


# Licensing Committee

## (Licensing Act 2003 Functions)

Title:	<b>Licensing Committee (Licensing Act 2003 Functions)</b>
Date:	<b>29 November 2018</b>
Time:	<b>3.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillors:</b> O'Quinn (Chair), Morris (Deputy Chair), Hyde (Opposition Spokesperson), Deane (Group Spokesperson), Bennett, Cattell, Cobb, Gilbey, Horan, Knight, Lewry, Marsh, Page, C Theobald and Wares
Contact:	<b>Penny Jennings</b> Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk
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## AGENDA

### Part One

### Page

#### 11 PROCEDURAL BUSINESS

**(a) Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

**(b) Declarations of Interest:**

- (a) Disclosable pecuniary interests
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

**(c) Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

**NOTE:** *Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.*

#### 12 MINUTES OF THE PREVIOUS MEETING

7 - 12

To consider the minutes of the meeting held on 28 June 2018 (copy attached).

#### 13 CHAIR'S COMMUNICATIONS

#### 14 CALLOVER

- (a) Items (14 – 19) will be read out at the meeting and Members

## LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

invited to reserve the items for consideration.

- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

### 15 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on 23 November 2018;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on 23 November 2018.

### 16 MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee.

### 17 PRESENTATION -PRIDE VILLAGE PARTY AND BRIGHTON AND HOVE PRIDE

Jayne Babb, Operations Manager for Pride will give a presentation outlining the arrangements which are put into place to support the United Kingdom's biggest Pride Festival which includes the Pride Village Party in Kemptown.

Following the presentation Members will have the opportunity to ask questions before moving on to consider the remaining items of business on the agenda.

### 18 REVIEW OF STATEMENT OF LICENSING POLICY - CONSULTATION RESPONSE REPORT 2018 13 - 60

Report of the Director, Neighbourhoods, Communities and Housing (copy attached)

Contact Officer: Jim Whitelegg  
Ward Affected: All Wards

Tel: 01273 292438

### 19 GAMBLING ACT 2005 - REVIEW OF GAMBLING POLICY 2019-21 61 - 116

## LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Report of the Director, Neighbourhoods, Communities and Housing (copy attached)

Contact Officer: *Jim Whitelegg*

Tel: 01273 292438

Ward Affected: *All Wards*

### 20 ITEMS REFERRED FOR COUNCIL

To consider items to be submitted to Council for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting

#### **PUBLIC INVOLVEMENT**

Provision is made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

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#### **FURTHER INFORMATION**

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email [penny.jennings@brighton-hove.gov.uk](mailto:penny.jennings@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

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The lift cannot be used for evacuation purposes so those unable to use the stairs to the public gallery can be seated at the rear of the council chamber on the ground floor should you wish to watch the meeting or need to take part in the proceedings, for example if you have submitted a question.

## **LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)**

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Date of Publication - Wednesday, 21 November 2018



**BRIGHTON & HOVE CITY COUNCIL**

**LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)**

**3.00PM 28 JUNE 2018**

**COUNCIL CHAMBER - BRIGHTON TOWN HALL**

**MINUTES**

**Present:** Councillors O'Quinn (Chair), Morris (Deputy Chair), Hyde (Opposition Spokesperson), Bennett, Cattell, Cobb, Gilbey, Horan, Lewry, Marsh, Page, C Theobald, Wares, Knight and West

**Apologies:** Councillor Deane

**PART ONE**

**1 PROCEDURAL BUSINESS**

**(a) Declarations of Substitutes**

1.1 Councillor West was present in substitution for Councillor Deane.

**(b) Declarations of Interest**

1.2 There were no declarations of interests in matters listed on the agenda.

**(c) Exclusion of Press and Public**

1.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

1.4 **RESOLVED:** That the press and public be not excluded from the meeting during consideration of any items contained in the agenda.

**2 MINUTES OF THE PREVIOUS MEETING**

2.1 It was noted that at item 28.10, the report was to be presented in June.

- 2.2 **RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 1 March 2018 be agreed and signed as a correct record.

