to congregate outside the venue; and
- directing customers to the nearest taxi ranks or other transportation away from the area.

Marshalls:

The use of venue security staff as marshals should always be in negotiation with the police and kept under review. A marshal is a patrolling security officer wearing high visibility clothing, who works close to the venue in a designated area and is in direct communication with the venue management. Their aim is to create a highly visible presence and to communicate, rather than deal with, potential problems.

Wind down period or “Chill out hour”

Many aspects of a model dispersal policy can be drawn together into a chill out hour that gently winds down the evening rather than bringing it to an abrupt halt. Operators might find there is a profit to be had from offering a taxi booking service and providing coffee, soft drinks and bar snacks as a way of keeping customers in the premises and thus spreading departures over a longer period of time.

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 Licences 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	Person working	(1) Lack of knowledge

supplied on relevant premises to under 18	on premises	(2) Exceptions in s151(6)
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	
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		Lead (with		

as noise or smoke		HSE)		
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		

List of responses received from Statement of Licensing Policy consultation and actions taken

**Responses received relating to consultation on Brighton & Hove City Council revised Statement of Licensing Policy
Consultation lasted 12 weeks and ended 31 August 2010.**

Consultation was advertised on the Council's website (licensing pages), consultation portal, Licensing Strategy Group, Members, Brighton Business Forum pages and letters to statutory consultees.

Received from	Date received	Topic	Response	Action
Tim Nichols from discussions in Licensing Strategy Group		Crime & Disorder or Public Safety	St. James Street and North Laine should be treated as a residential area. East Street should be treated as a mixed area Normally in the city centre, pubs and clubs will be expected to operate using polycarbonate or toughened/shatterproof glass.	Incorporate " Incorporate
Jeremy Paine Strategic Development Manager	25.08.10		I am currently employed by Sussex Police to work with BHCC in running a series of Intelligent Commissioning pilots, one of which concerns Alcohol Harm. The overall aim of the work will be to	

¹ NIMHE. Mental disorders, suicide, and deliberate self harm in lesbian, gay and bisexual people. A systematic review. December 2007.

Brighton and Hove Police.

commission services which reduce harm, consider structural, policy and practise issues which will assist that improvement, and learn from the process for the future. As such I forward the following for your consideration having read the draft licensing policy and held discussions with a number of colleagues.

Overall I feel that the new draft policy is a considerable improvement from the current policy, and has clearly taken into account many of the experiences and modern thinking associated with alcohol regulation. My comments are therefore matters of detail and tone rather than any fundamental shift, and will be referenced by the relevant paragraph. Without having researched the point, and no doubt there is clear guidance, it seems to me that this important policy serves a number of purposes. It puts on record the policy which will be driving action and decision making around licensing regulation, and it lays down a marker for those in the trade as to what they should expect. It will support arguments either way around the granting of licenses, and the conditions attached. The wording therefore is important such that it does not create unintended consequences, nor support for proposals which go against what is desired for the city.

2.1 I was surprised, in my naivety, that training for licensees and staff serving alcohol is optional.

			<p>Language such as recommends and encourage suggest this is optional. It is not clear to me whether the training suggested relates to the law and relevant license conditions or is confined to drugs and violence and child protection. My view is that anyone serving alcohol, whether the DPS or staff, on or off-license, should have mandatory training around the law and their responsibilities, including child protection. Alcohol is a dangerous substance if sold and consumed inappropriately. I also believe that the training re drugs and violence should be mandatory for on licence staff. I am told that schemes exist where DPS will give written authority to staff to sell alcohol on their behalf, with a record of the expectations on them. This sounds to me to be good practise. These I believe should be explicit in this policy.</p> <p>2.6.14 I believe there is good evidence that the Cumulative Impact Area and Special Stress Areas are having a positive effect. I think it is a mistake to suggest in this document that if it is found that the problems of crime and disorder or nuisance 'are receding the Special Policy may be reviewed with a view to revising the boundaries'. If the problems recede, which we hope they do, then it shows that policies and</p>	<p>LA2003 sets training requirements. SOLP incorporates that it is expected that DPS or personal licence holder in day to day management normally & DPS's duty is to train staff on induction concerning premises licence conditions.</p> <p>No change to CIA proposed</p>
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			<p>procedures are working. To draw back may allow matters to deteriorate again. These matters will of course be kept under review, however it may give strength to the arguments of those seeking to breach the CIA where they can quote falling violent crime and this part of the policy. Put simply I believe this point is best left unsaid.</p> <p>2.7 A minor point forgive me but it may be better if 'The Licensing Authority will support:' is in bold to distinguish it from the Police section.</p> <p>2.7.1 Diversity of premises – this is an important and potentially impactful part of the policy which in the absence of a reduction in the numbers of licensed premises will be our sole means of reducing the volume of alcohol sold and consumed. If actioned it will, as you say, change the ambience of the city and what is currently, at times, an exclusive and threatening place. I believe the language should be more positive and direct. Rather than say this <i>attempts</i> to ensure, and this in turn <i>may</i> have a positive effect...and create opportunities, we should say it will and does. I also believe it could have unintended consequences to say the authority will encourage 'varying hours of business'. This will</p>	<p>Incorporate</p>
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			<p>give strength to the argument for those who want longer hours of business, which causes problems for policing.</p> <p>2.7.2 Whereas I agree with the overall intention of this paragraph I do not understand why we have specifically cited developing LGBT venues. Any number of community groups could argue for mention in this regard. The below is an extract from the Alcohol Needs Assessment for Brighton and Hove PCT completed in 2009.</p> <p><i>Brighton and Hove has a 30,000 Lesbian, Gay, Bisexual and Transgender (LGBT) community. It is estimated that one in six of the total population have a LGBT sexual orientation. A systematic review by National Institute for Mental Health England in 2007¹ found that alcohol misuse was at least 1.5 times more common in lesbian, gay and bisexual people than heterosexual.</i></p> <p><i>The Count Me in Too Survey (2007/08) of 819 people and 20 focus groups has specific findings relating to alcohol consumption among LGBT people.</i></p> <ul style="list-style-type: none"> ▪ <i>The majority of Trans people (62.5%) within the LGBT group were less likely to drink</i> 	<p>Incorporate</p> <p>Based on experience and not meant as exclusive.</p> <p>Check SOLP?</p>
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			<p><i>alcohol (although this was from a small sample of 40 people).</i></p> <ul style="list-style-type: none"> ▪ <i>58 (9%) people said their use of alcohol had led to them being assaulted</i> ▪ <i>42 (6%) people said their alcohol use had led to them being a victim of crime</i> ▪ <i>30 (5%) people said alcohol had led to them assaulting someone</i> ▪ <i>Those living in St. James Street and Kemptown were more likely to drink alcohol than those in other areas.</i> ▪ <i>People who lived in rented and privately owned property were more likely to drink than those in social housing.</i> ▪ <i>Those who were frequently concerned about their use of alcohol or amount they drank had experienced problems in getting accommodation.</i> ▪ <i>Some focus groups expressed a desire for spaces to socialise in without alcohol</i> <p>Alcohol Harm is an issue and would need to be taken account of in any policies relevant to the LGBT community and localities.</p> <p>2.7.5 Geographic spread is a contentious issue. Concentrations of high volume premises are a recipe for problems in respect of crime, disorder and antisocial behaviour. However if</p>	
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			<p>there were a number of clubs separated across the city this also would cause problems for police having to spread thin resources even further. The economic situation will mean that police, and other public services will have their capacity reduced, and therefore policies must concentrate on demand reduction rather than making it more difficult to police. We should be aiming to reduce the numbers of people whose main aim is to drink within these premises, rather than spread the problem around.</p>	Recognised difficult balance
			<p>4.11 Last point. Why do we explicitly say that favourable consideration will be given to later terminal hours in the city centre leisure areas. This clearly strengthens any proposals from venues to stay open later. There is no evidence that this helps prevent crime and disorder, and again spreads thin policing resources. Any increase in resources applied to hotspots at night in the city will take them away from neighbourhoods.</p>	
			<p>5 In various sections under Protecting Children there are brief references to causal links to discounting and disorder, and high strength alcohol. There is strong evidence that price and marketing, along with the strength of alcohol and access have causal links to</p>	To distinguish from mixed and residential

			alcohol harm across all age ranges. I believe the policy should be clearer about those links and explicit about the use of conditions and sanctions where relevant. My own view is that we should be exploring options around minimum pricing; some other Authorities are.	areas Quote licensing guidance section on pricing
Trading Standards	05.07.10	5.3 – age related Contact details	(b) should read: Police and trading standards should implement test purchasing to reduce sales to under 18s in on and off sales licensed premises. Tel: 01273 292523	Incorporate

