

# LICENSING COMMITTEE (LICENSING ACT 2003)

## Agenda Item 27

Brighton & Hove City Council

<b>Subject:</b>	<b>Work of the Licensing Authority – Licensing &amp; Gambling 1/1/12 – 31/1/14</b>		
<b>Date of Meeting:</b>	<b>6 March 2014</b>		
<b>Report of:</b>	<b>Head of Regulatory Services</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jim Whitelegg</b>	<b>Tel:</b> 292438
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<b>Ward(s) affected:</b>	<b>All</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1. This report sets out the licensing and gambling functions for Brighton & Hove Council carried out between 1st January 2012 and 31 January 2014.
- 1.2. National matters: legislative changes and consultation
- 1.3. Local licensing matters
  - Street drinking/Sensible on Strength
  - Student Freshers/Pub Crawls/Promoters
  - Best Practice licensing Initiatives
- 1.4. Local gambling Matters
  - Betting Shops/Fixed odds betting terminals (FOBTs)
  - Co-regulation and intelligence sharing between Licensing Authority, Gambling Commission and Police
  - Illegal poker – clubs and pubs
- 1.5. Members are apprised of local and national issues.

#### 2. RECOMMENDATIONS:

- 2.1. That the committee notes the contents of this report.
- 2.2. That officers should continue to monitor trends of applications and illegal activity to inform future policy.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

##### 3.1. Licensing Act 2003

- 3.1.1. Table 1 below shows the numbers of applications and hearings for 2012 and 2013, including those granted, refused and withdrawn. The number of premises licences in Brighton & Hove in 2013 rose to 1532 with the number of Club Premises remaining broadly the same at 45.

- 3.1.2. In 2013 the number new applications was 72, an increase of 85% on the previous year, with variations remaining similar at 33 and minor variations increasing by 27% to 84. Two reviews were carried out of premises licences (Pop in Store 3 month suspension and B&W Stores revocation). There were 3 appeals in 2013 for Fish & Chips, Kings Road, B&W Stores, York Place and Co-op Portland Road.
- 3.1.3. 2013 saw 892 Temporary Event Notices (TENs) being processed, a decrease of 10% on 2012.

Table 1: Licensing Act 2003 figures 2012/2013

<b>1st Jan - 31st December 2013</b>		<b>1st Jan - 31st December 2012</b>	
<b>Number of premises</b>		<b>Number of premises</b>	
- Premises Licences	1532	- Premises Licences	1478
(surrendered)	9	(surrendered)	10
- Club Premises	45	- Club Premises	47
(surrendered)	2		
<b>New apps</b>		<b>New apps</b>	
TOTAL	72	TOTAL	39
(granted)	69	(granted)	34
(refused)	1	(refused)	3
(withdrawn)	2	(withdrawn)	2
<b>Variations</b>		<b>Variations</b>	
TOTAL	33	TOTAL	35
(granted)	29	(granted)	24
(refused)	3	(refused)	6
(withdrawn)	1	(withdrawn)	5
<b>Minor Variations</b>		<b>Minor Variations</b>	
TOTAL	84	TOTAL	66
(granted)	83	(granted)	64
(refused)	1	(refused)	2
<b>Panel hearings</b>	23	<b>Panel hearings</b>	32
<b>Reviews</b>	2	<b>Reviews</b>	2
<b>Appeals</b>	3	<b>Appeals</b>	4
<b>TENs</b>		<b>TENs</b>	
TOTAL	892	TOTAL	987
(granted)	850	(granted)	923
(refused)	31	(refused)	42
(withdrawn)	11	(withdrawn)	22

## 3.2. Gambling Act 2005 - Licensing Authority Functions

- 3.2.1. The functions of licensing authorities may be divided roughly into five: publication of Gambling Policy, regulation of premises, registration of small society lotteries, maintenance of registers and compliance.

3.2.2. Table 2 shows types and numbers of gambling licences issued by Licensing Authority currently compared to 2007 when the Gambling Act 2005 came into force.