### **3 CHAIR'S COMMUNICATIONS**

- 3.1 The Chair notified the Committee of the Governments recommendation that a maximum stake for a B2 gaming machine be reduced from £100 to £2. It was noted that the changes would be through regulations in Parliament and that this would need parliamentary approval. It was further noted that the Gambling Commission would also be in engagement with the gambling industry to ensure they were given sufficient time to implement and complete the technological changes.

### **4 CALLOVER**

### **5 PUBLIC INVOLVEMENT**

#### **5a Petitions**

- 5.1 There were none.

#### **5b Written Questions**

- 5.2 There were none.

#### **5c Deputations**

- 5.3 There were none.

### **6 MEMBER INVOLVEMENT**

#### **6a Petitions**

- 6.1 There were none

#### **6b Written Questions**

- 6.2 There were none

#### **6c Letters**

- 6.3 There were none.

### **7 PUBLIC HEALTH FRAMEWORK PRESENTATION**

- 7.1 The Committee considered a presentation given by Liz Tucker, Public Health Practitioner and Caroline Palmer, Crime Analyst on the Public Health Framework, on the current status of the Public Health Framework, it was noted that the next update was due to be provided in the following months. It was stated that the crime data provided proxy indicators for alcohol related crime which led the authority to struggle for accurate



data. Data driven from drug related crimes were unreliable; as a result the focus was shifted to offences closely related to alcohol. This scope was defined as violence to other people not necessarily alcohol related, however the aggregate of information points would contain satellite points related to alcohol that produced a trend that could be studied.

- 7.2 Councillor Wares requested clarity on the differences between assault being discussed.
- 7.3 Caroline Palmer clarified what constituted common assault and assaults by battery.
- 7.4 Councillor Page enquired if there was comparative data on police offences with other authorities
- 7.5 Liz Tucker responded by stating issues regarding alcohol abuse in wards and noted that though there were higher ambulance call outs and that men were at an increased risk. She concluded that this was significant nationally comparable data.
- 7.6 The chair noted that Cornwall and Newquay were largely responsible for skewing the data due to poor results.
- 7.7 Councillor Morris requested that such figures were brought to the Health Overview and Scrutiny Committee.
- 7.8 Liz Tucker stated that the data was comprised of local residents only and not visitors, Ms Tucker explained the various indicators of which the data consisted of and that the process of attaining all information was almost complete.
- 7.9 Caroline Palmer stated that the number of wards that had the highest rates of A&E was 4, and that they were also the same wards with a high number of clients in alcohol treatment, she further gave more info regarding BHCC's approach in regards to vulnerability.
- 7.10 Councillor Wares stated that due to the high priority nature of the information, robust processes needed to be maintained to make sure that data was not open to being skewed.
- 7.11 Caroline Palmer stated that data provided wasn't in depth enough that minor changes would skew overall results, she agreed to look back at the data.
- 7.12 Councillor Wares stated that this was a public document and that people might make decisions based on how certain areas were being portrayed.
- 7.13 Councillor Lynda Hyde stated that there were many areas that were on the report that produced a positive picture.
- 7.14 **AGREED** – that the presentation be noted.