Doug Simmonds	12.05.10	<p>Point 1.16</p> <p>BCRP</p> <p>MSU</p> <p>Mandatory conditions</p>	<p>Clearly states that various schemes will be recognized and approved for sharing information and conditions currently placed on licenses reflect that by their wording.</p> <p>I support the BCRP in its concept and the role it plays but not in its exclusivity and I believe that the paragraphs at 2.6.6, 2.6.13 and 2.6.19 firstly need tidying up and partly re-worded to reflect that and that which is stated in para 6.5</p> <p>At point 2.6.8 it recognizes the role of Mobile Support Units, the Licensing Strategy Group spent a long time formulating the minimum requirements for a MSU and these do not appear to now be taken any notice of by some of the units and Policy should have a clear indication of what is a minimum standard and how it is implemented</p> <p>Point 5.7.4 appear to reflect one of the new mandatory conditions should it be there.</p> <p>Would it be sensible to publish the wording that you are using on all reprinted licences stating what the new Mandatory conditions are.</p> <p>Would it also be practical to publish a guidance note to those operators who already have a condition on their licence identifying that this is what is required as the policy from 1st of October and that if this is already in place they are complying?</p> <p>Training is imperative to running good premises and I frequently find that persons coming forward to take</p>	<p>BCRP is supported by SOLP (not exclusively)</p> <p>MSU requirements</p> <p>Incorporate – repeat mandatory conditions</p>
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		Training	<p>training courses have no idea what the conditions on their licence where they are employed state. There is no such thing as a standard licence any longer so everyone whenever they start work at a new premise as a minimum needs a training session to not only remind them of the law but the specific conditions and policies on that particular premise licence. Obviously good training requires records to prove it has been carried out and this helps show the licensees are promoting the licensing objectives. It is not done by a very high percentage of premises.</p> <p>At 2.1 training is mentioned but little mention is made of the above.</p> <p>Obviously the BII and other training organizations have recognized training qualifications for everyone involved in the trade although the Personal Licence course is the only compulsory one</p> <p>There are course for School children, bar-staff, workers in catering and those for avoiding conflict and violence and dealing with Drugs there is a course for the DPS to name a few perhaps more encouragement should be given to taking the training and recognizing its value when licences are being applied for or varied, it can of course be done in house but is it, prove it!.</p>	Incorporate
Doug Simmonds	20.08.10		Regarding B & H policy I sent you an email some time ago with respect mainly to the number of places and a certain amount of inconsistency that the various	No change to CIA proposed

			<p>paragraphs had on the role of the BCRP and other like schemes.</p> <p>Other than that although I still think the CI is to big I think it works fine.</p>	
Anne Marie Chebib Managing Director, Select Security & Stewarding Ltd	29.08.10	1.4 Consultation	This should include g. such other persons as the licensing authority considers to be key stakeholders in its area. This would give a cover for representation, and build in capability for further consultation if required.	Consultation wider than stat minimum
		1.6.1. Good regulation at a local level provides fair trading conditions. This creates a fair trading environment, discourages irresponsible practices and promotes community well being.	<p>This statement should be qualified with the wording: the aim of</p> <p>i.e. the aim of good regulation at a local level is to provide fair trading conditions</p> <p>This is dependent on a number of variables, and in whose viewpoint it is fair!</p> <p>It is easy to site cases where good local legislation has not discouraged irresponsible practice</p>	Better regulation principles and enforcement policy
		1.9 Arts	Point 1.9.13 would be better placed after point 1.9.9	Agreed
		1.9 Arts	Seems to be missing a mention here of the multi	Incorporate

			agency support given to special events in the city	
		1.11 Fear of crime	Qualification is needed here as to what is crime and what is perception of crime or fear of crime. This is an important difference.	Difficult to address
		1.12 Alcohol	On the consult document: there needs to be a space between 21 & 22	Incorporate
		1.15 under Delegations	As 1.4: such other persons as the licensing authority considers to be key stakeholders in its area	Set by statute
		1.16 under Delegations	Could the Door Supervisors Business Forum be included here?	Set by statute
		2 Management Responsibilities	Replace door staff with door supervisors This section is not marked 2.1, which is confusing	Incorporate
		2.5 Operation Marble	Some further definition here is needed or include an appendix	Incorporate
		2.6.13 Special stress areas	Spelling error: should start On	Incorporate
		2.7.12 The Licensing Authority will support	Spelling error: should start Any	Incorporate
		Public Safety	Numbering inaccurate here 3.5 or 3.6 included on consult document in introduction	Incorporate
		3.2 Conditions	(c) use of security personnel, such as door supervisors: replace with use of door supervisors	Incorporate

			(legal requirement)	
		3.6 Public safety large events	Some mention of submission of event safety plans and operating manuals may be appropriate here	Incorporate
		4.5 Regulated Entertainment in Open Air	I do not agree with the statement that most open air regulated entertainment happens tents and marquees, this dismisses any outdoor staged events for example	Incorporate
		4.9 Smoking Advice	Ensure drinks, glasses and bottles must not be taken onto...: grammar here: replace with: Ensure drinks, glasses and bottles are not taken onto...	Incorporate
		4.9 Smoking Advice	Ensure door staff: replace with: ensure door supervisors	Incorporate
		4.9 Smoking Advice	Radio net and other pager systems and pub watch schemes can be used to provide for rapid police response This is debatable. The BCRP system for example should not be used to call a Police response but is solely for sharing intelligence (we are told).	Night Safe and BCRP supports
		4.10 Signage	Include comment here regarding other useful signage such as license restrictions Also to ensure signage is visible, even in the dark	Incorporate
		5.6 Adult supervision	Where the entertainment is music and dancing, 2 persons, licensed by the Security Industry Authority (door supervisors) should be employed for every 100 children This comment is of concern – as for special events,	Incorporate

			there is a deployment rather than ratio requirement as per guidance (The current Event Safety Guide and proposed rewrites)	
		5.7 Reducing alcohol related harm to children	Training and education should be recommended here (although this is mentioned in 5.8)	Incorporate
		6.1 Liaison and consultation.	As 1.4: such other persons as the licensing authority considers to be key stakeholders in its area	Incorporate
		6.2 Equalities.	For example communities of interest such as – clumsy wording!	Difficult to substitute
		6.9 Enforcement	The enforcement of licensing law and the inspection of licensed premises is detailed in the Protocol between Should this protocol be added as an appendix as it is referred to and is not publically available?	Incorporate
		7.2 Community interests.community I n determining what conditions...: spelling error: in	
		General Comments	It is a clear statement that there is a balance between economy and public safety which is an excellent starting place. There is little or no definition of the night time and day time economy. This should at least be defined.	
		6.1 Liaison and consultation.	As 1.4: such other persons as the licensing authority considers to be key stakeholders in its area	