<b>Premises Licences</b>	<b>Current (31 01 2014)</b>	<b>2007</b>
Casinos	4	4
Bingo Licences	4	8
Adult Gaming Centres (AGCs)	8	28
Family Entertainment Centres (FECs)	4(incl. 2 FEC permits)	8
Betting tracks	2	2
Betting Shops	47	51
Gaming Machines	243	222

### 3.3. **Press interest:**

3.3.1. Licensing issues in Brighton and Hove have been at the forefront of the media between 1/1/13 – 31/1/14. Press interest includes:

Argus regularly reports on the work of the Licensing Panels and featured articles including:

- Fixed Odds Betting Terminals “crack cocaine of gambling”
- Council’s launch of Sensible on Strength (SoS)
- Student pub crawls
- Prosecution of takeaway operating beyond permitted hours

3.3.2. Street drinking and the SOS campaign also featured on Radio 4 “You and Yours” programme.

3.3.3. The Gambling Commission also published an article in their Oct 2013 monthly bulletin about the work of the local authority in closing down an illegal poker club. “The Commission’s Director of Regulatory Risk and Analysis, Matthew Hill said:

*“These cases once again show how local authorities can step in when concerns arise about illegal poker. The narrow permission allowing members of genuine members’ clubs to play poker cannot be used to justify the provision of what amounts to a commercial poker club.”*

3.4. **National matters: legislative changes and consultation can be found in Appendix 1.**

### 3.5. **Local Licensing Issues**

3.5.1. In 2010, in response to the Marmot Inequalities report, the Director of Public Health selected alcohol as a priority health inequality area. The Programme Board includes health commissioners and NHS/voluntary sector providers, the Council, University student reps, police, licensees, retailers and probation services. The work of the Alcohol Programme Board, domain group 2 (availability) developed an action plan which can be found at Appendix 2. The Alcohol Programme Board is concerned about emerging themes concerning the availability of alcohol, in particular, pre- and post-loading, street drinking and

binge drinking. Brighton & Hove City experiences local problems and local trends such as pre-loading, binge drinking and street drinking created by cheap alcohol and fierce, localised price competition, particularly between off-licence stores and supermarkets.

- 3.5.2. The Council's Licensing Team operate a risk rate inspection programme where premises are inspected to ensure they are conforming to the conditions of their licence and then score rated against a number of risk factors including, type of business, operating hours, location, capacity, confidence in management, enforcement & complaint history and control measures in place. The frequency of re-inspection is dependent on whether the premises scores a high, medium or low risk rating.
- 3.5.3. Since becoming responsible authorities in April 2012 the licensing team as well as the Director Public Health have made several representations where applications are contrary to Policy.

### 3.6. **Street drinking/Sensible on Strength**

- 3.6.1. In August 2013, the Licensing panel revoked a licence for an off licence in a hot spot area for street drinking and associated ASB. Review was brought by the Local Action Team and well supported by local community, Police, Trading Standards, Licensing Authority and alcohol support groups in the area. A lot of very compelling reps with photographic evidence of the street drinkers entering several times a day buying single cans of cheap super strength beers/ciders, drunk and then going onto cause low level antisocial behaviour. The alcohol rehabilitation centre provided witnesses statements. One instance concerned a known street drinker who walked out of the off licence straight in front of a bus. Trading standards, police and licensing authority had advised the shop over a period of two years about the dangers of selling cheap super strength and where other off licences in the area had agreed to a voluntary scheme for not selling super strength. Premises licence holder has appealed the decision which is due to be heard on the 24<sup>th</sup> and 25<sup>th</sup> February.
- 3.6.2. The Council's licensing team together with Trading Standards and Sussex Police have worked together to introduce the 'Sensible on Strength' scheme which was launched by Full Licensing Committee in November 2013. The purpose of the campaign is to find ways of limiting the availability of low cost, super-strength beers, lagers & ciders (above 6% abv) in Brighton & Hove to encourage retailers who sell alcohol 'off the premises' to operate good practice measures that will promote the four licensing objectives. Visits are being carried out to premises to gauge their interest as it is a voluntary scheme; those who are interested will then be checked for compliance with their existing licensing conditions and any additional measures. Officers will then present a certificate and window sticker to the business if they pass the inspection.
- 3.6.3. The campaign message is not anti alcohol and recognises the long established beer and cider drinking culture in the UK and our own vibrant city atmosphere. Experience shows, where businesses have removed super strength alcohol they have seen a reduction in crime & disorder such as thefts, intimidation and violence to staff.

3.6.4. Through achieving this change, the ultimate aim is to reduce alcohol related harm and anti-social behaviour, and to move vulnerable drinkers onto weaker alcohol as experience shows that if this can be achieved, the level of deterioration in health is dramatically slowed and there is more likelihood that they will take the step to abstinence and long-term sobriety.

3.6.5. Currently there are 75 premises that have joined the scheme with others who are showing an interest. This is an ongoing initiative as there are approximately 330 off licensed premises in the city.

### 3.7. **Student Fresher/Pub Crawl Events**

3.7.1. Brighton and Hove has two universities as well as independent commercial operators who organise student based pub-crawl nights within the City. The Licensing Authority can not stop this from taking place so Licensing Officers have developed a set of good practice measures for these organised pub crawls, based on the licensing mandatory code and promoting licensing objectives. They consist of: stewarding, on site medics and non alcohol drinks free or cheaper; no irresponsible promotions (which ended in venue price contracts) and extra security or policing, water angels giving out water to the students. This year the Council has also helped to organise and promote non-alcohol based alternatives of events and tours for students, such as art/culture tours.