## 8 REVIEW OF GAMBLING POLICY 2018

- 8.1 Jim Whitelegg gave a brief overview of the Gambling Policy 2018, he noted that this was being held up by the Gambling Commission as good practice. It was clarified that the changes being proposed were not major and that an initial consultation with Public Health would ensue. It was stated that across 10 pubs, 7 failed to challenge the young male actor and as a result sanctions such as the possible removal of gambling machines were alluded to in the written warning letter.
- 8.2 Councillor Lynda Hyde enquired how often checks were carried out and if an inspection period should be considered.
- 8.3 Jim Whitelegg stated that inspections of all gambling venues were conducted annually. He clarified that pubs were now being inspected, he noted that major betting shops now did independent test purchasing and that there was a crossover of alcohol and licensing.
- 8.4 Councillor West stated that fruit machines had a limit on payout and stake and that the rate at which gamblers could spend all their money on digital machines over old machines had decreased dramatically. He enquired if there was a metric on how quickly one could spend their stake and how this compared to old machines.
- 8.5 Jim Whitelegg stated that currently new proposals would limit stakes to £2 though he was not aware of any legislation in place regarding the speed of play.
- 8.6 Councillor Marsh enquired if this was conducted at the same time every year; she expressed concerns regarding the consultation date as school holidays also took place in August. She further enquired if those without internet, who wanted to take part in the consultation, had an alternative mechanism available.
- 8.7 Jim Whitelegg stated that while there was a portal through the website there were other ways to engage with the process such as through trade bodies, business forums, consultation in public areas like libraries. It was confirmed that residents would not be contacted directly.
- 8.8 Councillor Morris enquired if test cases using just £1 coins could be conducted to see how much could be physically spent in a certain timeframe.
- 8.9 Jim Whitelegg stated that all such data should be available from the Gambling Commission.
- 8.10 **RESOLVED** - That committee agree the following recommendations:
1. Instruct officers to carry out a consultation on the draft policy (attached at appendix 1).

## **9 REVIEW OF STATEMENT OF LICENSING POLICY 2018**

- 9.1 Jim Whitelegg and Sarah Cornell gave a brief overview of the Review of the Statement of Licensing Policy 2018. The proposal to extend the special stress area was highlighted. It was stated it must be recognised that there was an increase in applications for café bars. It was noted that the terminology was problematic as it was misleading as the venues were not operating as a café as their primary activity. A second proposal to consider reducing hours of café activity was noted.

- 9.2 Councillor O'Quinn stated that applicants had listed their venues as cafes however served cocktails.
- 9.3 Councillor Page stated that a change of name would be clear and enquired what new times for café closures were being proposed.
- 9.4 Jim Whitelegg stated that Police had suggested 8pm and that how new times were justified was open for debate.
- 9.5 Councillor Hyde sought clarification on whether new times would only be for future applications and not retrospective.
- 9.6 Jim Whitelegg clarified that new operating times would not be retrospective.
- 9.7 Councillor Gilbey noted a similar issue regarding a debate on what constituted substantial food.
- 9.8 The Chair stated that people were using café bar to get in to the CIZ area.
- 9.9 Councillor Wares stated that changing the terminology to just 'café' was good however expressed concerns with changing the times of operation for cafes.
- 9.10 Councillor Knight expressed concern with reducing the times of operation for cafes.
- 9.11 The Chair stated that applicants only wanted to make more money by selling alcohol.
- 9.12 Councillor Page expressed concern of the proliferation of a number of café bars putting licensing objectives at risk. It was stated that a time did not need to be settled on until after the consultation had been conducted.
- 9.13 **RESOLVED** –that the Committee members agree the following recommendations:
1. To authorise officers to go out to statutory consultation with the proposal to expand the Special Stress Area (SSA) to cover Central Hove, extend from the west side of Holland Road northwards/intersection with the North side of Lansdowne Road, going westwards along Eaton Road/Blatchington Road to the junction and then south along Sackville Road down to the seafront (details of area covered in Appendix A)
  2. To authorise officers to go out to statutory consultation on a revised Matrix on one or more of the following proposals:
    - a. Change name from “café/bars” to “café” (notes to Matrix to be amended to “small food led establishment”).
    - b. Reduced hours for café/bar category in CIZ (Cumulative Impact Zone).
    - c. No changes

## 10 ITEMS REFERRED FOR COUNCIL

- 10.1 There were none.

The meeting concluded at 15:30.

