

**Subject:** Review of Statement of Licensing Policy – interim report

**Date of Meeting:** 5<sup>th</sup> March 2015

**Report of:** Director of Public Health

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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 five years. The previous review was adopted on 15 December 2011 by Full Council and the revised Statement of Licensing Policy came into effect on 20 December 2011.
- 1.2 The revised statement of licensing policy included an expanded cumulative impact zone (CIZ) and new larger special stress area (SSA). In addition, a matrix approach to licensing decision making was adopted.
- 1.3 It was further agreed that the cumulative impact zone and special stress area are reviewed regularly and as such we have reviewed data year on year from the implementation of the CIZ and SSA's.
- 1.4 On the 20<sup>th</sup> November 2014 Licensing Committee considered the Report of the Head of Regulatory Services in relation to proposed revision of the current Statement of Licensing Policy and the Committee resolved to confirm the current Cumulative Impact Zone(CIZ) and Special Stress Area (SSA) as defined in the current SoLP and to continue to adopt the special policy in relation to that CIZ and SSA and to continue to include these within the current statement of licensing policy; Note the review of the matrix that had been carried out in accordance with the recommendations of *Scrutiny Panel on Alcohol*. Officers to continue to carry out work to review the SoLP to the report, to incorporate emerging policy issues such as "Sensible on Strength" and off licences, and advice from Director of Public Health, Public Health England and the Local Government Association; and (4) Officers to report back to March 2015 Committee meeting with an updated draft SoLP for statutory and public consultation.

**2 RECOMMENDATIONS:**

- 2.1 Officers to continue to carry out work to review the SoLP to incorporate emerging policy issues such as Sensible on Strength and off licences, and

advice from Director of Public Health, Public Health England and the Local Government Association.

2.2 Officers to report back to June 2015 Committee with an updated draft SoLP for statutory and public consultation.

### **3 RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS: SOLP: Position statement/interim policy position – 230215**

#### **3.1 The Key Changes**

- Review overall structure and layout
- Propose new section titled 'Special (local?) Policies' to include BHCC policies CIZ, SSA, Matrix, TENs, Off licences/sensible on strength scheme, student and organised beer crawls (examples below).
- Include Public Health section, incorporating latest PH thinking and perspective, include Alcohol Programme Board.
- Matrix review (para. 2.7) including café/bars category and define restaurant condition, removal of residential/mixed areas and include Other Areas, include notes on licensing authority taking into account Ward alcohol related health, crime and disorder data published in the Public Health Framework document.
- Updates and significant input needed from Police, Public Health, Planning, Arts/Tourism.

#### **3.2 Special Policies**

##### **3.2.1 Off licences**

In recent years there has been a noticeable shift towards more people buying alcohol from shops and drinking at home before going out, this includes people drinking on the streets prior to going into premises such as pubs and clubs. The council is concerned that alcohol loading from off-licence sales is a significant problem in the city and adversely affects the licensing objectives as it gives rise to problems of drunkenness, disorderly behaviour and a higher risk of alcohol sales to children. Representations from the police, local residents and the director of public health at licensing panel hearings have testified to these problems and information published in the Public Health Framework for assessing alcohol licensing presents a ward by ward analysis of crime and disorder and health data which is relevant in this respect.

The special policy on cumulative impact and the special stress areas apply to off-licences as explained in the matrix approach at 3.3.3. But in general/or outside these areas where applications are made for new premises or variations to existing licences, and where the police or others make representations against the grant of a further licence for off sales, the council will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. The

council will want to be assured that the Operating Schedule of premises, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances.

Areas of best practice that may be included in an Operating Schedule include:

- the installation of a digital CCTV system by liaison with, and to a standard approved by Sussex Police
- Challenge 25 policy
- Refusals system
- Documented staff training including underage sales, drunkenness and proxy sales
- Voluntary restriction of high strength alcohol - operating schedules may be used to limit high ABV beers and ciders
- BCRP membership (or other accredited scheme)
- No sale of single cans
- Displays should not be located at the entrance/exit points or near check outs

Over recent years problems associated with street drinking have been experienced across the city but particularly by the Level, Lewes Road and New Road. There are many support services in place to deal with this and the drinkers themselves. In November 2013 the Licensing Authority launched the 'Sensible on Strength' scheme to reduce the availability of cheap super-strength beers and ciders. Off licences voluntarily sign up not to sell cheap super-strength beers and ciders and receive an accreditation. This has been a considerable success and we have received positive feedback including from businesses, alcohol treatment centres and health professionals, where 80% of the high profile street drinkers have moved to lower ABV and more clients are engaging with rehab treatment centres, as well as breaking up hot spot drinking areas. This is an ongoing scheme that will be reviewed regularly.