		6.2 Equalities.	For example communities of interest such as – clumsy wording!	
John Gorton, Chairman & Pauline Crouch, Secretary - Ovingdean Village Club			<p>Thank you for your letter of 14th June and the enclosed copy of the above document.</p> <p>Ovingdean Village Club operates from the Council-owned Village Hall and is generally open three times a week; we have a private members' club licence. The hall is also hired out to various user groups and for private functions. It has a maximum capacity of c. 100 people.</p> <p>We have noted the content of the draft statement with interest and it contains information which the Club Committee may wish to follow up on, to help improve the running of the club. However, in the context of our small organisation, there are no substantive issues in the policy document itself which we would wish to see added to or amended.</p> <p>Thank you for the opportunity to comment on the Policy Review.</p>	
THE KINGSCLIFFE SOCIETY	30.08.10	Preliminary Comment	This Kingscliffe Society's response to the Council's consultation on the review of its current licensing policy, as set out below, takes into account, where appropriate, the Government's recently issued consultation paper <i>“Rebalancing The Licensing Act – A Consultation on Empowering Individuals, Families and Local Communities to Shape and</i>	SOLP must be reviewed every 3 years (LA2003)

			<p>Determine Local Licensing.” We imagine that, in undertaking its review of policy, the Council will similarly wish to take into consideration that timely government communication. (We shall, of course, be responding in full to the Government document and will be happy to send a copy to the Council for information). In light of the government paper we wonder if it might be helpful and possible for the Council to ‘hold fire’, so to speak, on final decisions with regard to completing changes to its current licensing policy until more is known about the government’s intentions (although some of our comments below, relating to changes in local practice, seem possible for implementation now)? We understand that at least some proposed changes will be incorporated into legislation sooner rather than later, via the Policing Bill.</p> <p>Our references in this document to ‘residents’ refers to those who are solely residents and not to residents who also are involved in the running of licensed premises in the area, or indeed other relevant businesses. This is because we feel they may well view things from a somewhat different perspective compared with those who are ‘just’ residents, and they can, anyway, make their own representations.</p>	
		Pre-application and immediate post-application	The Government Consultation Paper (question 3) asks <i>how the application process could be amended to ensure that applicants consider the</i>	The position in relation to local authority policy reviews under the

		<p>contact with residents</p>	<p>impact of their application on the local area. In response we support the view, expressed elsewhere, that applicants should produce an impact study with their application to show that adequate pre-application consultation has taken place with those who might be adversely affected by their proposals. If that is not yet possible as a requirement under legislation we would hope and suggest that the Council meantime encourages prospective applicants to contact their near neighbours and relevant community groups to gather their views on any proposed licence. A Code of Practice could be a facilitating factor here.</p> <p>The issue referred to in 2.1 above links with Question 5 in the government paper which asks 'How can licensing authorities ensure greater community and local resident involvement?' In addition to the comments in 2.1 a different but important step relates</p>	<p>Licensing Act 2003 remains unchanged: authorities should not attempt to pre-empt any changes to the current legislation, and policies should be based only on the law as it currently stands. Proposals to remove the three yearly requirements for reviewing licensing policy statements are not likely to be implemented in time to change the current primary legislative requirements to review licensing policies in January 2011.</p> <p>Set by regulation and resource implications</p>
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			<p>to the advertising of applications. The onus on the applicant to place an appropriate notice on the relevant premises is potentially open to abuse by, e.g., placing where the public cannot easily see it. It should be the responsibility of the local authority to display the notices in a prominent public site and ensure that it is legally compliant, as with planning applications. Additionally, following the planning pattern, near neighbours should be individually informed of an application. Although this may not be mandatory it does represent good social practice. We appreciate that currently the Council requests that a window notice is displayed and maintains a web site list of applications, but we consider that notification should take a somewhat different route, as suggested above. That would seem to be possible within existing legislation.</p> <p>Of course, at these early stages – and throughout the application process – we would hope and urge that the voice and experience of residents is really listened to and taken into account. Such a commitment and practice would not be dependent on new legislation.</p>	
		<p><u>Vicinity</u> (Government Consultation paper Chapter 11, Question 6)</p>	<p>We are not in favour of the concept of ‘vicinity’ being removed from legislation/policy at this time, but consider that it should carry a fair definition. For example, it ought to include adjacent streets that are recognised routes widely used by people to exit an</p>	<p>Outside scope of current provisions</p>

		refers)	<p>area where licensed premises are (or are proposed to be) located since those streets suffer considerably as a result of noise nuisance from people who have imbibed alcohol. We hope that the Council will take that view on board now.</p> <p>We recommend that the Council should designate Quiet Zones (duly prominently labelled as such) that are in the vicinity of clusters of licenses premises as although we are not optimistic or naive enough to think that, as a result, all late night revellers would take note and act in a considerate manner some (hopefully!) would. Again, this surely would be possible within existing legislation.</p>	Outside scope of SOLP
		Noise and its effects	<p>Following on from above, there is already a considerable (and growing) body of evidence as to the harmful effects of noise on the health of individuals. For example, the European Commission's Night Noise Guidelines for Europe, Final Implementation Report (December 2006) prepared in conjunction with the World Health Organisation, reports on the health effects of environmental noise and the vulnerable groups severely affected. Their findings are backed up by studies such as one from the West Virginia University School of Medicine that states '<i>Sleep disturbance may be a risk factor for cardiovascular disease</i>'. Further, it is reported that</p>	This area should be considered residential for the purposes of determining applications

			<p>from a study of 30,000 adults it was found that heart attacks, strokes and angina are twice as high among those who sleep less than 5 hours nightly. The damaging effects of night noise coming in 'pulses' to disturb sleep at intervals has also been referred to by the WHO.</p> <p>Findings as those quoted above are a matter of concern per se but particularly so for us since late night noise and disturbance is a major problem in many of the residential streets in our area - mainly those around the St. James's Street neighbourhood. Some residents experience horrendous noise and sleep disturbance on virtually every night of the week (noise diaries support this). It is time that the adverse health results of alcohol intake by others on residents trying to sleep are taken as seriously as the health results of alcohol over-consumption on those who drink excessively. Such recognition would fit with the concept of a local authority's 'duty of care'.</p> <p>We are aware that licensing legislation is not the primary mechanism for such noise nuisance control (para. 1.15 of local policy) but even if not the <i>chief</i> instrument for same, surely consideration should and could still be given to the problem of noise – both its effects and reduction. The people who make the damaging noise are surely those who have left premises in the area and although all applicants at licensing hearings which we have attended insist that</p>	
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			noisy revellers come from elsewhere no evidence to that effect has been forthcoming in support of such assertions. Collectively applicants respond as if the 'culprits' are parachuted into the area from elsewhere!	
		<u>Planning and Licensing</u>	Council's current licensing policy refers to the planning/licensing relationship at para. 4.1, which records the expectation that issues of planning and building control will have been explored before licensing applications are submitted. We would urge that the word 'expectation' is replaced with 'requirement'. That would seem to harmonise with the comment at 6.7 of the local policy that licensing decisions would not normally cut across planning decisions. In our experience they often have and we have gained an impression that despite paras. 4.1 and 6.7 the issue of planning is almost a taboo subject at hearings if introduced by objectors.	Outside powers – quote licensing guidance
		<u>Restriction on closing hours</u> (government paper Chapters 6 & 11 plus Q 12)	The not yet implemented Crime and Security Act 2010 has a power to allow licensing authorities to make Early Morning Restriction Orders (EMRO's) which restrict the sale of alcohol between 3 a.m. and 6 a.m. if considered necessary to meet licensing objectives (which, of course, would include prevention of public nuisance). We note with approval that the government intends to <i>'commence this power with a significant amendment to allow local councils to decide between which hours (e.g. midnight to 6 a.m.) they would like to prevent premises from opening, according to what they believe to be most appropriate</i>	