### 3.8. **Promoters**

3.8.1. In the City club nights are organised by promoters who work in partnership with the clubs to advertise their nights and fill the clubs. The problem that we face as a Licensing Authority is that the responsibility of the licensing objectives and mandatory conditions falls only on the licensed premises and not on the promoters who actually organise the nights. Therefore any irresponsible promotions that the promoter advertises and runs for premises could see enforcement action only being taken against the premises. The Licensing Team have been working with promoters to educate and ensure they are aware of firstly the mandatory conditions and irresponsible drinking promotions and of late to also make them aware of the serious nature of protection of children from harm (underage entering the clubs). From this promoters and premises are looking at their advertising especially through media and being extra vigilant in the promotions and detecting underage from entering the premises.

### 3.9. **Best practice initiatives - Best Bar None, Pub Watches & BCRP**

3.9.1. There are no active official Pubwatch schemes in the city. There are versions of pub watch schemes that we're aware of (Kemp Town and Rottingdean Village) but these are not officially registered with Pub Watch and do not have data sharing agreements with the Police.

3.9.2. The local authority and the police have explored the possibility of introducing a Best Bar None scheme. The police reported that circa 2006, a number of premises looked to gain 'Best Bar None' accreditation. The huge workload took the licensing team 'off line' for about a month and some of the premises subscribing were found to be less than perfect. The scheme has not been widely

adopted nationally and it is felt that the BCRP scheme is solid and those outside it (Drink In Brighton) are generally responsible retailers.

3.9.3. The BCRP NightSafe scheme has over 90% of licensed premises in the city centre area and are the body that ban troublemakers and connects all premises with a radio system and has all the effective data sharing agreements in place with the council and police. BCRP membership is approaching 300 premises and this does not include the 50 radios we provide free of charge to Sussex Police, Street Pastors, Taxi Marshalls, Safe Space and Royal Sussex Casualty Department Security. BCRP won the Action Against Business Crime Partnerships (ABCP) national award last year for best practice in the Night-time economy.

3.9.4. Concern with introducing a Best Bar None scheme is that it would compete with the BCRP scheme and would need significant resource to run. Experience has shown that when police introduced Best Bar None in 2008 a full-time officer had to be employed from the Police licensing team to administer the scheme.

### 3.10. **Events**

3.10.1. The Licensing Team lead on behalf of Environmental Health & Licensing for the safety management and regulation of events in the city, including for 2013 Brighton Marathon, Brighton Festival & Fringe & The Great Escape, Kemptown Carnival, Cliff Richard SCCC, Paddle, Pride/GVP, Shakedown and Freshers. Focusing on structure and crowd safety, welfare/WC provision, public nuisance, food safety and compliance with licensing (alcohol, underage, illegal traders, etc).

### 3.11. **Sussex Licensing Liaison Group (EWSLLG)**

3.11.1. Jim Whitelegg, Senior Environmental Health Officer, was elected Chair of the Sussex Licensing Liaison Group this year. The group meets every 3 months and is attended by all local Sussex Licensing Authorities, Sussex Police, East and West Sussex Fire and Rescue Services, East and West Sussex Trading Standards, Gambling Commission and Security Industry Authority. The Group contribute to local and central government departments on national consultations, organise and develop training for the group as appropriate and act as a good practice group on all legislation, linking into the national agenda.

### 3.12. **Gambling Local and National Issues**

#### 3.12.1. **Betting Shops**

Further to the Gambling Report on Betting Shops at the March Licensing Committee 2013, there were 4 new betting shops in 2012/13, although numbers are down compared with numbers in 2007 which were 51 when the Gambling Act came into force. However, officers continue to monitor the situation looking for evidence of clustering.

- **Paddy Power**, 9 George Street, Hove BN3 3YA (currently a bar but the intention is to turn it into a betting shop)
- **Coral**, 103 George Street, Hove (previously a bank)

- **Coral**, 56 Western Rd, Brighton
- **William Hill**, St. James's St, Brighton

### 3.12.2. Fixed Odds Betting Terminals (FOBTs)

3.12.2.1. There has been significant local and national interest into the impact of FOBTs. FOBTs are category B2 gaming machines. The maximum stake is multiples of £10 for maximum prize of £500. They work like playing black jack, roulette, etc on a machine. The fear is hard gaming, fast transactions, and chasing debts. Betting shops are permitted 4 machines from classes B2, B3, B4, C and D (10p stake and £8 prize). B2 machines are only permitted in betting shops, casinos – not bingo or arcades.