### **3.2.2 Temporary Event Notices**

The Licensing Authority will encourage bona fide community events. Applications for TENs at existing licensing premises will not be encouraged where the proposal is simply to extend the existing hours of operation and applications made in cumulative impact zones will be subject to increased scrutiny.

### **3.2.3 Student and Organised Pub Crawls**

The Licensing Team and other agencies work with universities, event organisers and promoters to ensure events are responsibly run to include good practice measures based on mandatory conditions and promoting licensing objectives. Such measures include stewarding, on site medics, discounted non alcoholic drinks, water angels, and promotion of non-alcohol events. This includes working with Brighton University regarding a Home

Office initiative for an accreditation scheme around a NUS alcohol impact project to encourage students to drink responsibly.

### **3.2.4 Promoters**

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

### **3.2.5 Sexual Exploitation in the night time economy**

The YMCA Downsink Group runs two projects that aim to improve safety in the night time economy. Safe Space on West Street runs throughout the year on Fridays and Saturdays (11-3.30am) from its base in St Pauls Church, West Street. The project is intended to provide a safe place for users of the night time economy who are rendered more vulnerable due to alcohol and/or drug use. First Aid is provided by The British Red Cross with emotional and practical support from the YMCA. During the Spring and Summer months a mobile outreach team also operates along the seafront out of Waekiki. Mobile teams also operate on New Year's Eve in the Kemp Town and East Street areas. The YMCA's sexual exploitation project, WiSE Project, have also been busy running a campaign called WiSEUp increasing awareness of sexual exploitation in the night time economy. The two strands of work are to speak to workers such as pub and bar staff, door staff, fast food outlets, taxi firms and hotels to encourage them to look out for signs of sexual exploitation and inform them of how to report incidents of concern. This has been extremely well received and staff report that they feel more able to respond appropriately to vulnerable people using their services. The other strand involves talking to customers in the city centre and on student campuses about staying safe and looking out for other people using interactive beer mats and informative leaflets. The people that have been approached report that this is a fun and non-threatening way of getting people thinking about a serious topic.

#### **4. CONSULTATION**

- 4.1 Consultation involves the Licensing Strategy Group which includes businesses via City Centre and Hove Business Fora, Police, Tourism, Events Office, Seafront Office (including Seafront Trader Association), Trading Standards, Legal and Finance, residents via residents associations and Community Associations. If members were minded to change the statement of licensing policy, officers should undertake the statutory consultation exercise outlined in Section 5 of the Act and Full Council alone can exercise the function of revising the authority's policy.

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

##### **5.1 Financial Implications:**

The costs associated to the recommendations in this report are allowable under the Licensing Act 2003 and therefore funded by licence fee income; any variation between expenditure and income generated from licence fees is funded from existing revenue budgets. Licence fees are set by central government. The recommendations in this report would only affect new applications and variations to existing premises licenses, and is not expected to impact on current levels of income from renewals of applications.

Finance Officer Consulted: Steven Bedford

Date: 21/01/15

##### **Legal Implications:**

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

Lawyer Consulted: Rebecca Sidell

Date: 23/01/2015

##### **Equalities Implications:**

- 5.3 A rebuttal presumption against new licensed premises in a CIZ 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 CIZ 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 CIZ will normally be refused following relevant representations unless it can be demonstrated that there will be no negative cumulative impact.

#### **Documents in Members' Rooms:**

Copies of the most up to date working "draft" of the "Statement of Licensing Policy have been lodged in the offices of the political assistants at King's House. It is important to note that this document should be regarded as a work in progress as work on it is on-going and further changes will be made.

#### **Background Documents:**

None.