			<p><i>for their local area.’ Further, ‘The change would ensure that licensing authorities are given the freedom to respond to the needs of their local community in determining when premises can sell alcohol.’</i></p> <p>We are fully in favour of local authorities being able to make areas free of the night economy after midnight. In particular, we urge that such a policy be implemented in respect of the St. James’s Street area as soon as possible when the Act is implemented. It is so often overlooked that the area in question is overwhelmingly residential, although, sadly, policies and practices have allowed a noisy night time culture to develop without regard to that fact. A restriction such as we urge would fit with a response to the needs of our local community</p>	Not supported by current provisions
		<u>Late Night Levy</u>	<p>In instances where premises are allowed to operate beyond midnight we are in favour of a late night levy being imposed. This is the only acceptable way that the quantity of policing can be paid for to match the fall out from the licensing effects. However, it is not just a question of policing. There is the cost of managing the refuse and street fouling, which falls to the council (as do noise patrols and noise monitoring), the cost of the damage and disturbance caused to properties of residents and businesses, costs at the A & E departments of NHS (injury and illness) as a result of alcoholic intoxication. In all</p>	Not supported by current provisions

			<p>respects it is only fair that ‘the polluter pays’ and a late night levy on licensed premises and late night refreshment facilities should be imposed to cover the likely costs of policing and other expenses (and be regulated by the local authority).</p> <p>No limit should be set and the levy should be high enough to cover all costs incurred.</p>	
		<u>Cumulative Impact Area</u>	<p>We supported the establishment of a C.I. zone for the St. James’s Street area and wish that to continue and to be <i>rigorously</i> applied, without fear of Appeal.</p> <p>We are heartened by para. 6.09 of the Government consultation paper where the intention to simplify C.I. policies is recorded, in order to make them more responsive to local needs by the removal of the evidential requirement – thus giving greater weight to the views of local people through lessening constraints on the licensing authority.</p>	
		<u>Temporary Event Notices (TENs).</u>	<p>Leaving aside the occasional ‘one off’ private party or fete situations, generally speaking this provision is frequently, if not usually, a bane to residents. Thus, since residents tend to be the sufferers on such occasions it is only right that they should be allowed to make representations in respect of TENs applications. This means that TENs should be open to advertisement and objections.</p>	

			<p>The opportunity to comment on TENs is relevant in any event but should afford an opportunity to oppose the situation which arose in the recent street party when several enterprising people, not attached to licensed premises, just set up tables selling cheap drink.</p> <p>We strongly endorse the government's proposed change of 'giving discretion to licensing authorities to apply existing licensing conditions for the period of a TEN when the applicant is already a licensed premises.' (The recent street party in the St. James's Street area is an example of noise continuing well into the small hours, way beyond the official closure of the music played via outdoor speakers, since licensed premises with TENs seemed just to set aside conditions relating to noise escape, etc. Thus residents in several streets were kept awake until 3a.m. or 4/5 a.m by both music and badly behaved partygoers on the streets who were 'sticking around' at least until the action stopped. Non-partygoing residents seemed to count for nothing during that weekend event.)</p> <p>Since it would appear that the government definitely intends to allow the discretion referred to above we urge the council to take advantage of it immediately it becomes available.</p>	PR & SR Bill
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			We support the option of limiting the number of TENS and restricting applications to personal licence holders only.	
		<u>Other matters arising from the Government consultation paper.</u>	<p>There are, of course, many issues that we have not referred to above which are contained in the consultation paper. As indicated in para. 1.1 above, we will be submitting responses to the Home Office.</p> <p>In addition, we consider that the paper fails to consider two important matters. Firstly, no attention is given to the need to consider the problems presented by Late Night Refreshment venues which often are the site of crime and disorder as well as public nuisance problems. Secondly, we would have wished that the government had given full attention to the prevention of public nuisance at night which occurs to the serious detriment of the environment of many towns and cities, including our own. We urge the council to pursue those concerns by all possible means.</p>	PR & SR Bill
		<u>Concluding Comment.</u>	We hope that you will perceive our comments as constructive. You will be aware that many residents blame the licensing regime, ushered in with the 2003 Act, for the present problems of the night time economy. Prior to that legislation the night economy usually ended by midnight; now it continues into the early hours and, indeed, throughout the night in many	

			<p>instances. We have seen public nuisance – noise, anti-social behaviour, street fouling, damage to property – grow in the last few years and this is linked with both extended operating hours and the growth in the availability and cheapness of alcohol available to the public. We ask the council to do its utmost to overcome these problems.</p> <p>It is true to say residents' groups/organisations across the country see an imbalance in the 2003 Licensing Act and its accompanying guidance, with a bias in favour of applicants for licenses distorting the licensing process at the expense of the community. We are hoping that within the foreseeable future we shall see some important improvements in the licensing regime that will bring about equality and we express in advance our thanks to the Council for taking our considerations and concerns on board.</p>	
Response by Green Group of Councillors from Cllr Pete West	27.08.10	Introduction	<p>The first section is in the form of a briefing I offered to the Green Group of my initial observations before going on holiday. I had planned to work up properly on my return but have since found myself heavily way laid by school holiday child-care, so please do accept my apologies for its rather raw form.</p> <p>The second section contains comments received from Cllr Jason Kitcat</p>	

			<p>In the third section I've copied the Noctis Dispersal Policy, which has been brought to my attention and I hope may prove useful in developing dispersal policy.</p> <p>I have also received expressions of concern from a number of Green councillors about the decline of the traditional pub and looking for ways that Licensing could better support their existence as an aspect of our local cultural and economic diversity.</p> <p>The Green Group are also keen to see discouragement of loss leaders and promotions, are keen on some form of minimum pricing/ unit tax, and would like to see the Council continue to press for health impact to be made a licensing objective.</p> <ul style="list-style-type: none"> • the planning context • delegations – we have concern about applications for variations being determined by officers and notification of interested parties • EU Service Directive – this could be argued as having some bearing on the transparency of variations, also there is the matter of appropriate fees 	<p>Planning context, delegations and fees set by statute</p>
		Prevention of Crime and Disorder	<ul style="list-style-type: none"> • Management responsibilities – I wonder if expectation on training may be strengthened. • Operation Marble – I think this is deserving of more than one sentence 	<p>Incorporate</p> <p>Incorporate</p>

			<ul style="list-style-type: none"> • CIA & SSA – I would suggest we would wish to argue, giving evidence on proliferation, crime and noise, for the enlargement of the area to include North Laine, London Road and Lewes Road. Where else? We have taken exception to the Police interpretation of crime statistics and their resultant reluctance to call for an extend the CIA • Health Impact Assessment – the response is a little thin. I note the inclusion of reference to supporting schemes that recognise well managed premises. 	<p>Insufficient evidence</p> <p>All elements of HIA which are legitimate licensing considerations have been incorporated SOLP (where based on licensing objectives)</p>
		Public Safety	<ul style="list-style-type: none"> • Conditions – I note the absence of mention of MSUs, and other measures • Night time transport – perhaps include reference to Sustainable Communities Strategy Transport chapter. Any other thoughts? 	Incorporate
		Prevention of Public Nuisance	<ul style="list-style-type: none"> • Location and Type of Premises – I think something could be said about the impact on the immediate area as people leave along access routes • Regulated Entertainment in Open Air – This 	Incorporate and make reference to noise