3.12.2.2. Recent estimates show that more than £40bn was spent nationally on high-stakes gambling machines from April 2011 to March 2012. Referred to by critics as the “crack cocaine of gambling”, these high-stakes gambling machines are viewed by many as highly addictive and associated with crime and poverty.

3.12.2.3. In October 2013, the Local Government Association (LGA) published *'Problem Gambling: Frequently asked questions'*, a briefing for local authorities on how they can help to tackle problem gambling through existing legislation and guidance.

3.12.2.4. There have been issues in London: Paddy Power v Newham LBC 2013 (and previously Richmond). The concern is betting shops used more for gaming machines than traditional betting, proliferation and gangs of men congregating (crime and disorder) at times when no horse racing. Gambling Commission concerns are:

- Cumulative impact/clustering/proliferation – neither gambling, licensing or planning can be used to restrict as licensing objectives do not include need/unsatisfied demand/cumulative impact and planning use class for financial service (A2) is wide – banks, betting shops and estate agents). London Health Inequalities Network published case for saturation zones.
- “Primary Gambling Activity” – betting or gaming (equal chance gaming). LA duty is to “aim to permit”. In case above held that “Primary Gambling Activity” falls outside remit of LA but within scope of Gambling Commission. Although GC position is “aim to permit” requires LA to act in accordance with code of practice. This is subject to Judicial Review.
- Poverty and addiction.

### 3.13. Co-regulation and Intelligence Sharing between Licensing Authority, Gambling Commission and Police

3.13.1. The Licensing Team with the Police and Gambling Commission carried out investigations into private gaming and poker club issues, including the investigation into illegal gaming at a residential property. This lengthy investigation following detailed intelligence concerning charging a participation fee and demonstrated the complexity of the gambling licensing regime.

- 3.13.2. Officers also received intelligence from the Gambling Commission that a newly opened social members club in Hove was being run as a poker club by a known individual who had been prosecuted in London for running an illegal poker club. Evidence was gathered including a joint visit with the Gambling Commission. The Licensing Authority were satisfied that the Club was not operating as a bona fide members club and served a Notice of Withdrawal of their Club Premises Certificate, which meant their Club Gaming Permit lapsed and they closed down. This work was published by the Gambling Commission as an example of good working practices by the licensing authority.
- 3.13.3. Poker can be played in a members' or commercial club providing that the conditions that apply to gaming clubs are followed, including limits on stakes and prizes. Clubs must be established and conducted wholly or mainly for purposes other than gaming. Stakes are limited to £10 per game with a maximum prize of £250, as opposed to a £5 stake and £100 prize for poker in pubs. A nominal participation fee of £1 or £3 can be charged in clubs, unlike pubs where no participation fee can be charged.
- 3.13.4. This has highlighted an issue that the Gambling Commission has raised nationally regarding so called members clubs obtaining Club Gaming Permits through the fast track procedure and has led to greater liaison with the Gambling Commission when an application for a club premises certificate is received. Officers have recently conducted joint visits with Gambling Commission regarding poker in pubs in the City where we found evidence of pubs breaching the limits of stakes and prizes. Warning letters were sent which has resulted two pubs cancelling the weekly poker tournament and the others now compliant with the restrictions.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1. Licensing Strategy Group, finance and legal services.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1. The costs associated to the licensing and gambling functions of the council are funded from existing revenue budgets with the Environmental Health and Licensing service.

Licence fees are set at a level that it is reasonably believed will cover the costs of providing the service and in accordance with the requirements of the legislation under which they are charged. Licence fees are approved annually at Licensing Committee.

*Finance Officer Consulted:* Steve Bedford *Date:* 31/01/14

##### Legal Implications:

- 5.2. Legal implications are contained within the body of this report.

*Lawyer Consulted:* Rebecca Sidell *Date:* 04/02/13



Equalities Implications:

- 5.3. There are no direct equalities implications.

Sustainability Implications:

- 5.4. There are no direct sustainability implications.

Crime & Disorder Implications:

- 5.5. Contained in the body of the report.

Risk and Opportunity Management Implications:

- 5.6. No implications

Public Health Implications:

- 5.7. Contained within report.

Corporate / Citywide Implications:

- 5.8. The local licensing delivers support improvement that help businesses comply with the law speedily, easily and economically.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1. None – for information only.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1. For information only.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Appendix 1 – Legislative changes & consultation
2. Appendix 2 – Alcohol Programme Board minutes and action plan

**Documents in Members' Rooms**

1. None.

**Background Documents**

1. None.