			<p>speaks of time but not noise limits</p> <ul style="list-style-type: none"> • Nuisance – I would suggest the classification of ‘residential’ and ‘mixed’ in determining terminal hours needs defining. The data on why people stop complaining about noise will be helpful. I note no mention of noise patrols. • Dispersal – there is nothing I can see here on this (though mentioned in Intergration of Strategies) and would propose a new section to cover: dedicated taxi phones to avoid people outside using mobiles; staff asking customers to leave and make their way quietly with signage to support this; staff actively dispersing people hanging around outside. (see also Noctis Dispersal Policy copied below) • Smoking – I think we have succeeded in winning a lot of understanding here. I note some of the security measures mentioned should also be included in prevention of Crime & Disorder/ Public Safety • Signage – Keep quite signs are good news, but I would argue that staff would need to reinforce the message 	<p>council guidance</p> <p>Incorporate in St James Street = residential</p> <p>East Street = mixed</p> <p>N Laine = residential</p> <p>Incorporate</p> <p>Incorporate</p>
		Protection of Children From Harm	Best Practice to protect Children From Harm – here we have mention of our responsible licencing motion, with a cobbled together list of best practice. I note no	Incorporate

			similar reference to this under Prevention of Public Nuisance. I would suggest the reference here to limiting sales of high ABV should also come under Prevention of Crime and Disorder	
Response by Green Group of Councillors from Cllr Jason Kitcat			<ul style="list-style-type: none"> * Councillors who sit on Licensing panels need more training in how to uphold the council's policies, particularly relating to the cumulative impact area. * The enforcement policy should allow more flexibility, allowing where appropriate a more immediate move to serious action without having to go through intermediate steps such as 'three strikes' including letters to managers. * Temporary Event Notices should not automatically granted. Within the limits of the existing laws, more should be done to allow input into their approval. * Strong support for responsible licensing scheme (I have several venues very keen on this idea) * More standard conditions should be introduced to regulate the hours when waste can be put out and collected. I would suggest this shouldn't be between 10pm and 8am. * The council should do more to notify residents of 	<p>Incorporate</p> <p>Misunderstanding</p> <p>Set by statute</p> <p>Incorporate</p> <p>Prohibited by licensing guidance</p>

			<p>license applications, variations and minor variations. They should also do more to support residents in writing their objections and submitting requests for reviews.</p> <ul style="list-style-type: none"> • If possible within the law, there needs to be better co-ordination over the closing hours of venues in agreement with the police and residents associations. 	<p>Set by statute and resource implications</p> <p>Applications on individual merit</p>
<p>Response by Green Group of Councillors from Cllr Pete West /Cont.</p>			<p>Noctis Dispersal Policy <u>Introduction</u> It is clear that the licensed trade has played a major role in regenerating our town and city centres; however, there is a tipping point where the positive benefits give way to problems as a lack of infrastructure creates pressure points which in turn lead to disorder and disturbance. “The night time economy is helping enable economic regeneration in many deserted and run down traditional urban centres. However, it is in no-one’s long-term interest if such economic regeneration leads to social degeneration in the shape of violence, disorder and destruction of private and public property.” It is widely accepted that the vast majority of problems relating to alcohol occur at the end of</p>	<p>Outside scope. However, define East Street as mixed and N Laine and St James Street areas as residential</p>

		<p>the evening and in the public realm as customers leave venues and begin to compete for scarce resources. Potential victims and aggressors are to be found side by side at taxi ranks, in the queue for fast food or walking the streets in a bid to hail a cab.</p> <p>“From the information given to Nitelite it was clear that poor lighting, not enough transport and overcrowding at closing time can pave the way for people feeling unsafe.”</p> <p style="text-align: right;"><i>Nitelite Southport</i></p> <p>Operators accept that their responsibilities cannot simply end at their front door and that, by contributing to a better managed end of night, they can deliver a safer town or city centre. The most popular venues will attract large numbers of customers and, by their very nature, can be potential sources of nuisance, antisocial behaviour and crime which may create concern for the immediate neighbourhood, its residents and the authorities. Operators are, therefore, eager to develop, in partnership with the police and council, a dispersal policy which will seek to reduce the pressure on the police at the end of trading, ease customers’ passage home and minimise the likelihood of local residents being disturbed.</p>	<p>Supported where such a condition would be</p>
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			<p><u>Preparing A Dispersal Policy</u> Every venue, be it pub, club or bar, can and should prepare and implement a dispersal policy. Such a policy would set out the steps the venue will take at the end of the trading session to minimise the potential for disorder and disturbance as customers leave the premises. Clearly the contents of the policy would vary widely from one venue to the next based on its size, location and offering. Prepared in consultation with the licensing officers of the local council and police and, ideally, in place prior to a venue beginning to trade, the policy should be kept under review to address new issues as they arise. While preparing their policy, operators should consider the local statement of licensing policy and any relevant conditions attached to the premises licence.</p> <p><u>Elements of a Dispersal Policy</u></p> <p><i>Transport</i> Probably the biggest single factor triggering disorder and disturbance is a lack of public and private transport at the end of the evening, preventing the swift dispersal of customers away from the venue. There are a number of steps operators can take to reduce transport related problems:</p> <ul style="list-style-type: none"> • Promote safety on leaving, for example 	<p>supported by the application process (in operating schedule or by Panel in adduced evidence).</p>
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			<p>through operating a concierge service and providing a safe place for customers to wait for taxis (particularly lone females);</p> <ul style="list-style-type: none">• Advertise reliable services by providing free phone numbers for licensed mini-cabs and details of nearby taxi ranks, bus timetables or other local transport networks.• Agree an operating policy with local private and public hire vehicles, for example banning the sounding of horns after 11pm;• Discuss with the council the location of taxi ranks to ensure they are easily accessible without causing bottlenecks outside venues;• Consider, in discussion with the police and council, the use of stewards to act as marshalls at bus stops and taxi ranks; and• Work with the local authority and transport providers to agree bus routes, stops and timetables. <p><i>Road Safety:</i></p>	
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			<p>Should the venue exit onto a public highway, operators should ensure separation of customers and traffic – if necessary by the installation of permanent or removable barriers.</p> <p><i>Car Parking</i></p> <p>If appropriate, operators could advise customers of the best car park to use (either through their website or on printed material) so that they leave in a direction with minimum disturbance to local residents. Operators might also be able to negotiate with local car park operators to allow customer usage.</p> <p><i>Staffing</i></p> <p>During the last half hour of trading, the service points in each bar may be reduced and some staff reallocated to collect glasses or work in the cloakroom. This will assist customer departure and reduces the potential for people to carry glassware out of the premises.</p> <p><i>Cloakroom</i></p> <p>The cloakroom should be set up in order to assist the swift return of coats with staffing and control systems increased in the period prior to closure</p> <p><i>Music & Lighting (internal)</i></p> <p>During the last 20 minutes of trading, the DJ may typically play slower music and reduce the volume of the music played. In addition, lighting</p>	
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			<p>levels can be manipulated to encourage the gradual dispersal of patrons during the last part of trading and the drinking up period (see winding down).</p> <p><i>Lighting (external)</i></p> <p>Operators have found that the use of bright lights at the exit of the venue encourages customers to leave more quietly. Operators should liaise with the local council to establish guidelines on the positioning of these lights which will also prompt customers to leave the area quickly and enhance CCTV coverage.</p> <p><i>Minimising Noise on Exit</i></p> <p>If possible, a manager should be in the area close to the main exit to oversee the end of night departure period. DJ announcements should be used to remind customers to be considerate on leaving the premises. While highly visible notices can be placed in the foyer requesting exiting customers to leave quietly and to respect neighbours and their properties.</p> <p><i>Bottles or glasses</i></p> <p>Signage should make clear that customers will not be allowed to leave the premises with bottles or glasses. This policy should be supported by a vigilant door team searching customers where necessary. If appropriate, bins can be provided</p>	<p>As above</p>
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			<p>at exits for use by customers. Operators could also provide advice on any drinking ban in the area.</p> <p><i>Litter</i></p> <p>Operators should send out a 'Rubbish Patrol' following closure. This patrol will pick up bottles, flyers, food wrappings etc in the immediate vicinity of the premises. As well as clearing rubbish, the patrol acts as another set of eyes and ears identifying potential disorder. Their activity, particularly sweeping the pavement, will also encourage customers to vacate the area outside the premises.</p> <p><i>Door staff</i></p> <p>The door team play a key role in the implementation of several aspects of any dispersal policy:</p> <ul style="list-style-type: none">• encouraging customers to drink-up and progress to the exit within a venue throughout the latter part of drinking-up time;• drawing the attention of exiting customers to the notices in the foyer and ask them to be considerate;• ensuring the removal of all bottles and glasses from departing customers;• actively encouraging customers not to congregate outside the venue; and	
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			<ul style="list-style-type: none"> • directing customers to the nearest taxi ranks or other transportation away from the area. <p><i>Marshalls:</i> The use of venue security staff as marshalls should always be in negotiation with the police and kept under review. A marshall is a patrolling security officer wearing high visibility clothing, who works close to the venue in a designated area and is in direct communication with the venue management. Their aim is to create a highly visible presence and to communicate, rather than deal with, potential problems.</p> <p><i>Wind down period or “Chill out hour”</i></p> <p>Many aspects of a model dispersal policy can be drawn together into a chill out hour that gently winds down the evening rather than bringing it to an abrupt halt. Operators might find there is a profit to be had from offering a taxi booking service and providing coffee, soft drinks and bar snacks as a way of keeping customers in the premises and thus spreading departures over a longer period of time.</p> <p><u>Examples of good practice</u> Perhaps the most comprehensive example of the steps venues can take to reduce anti-social</p>	As above
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			<p>behaviour comes from Newport where a club has worked with local police to develop a model dispersal policy. Rather than be pushed out on to the street to compete for the all too few taxis operating late at night, customers can book a taxi through the club, wait in comfort, warmth and safety, purchase snacks and coffee while they wait and be escorted to the taxi when it arrives.</p> <p>In Dursley, a club extended its hours to sell soft drinks and coffee after bar staff stop serving alcohol at 2.00am. This chill-out hour allows customers to disperse over a longer time period and reduce the risks of flashpoints in the centre of town. Previously, Dursley had three late night venues all closing at the same time with only one kebab house and one small taxi-rank.</p> <p>In Edinburgh, one operator details staff to monitor customers on departure identify lone customers (particularly lone females) and hand them a small card which states, "If you are traveling alone and require a CLUBSAFE CAB please speak to a steward or a member of staff".</p> <p>A Middlesbrough operator stocks lollipops to be given out free to people leaving late night events in a bid to curb noise. A taxi ordering system is also in operation to prevent people waiting in the street.</p>	
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Green party, additional info from Bill Randall	31.08.10		Regarding limiting the availability of high strengthen beer and cider. I note that in the section entitled 'Best Practice to Protect Children from Harm' it does call for "Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders". However, we can also condition maximum ABV where there is concern about problems relating to street drinkers, as for example was achieved by panels I sat on for off-licenses in York Place and Upper St James Street, yet there is no mention of this power within the draft SoLP. We'd like to see greater awareness/use of this power in relation to the licensing objectives relating to Crime and Disorder and Public Nuisance, and would recommend the inclusion of relevant statements within the SoLP.	Incorporate
Juliette Hunting Chair, Lansdowne Area Residents' Association	27.08.10		<p>Here is the LARA (Lansdowne Area Residents' Association) comments to the Council's Draft Version of the Statement of Licensing Policy. The comments also include those made by individuals who attend the local LAT meetings, and the Residents' Associations in the area.</p> <p>Overall we strongly support the extension of the Cumulative Impact Area to include the Special Stress Area of Brunswick, and to extend it to St. John' Church i.e. west end of Palmeira Square (new night club and off licences); the area is a dense residential</p>	Insufficient evidence

			<p>one and residents suffer from the number of alcohol licenses</p> <p>We consider that there is not enough weight given to Residents' needs (Human Rights breach)</p> <p>We strongly support the Health Impact Assessment Report</p> <p>While we recognise that there is regulation regarding pubs and clubs, the outcome t does not always reflect these regulations.</p> <p>There is less successful legislation and enforcement regarding small newsagents' shops who have been granted off-licenses.</p> <p>Introduction: 1.1. We propose more publciity informing the public likely to be affected by licensing applications, as is done under Planning Applications, e.g. individual letters. It is not always easy to see pale blue small A4 notices placed in an obscure position in a window.</p> <p>1.3. Scope: Vicinity: "Vicinity' need to more defined in more detail - acitivites of individuals spread widely down residential side streets, not just within 25 yards</p>	<p>Set by statute and resource implications</p> <p>Experience shows vicinity dependent</p>
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			<p>of an establishment.</p> <p>1.4 Consultation: The emphasis is loaded against the residents. We suggest more priority given to local residents and the extent of the area for "relevant representations" should be increased.</p> <p>The presumption of the automatic granting of a license if no relative objections are made is to the detriment of the residents in the area.</p> <p>1.6.1. Partnership This statement places the Residents in a subsidiary position, Its focus is on the local economy and business. The philosophy of tolerance is not always in the interests of residents (Save Dave campaign may help.) The policy itself identifies a high number of 'neets' and extensive alcohol licenses in off -sales in shops are an invitation to such groups.</p> <p>The number of English Languages Schools identified under 1.71. - there is a high concentration in the Brunswick area - and under age drinking is only encouraged with regular availability of alcohol for under age students.</p> <p>1.8.2. We suggest that the citizens/ residents of the area are seen as minor partners in terms of Culture and Tourism and they should be major partners</p>	<p>upon locality</p> <p>Process set by licensing guidance</p> <p>Equal weight shall be given to partners</p> <p>Difficult to apply</p>
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			1.85. Not enough diversity - too many licences in shops	without proposals
			1.8.7 The balance between a tolerant attitude and appropriate behaviour is not always achieved	Ditto
			The Planning Context: We welcome the integration of planning and licensing ; when will this be a legal necessity?	Ditto
			1.8.15 Avoid large bars/pubs and night clubs - why are not off- licenses also considered?	Ditto
			1.8.17 is this done?	Ditto
			1.8.20 Reduce alcohol as factor in at least 40% of violent crime, by limiting availability. Off sales in the Brunswick area have snowballed. A helicopter view of these is needed. The crime statistics in the Local Action Team of Brunswick and Regency have risen over the last quarter,	Ditto
			1.8.21. This is more than a concern - the statistics from the hospital suggests it is a problem.	Ditto

			<p>1.15 More consideration and weight to be given to residents and local people. e.g. Sainsbury off licence, from 6.00 a.m. - despite local objections</p> <p>1.17 NOISE on Hove Lawns Human Rights: Article 8. human rights article 8 are breached due to spread of alcohol.</p> <p>1.20 Unable to identify their integration</p> <p>Prevention of crime and disorder:</p> <p>2.1. management responsibilities off license in small shops are these clear?</p> <p>2.3. When is this used</p> <p>2.6. Cumulative impact we welcome tightening laws for pubs, etc. with street bouncers, and tight observations by supermarkets, but what about others. We recommend that the Cumulative Impact Area be extended to take in the current Special Stress Area. This, with the exception of the Western Road is a highly dense residential area and its residents suffer from the impact of multiple licensing.</p> <p>2.6.6. most important</p>	<p>Ditto</p> <p>Ditto</p> <p>Ditto</p> <p>Incorporate with training and DPS/ premises LH requirements</p> <p>Insufficient evidence</p>
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			2.6.12 Biassed in favour of applicants	Difficult to apply without proposals
				Ditto
			2.7 Conflict of interest	Ditto
			2.7 The Licensing Authority will support - this has not always been the case.....	Ditto
			2.7 4 Welcome physical barrier proposals	Ditto
			2.7.10 welcome this	Ditto
			27. 12 welcome this	Ditto
			.	Ditto
			2.7.9 welcome this	Ditto
			2.7.12 welcome this	Ditto
			4.1. Unclear - contradicts earlier statement, headed Planning Context	Ditto
			4.2. welcome this	Ditto
			4.5. welcome this	Ditto
			4.7 too late 0200	Ditto
			4.10 more implementation of this	

			<p>4.11 Health Impact Assessment, Support all of this, especially hours (as a representative of Lara, I took part in this) ; Do not support favourable consideration to later terminal hours</p> <p>6.1. include Residents</p> <p>6.3. Tourism stragegy - what about the residents</p> <p>6.7. Unclear as to procedures to be followed? community relations - minor in all of this litter and smoking - welcomed, improving but still gaps</p> <p>6.9 welcomed</p> <p>6.10 where are the residents</p> <p>7.2. Community interests - where are the residents</p> <p>7.3. Protect living conditions in mixed use areas is most important.</p>	<p>Ditto</p> <p>Ditto</p> <p>Ditto</p> <p>Ditto</p> <p>Ditto</p> <p>Ditto</p> <p>Ditto</p> <p>Ditto</p> <p>Ditto</p> <p>Ditto</p>
Tom Chavasse Brunswick and	29.07.10		Our main concerns are twofold:-	

Adelaide Residents Group			<p>1. Extension of an overlapping Stress and Cumulative Impact Zone to all of the central artery through Brunswick Town. viz the Western Road westwards to St.John's Church / Road.</p> <p>2. The possible effect of the new Government's heralded changes in the relevant national policies. We having strong concerns about the density/number of outlets for alcohol and the times when it is available.</p> <p>We thus again enquire as to the extent which the current review will take of the additional, recent announcements by central Government which herald specific changes in the policies which are being reviewed. Are we in danger of participating in a review which will be outdated almost before it is complete ?</p> <p>We have noted comments that have appeared in The Argus - and we copy the Committee's Chair : Denise Cobb.</p>	<p>Insufficient evidence</p> <p>Outside scope</p> <p>PR&SR Bill will necessitate review of LG & SOLP</p>
Tom Chavasse Brunswick and Adelaide Residents Group	04.07.10		<p>You kindly invited the Brunswick Town residents' Associations, through LARA Juliette Hunting, to comment -by 29th August. We will be considering making comments in the near future. As you may know, the Brunswick Residents wish to have less availability of alcohol along the Western Road - and</p>	

			<p>extension of the Stress Area to include all of the Brunswick Town stretch of that road from St.John's Church Eastwards to Norfolk Square. Since we last commented matters have deteriorated and further late night sources have been permitted.</p> <p>You have mentioned that one aspect to be considered will be changes in Government Policy in relation to these matters. We believe that the media has already reported such changes - certainly a different attitude is emerging. Can you now indicate what consideration may thus have to be given to possible changes?</p> <p>A similar situation has developed with the formulation of the Local Plan - in which case there has been postponement of some work pending clarifications. Much of that, we think, centering on the role of the S. East Development Agency which is now being 'curtailed'. However, do you anticipate postponement of the Licensing Act 3 year review ?</p>	PR&SR Bill will necessitate review of LG & SOLP
Inspector Vicki Harris, Sussex Police		<p>2.1</p> <p>2.6.5</p> <p>2.6.14</p> <p>2.7.2</p> <p>2.7.5</p>	<p>Licensees will be expected to attend training courses. Should also include minor variations.</p> <p>Remove last sentence (If it is found that the above problems are receding the special policy may be reviewed with a view to revising the areas boundaries).</p> <p>Concern that naming St J's street might attract problems.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>) Incorporate</p> <p>)</p>

		2.7.6 2.7.8 (DS/MSU) 2.7.9 2.7.13 4.11 Addition	<p>Query where capacity of 250 came from BCRP or other approved (e.g. CDRP)</p> <p>Feels this needs some reworking</p> <p>Add “who should be working towards SIA accreditation”</p> <p>Nearly the same as 2.7.6 and repeated again at 2.7.19</p> <p>Take out italics or it doesn't look like part of the policy.</p> <p>Can we word something around cruising bars, gay saunas, sex taking place on licensed premises?</p>))))))
M. Eidmans, National Pubwatch	17.06.10		As a national organisation, does not feel a suitable consultee to comment on local matters.	
Philip Wells, Christina Summers, LAT Chair, Vice- Chair, London Road Area Local Action Team	17.06.10		<p>The London Road Area Local Action Team have asked us to write to you about licensing, with particular respect to the sale of alcohol.</p> <p>Context</p> <p>London Road is – as you know – a shopping street with many small businesses, set within the larger residential context of St. Peter's North Laine ward. Anti-social behaviour by locals and visitors with alcohol- and drug-related problems forms a small but arguably the worst feature of the area.</p> <p>Particular problem areas</p>	

			<p>This is highlighted</p> <p>(a) on the open-space area of “The Level” where “street drinkers” habitually congregate</p> <p>(b) in the York Place area where users of the CRI needle exchange (11 St George’s Place) are inevitably present during large portions of the day.</p> <p>In the case of York Place the situation is made worse by the presence of three sensitive locations – the needle exchange, the pharmacy where drug prescriptions are dispensed, and off-licenses selling cheap alcohol. In both cases existing problems are inevitably exacerbated by the ready availability of alcohol.</p> <p>Licensing and other issues</p> <p>We have noted the following features of the existing licensing regime:</p> <ol style="list-style-type: none"> 1. it is virtually impossible for local residents to have any effect on restriction of licences 2. the period of time available for comments is so quick that our monthly LAT meetings cannot keep up with applications 3. the licensing criteria take no account of excessive supply already being present 4. the licensing criteria take no account of other risk 	<p>Acknowledge</p> <p>Timescale set by regulation</p>
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			<p>factors (e.g. presence of needle exchange and pharmacy)</p> <p>5. the low price of alcohol means that it is too readily available in large quantities to all (including under-age and problem drinkers)</p> <p>6. the low price of alcohol means that drinking at home, in the street, in open spaces is preferentially occurring compared with drinking in a pub or other responsibly supervised location.</p> <p>7. it is impossible to restrict sale of higher strength products</p>	<p>Predicated on licensing objectives</p> <p>N Laine to be considered residential</p>
Received via the Council's consultation portal. d1254536e2587		Alcohol	The "Cumulative Impact Zone" within central Brighton may have granted greater powers to the Licensing Committee to control the number of licensed premises, there is little evidence from numbers of applications granted that these powers are actually used.	Area of level to be recognised as high risk for street drinkers and sale of high ABV
1.27616E+12		Cumulative impact, Special policy and Special stress areas	2.6.4 "The special policy will only be overridden in exceptional circumstances". Evidence is to the contrary, only a minority of applications are refused. Applications for minor variations are routinely abused to extend hours and nature of premises by stealth. So what starts as a restaurant becomes a cafe bar, then becomes in effect a nightclub which is typically open until 3-4am.	
d1254536e3529		Sussex Police	2.7.3 Café Bars -another condition should be some correlation between the number of seats and the	Incorporate

			capacity of the premises, otherwise they should be treated as nightclubs	
d1254536e4055		Health Impact Assessment	Schemes to recognise well managed licensed premises would be worthwhile, providing the council can commit resource to adequately managing and monitoring of such a scheme.	Incorporate
1.27616E+12		Location and Type of Premises	This is blatantly not the current policy as it stands. This section needs substantial attention.	Difficult to address without alternative proposals
1.27616E+12		Amplified or Live Music	this section needs to be more assertive - weasel words in here "normally", "may". It reads as if you are not actually intending to enforce this section.	Ditto
d1254536e4662		Health Impact Assessment	response is adequate, if enforced.	Ditto
1337218		Statement of Licensing Policy 2010	This draft policy is not clear enough on definitions, and is ambiguous. The Council has interpreted the 2003 Licensing Act to the detriment of residents' quality of life. It states, for example, that careful consideration has determined the Special Policy only to then state that it could be overridden in exceptional circumstances. An example of ambiguity is if an application is unlikely to add to the Cumulative Impact of the Area it may be granted. Surely any additional licensed premises in a CIA would have an impact on the area? Unfortunately for residents, corporate licensed applications are well served by slick solicitors at Panel Hearings who impress the Panel	

			<p>with their legal jargon and glossy brochures. They seem to be able to 'prove' to the Panels that their business would not have a negative impact and yet residents objections are largely ignored as it seems they can't prove the impact on their health. Granting of licenses should not be given until a premises has planning approval for change of use and/or a refit. How can a licence be approved without any knowledge of the layout of a premises, which would include safety conditions such as fire exits and the type of materials used? The draft policy states that powers 'may be' exercised to impose conditions as to opening hours in order to avoid unreasonable disturbance to residents. The words 'may be' should be changed to 'will'. The draft policy is unclear about areas of mixed use. North Laine should be classed as residential for licensing and closing hours should not exceed 2330 except for holidays and special events. It is hoped that following the next Licensing Review the area will be classed as a CIA. More effort should be made to reduce the amount of alcohol displays that encourage people to drink more, perhaps through Conditions if that is possible. I fully support the Council's Public Health Management Plan, 2 March 2010 and hope that many of these actions are worked on.</p>	
d1254536e2529		Crime and fear of crime	I have no comments	

Responses to SOLP consultation 030910/JCranford/Licensing/Consultation

Licensing Strategy Group

Terms of Reference (Revised January 2005)

- (i) Review and monitor the statement of licensing policy.
- (ii) Support the licensing objectives: prevention of crime and disorder, public safety, prevention of public nuisance, protection of children from harm; and encourage tourism.
- (iii) Address public order safety and nuisance and alcohol issues, particularly at closing time, including the ways of dispersing people, with associated transport implications, including
 - Links with Accident & Emergency, for the impact of casualty levels
 - Any zoned approach including growth areas of new premises, cultural quarter, cumulative impact/saturation, alcohol disorder zones.
 - The changing nature of the City, it's infrastructure and mixed developments
 - Binge drinking and irresponsible promotions
 - Under-age sales
- (iv) Create and strengthen partnerships
- (v) Create and strengthen links with corporate strategies including: Tourism, economic development and employment, community safety, local alcohol harm reduction, local development framework/local plan, local transport plan, equalities impact assessment.

Representation

Licensing Authority

Responsible Authorities: Sussex Police, Court Service, East Sussex Fire & Rescue Service, Child Protection, Accident & Emergency, Sussex Ambulance Service, Drug and Alcohol Action Team, Community Safety, Health & Safety, Trading Standards, Environmental Health

Business Representatives: Business Forum, Tourism, Economic Development

Licencee Representatives: Licensees Association, Licensed Victuallers Association, Door staff, training organisations, Gay Business Association

Residents Representatives: Residents Associations

Links to other strategies: Equalities, tourism, employment, crime prevention, planning, transport, economic development, Cityclean

LICENSING STRATEGY GROUP
Tuesday, 12 October, 2010
Committee Room 2, Brighton Town Hall

MINUTES

Present:

Tim Nichols	Acting Assistant Director, Public Protection, BHCC
Jean Cranford	Licensing Manager, BHCC
Nigel Lidell	Business Crime Reduction Partnership
Nick Griffin	Pleisure
Roger Rolf	Kingscliffe Society
Trevor Scoble	St James's Street Area Action Group
Gavin George	InnBrighton Ltd
Councillor Jason Kitcat	for Old Town LAT
Sandy Crowhurst	North Laine Community Association
Malcolm Wauchope	Sussex Police
Dexter Allen	East Sussex Fire & Rescue Service
David Quant	CityCabs

Apologies:

Cllr Denise Cobb
Steve Larkinson
Doug Simmonds, Licensing Consultant
Jane Doherty
Naomi Hawes, Legal Adviser, Bton Magistrates Court
Roy Skam, North Laine Community Association

		Action
1.	<p>Statement of Licensing Policy</p> <ul style="list-style-type: none"> ▪ The current draft Statement of Licensing Policy has been circulated to the group and there has been a 12 week consultation period. ▪ The draft policy will now go to Licensing Committee on 18 November and then to full Council, which has to set policy, on 16 December. If it is agreed, it will come into effect on 3 January 2011. ▪ Tim thanked those who have submitted comments and explained that, where possible, suggestions have been incorporated into the draft policy, which is still a working document at the moment. ▪ It is not possible to include everything because of present legislation. Where comments have not been able to be included, these will be detailed in the 	

	Transport Strategy Sub Group re concerns he has re the route of the No 7 bus at night.	
2.	<p>Lap Dancing Clubs – SEV Policy</p> <ul style="list-style-type: none"> ▪ Consultation on the Sex Establishment Venue Policy took place around the same time as the Statement of Licensing Policy. ▪ Very few responses have been received and the policy is unlikely to change much. <p>Cllr Kitcat queried whether the Green Party comments had been received and will send through again to ensure they are included.</p>	
	<ul style="list-style-type: none"> ▪ The SEV Policy will also be going to Licensing Committee in November and, once it has been adopted, the council will take applications for new licences. ▪ Tim confirmed that this policy will cover sex shops. 	
3.	<p>Rebalancing the Licensing Act</p> <ul style="list-style-type: none"> ▪ Nick explained that the trade were very unhappy about the way the consultation on this was carried out, which took place over six weeks during the summer. The impression given is that it is a fait accompli as no discussion has been allowed on any policy prior to implementation. ▪ The trade also unhappy about some of the implications, e.g. there is no right of appeal against a closure and TENs will require four weeks notice instead of ten days, which is not practical. ▪ Coalition Government are intending to include this in the Police Reform & Social Justice Bill, which is due to have its first reading in 15 weeks. ▪ Trade likely to fight proposals and take as far as possible. 	
4.	<p>Purple Flag Scheme</p> <ul style="list-style-type: none"> ▪ The Purple Flag scheme was only a suggestion. There was also some support for Best Bar None, which had run a few years previously. ▪ On the agenda as there is a suggestion that it would be beneficial to have an accreditation scheme, which may well gain cross party support. The current financial and political environment made ability to innovate uncertain as public sector reduced. ▪ Nick recommended that an accreditation scheme should be trade led as it would have buy in from the local licensed and leisure industry. Nick offered to formulate some proposals for accreditation schemes and bring to the next meeting. To be on the agenda 	NG JC

	for next time.	
5.	Matters arising from 14 May 2010 <ul style="list-style-type: none"> ▪ Tim confirmed he had received the Kingscliffe Society response on the SOLP. 	
6.	Date and time of next meeting <ul style="list-style-type: none"> ▪ Tim confirmed that the next four meetings will be arranged in advance, so that people will have more notice of when the meetings are taking place, which should help with attendance. 	
7.	Any Other Business <ul style="list-style-type: none"> ▪ Roger stated he was not impressed with the lack of response he received from the Noise Patrol on Pride night. He stated he called them three times and did not get a call back. Tim explained that the priority of the Noise Patrol on that particular night was to deal with raves. However, he asked Roger for any recommendations he might have which could be considered for future years. Roger's notes passed to Tim, who agreed to look into the points raised. 	TN