Signed

Chair

Dated this

day of

# LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

**Agenda Item 18**  
Brighton & Hove City Council

<b>Subject:</b>	<b>Review of Statement of Licensing Policy – Consultation response report 2018</b>
<b>Date of Meeting:</b>	<b>29 November 2018</b>
<b>Report of:</b>	<b>Executive Director of Neighbourhoods, Communities &amp; Housing</b>
<b>Contact Officer:</b>	<b>Name: Jim Whitelegg/Sarah Cornell Tel: 01273 292438/295801</b>
	<b>E-mail: <a href="mailto:Jim.whitelegg@brighton-hove.gcsx.gov.uk">Jim.whitelegg@brighton-hove.gcsx.gov.uk</a> <a href="mailto:Sarah.cornell@brighton-hove.gcsx.gov.uk">Sarah.cornell@brighton-hove.gcsx.gov.uk</a></b>
<b>Wards Affected:</b>	<b>All</b>

## 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 current policy was adopted on 24 March 2016 by Full Council. The policy should be kept under review.
- 1.2 The Council, as a licensing authority must carry out a consultation exercise prior to any review of its Licensing Policy (Section 5(3) of the 2003 Act).
- 1.3 On 28<sup>th</sup> June 2018 Members authorised officers to go out to statutory consultation with the proposal to expand the Special Stress Area (SSA) to cover Central Hove and to consult on the café/bar category and a revised Matrix.

### 2. RECOMMENDATIONS:

- 2.1 That Committee agree the revisions to the Statement of Licensing Policy as follows:
  - 2.1.1 Expand Special Stress Area (SSA) into Central Hove
  - 2.1.2 Change the name of the “café bar” category to “café” and reflect this in the policy
  - 2.1.3 Reduce “café” hours to 10.00pm within CIA category of the matrix
- 2.2 That the revised Statement of Licensing Policy is referred to Full Council for adoption.

### 3. CONSULTATION

- 3.1 Consultation commenced on 23<sup>rd</sup> July 2018, but was restarted on the 9<sup>th</sup> August, due to an error on the on-line portal, closing on the 4<sup>th</sup> October 2018. A copy of the consultation document, including the proposed extended SSA, can be found in Appendix A.
- 3.2 National Guidance states at 13.4 that before determining its policy, 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
  - The local authority's Director of Public Health in England
  - Persons/bodies representative of local premises licence holders
  - Persons/bodies representative of local club premises certificate holders
  - Persons/bodies representative of local personal licence holders; and
  - Persons/bodies representative of businesses and residents in its area.
- 3.3 Consultation was undertaken with these statutory consultees and more generally via the consultation, Licensing Strategy Group, the city LATs (Local Action Teams), BID, B&H Economic Partnership and Brilliant Brighton. If committee are minded to agree the recommendations, the revised statement of licensing policy must be referred to Full Council.

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

#### 4.1 Expanding the Special Stress Area (SSA) to cover Central Hove

Officers and Police Licensing support extension of SSA to reflect the number of licensed premises in Church Road Hove, the evidence from Public Health framework document and that it would be consistent with the current SSA that acts as a buffer to the CIZ. The SSA is defined as an area of concern to be monitored for levels of public nuisance and anti social behaviour (ASB). Applications in the SSA are expected to have a robust operating schedule with appropriate conditions. Unlike the CIZ there is no presumption of refusal. The Police's submission is contained in Appendix B.

#### 4.2 Café Bars

The Council's Statement of Licensing Policy (SoLP) (paragraph 3.3.3) states:

**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.

The current situation regarding café bars is:

- Annual report shows an increase in café bars granted 2017/18 but a big decrease in pubs/clubs. There are considerably more pubs and restaurants in the City compared to café bars. As of March 2018 there were 323 Pubs, bars & nightclubs, 297 Restaurants and 89 café bars.
- SoLP look favourably on Café bars 3.3.3
- Cumulative Impact Policy (CIP) is not absolute and recognises the different impact from different types of venues
- The term “café bars” to define this category of premises is misleading. Officers suggest the term “café” is more appropriate as essentially we are not talking about bars but small food led cafes or delis where alcohol is not the primary activity and the venues do not open late. It is also suggested adding notes to the matrix that this category is defined as “small food led establishments”.
- It is suggested that the character and operation of this kind of premises is different from that of a pub. Alcohol is not the primary focus, and thus patrons are not likely to become intoxicated. The hours are limited. There is less potential for negative impact on the four licensing objectives: The prevention of crime & disorder, public safety, the prevention of public nuisance and protection of children from harm.

- 4.3 To change policy we would need evidence to show these venues are undermining one or more of the four licensing objectives and/or are contributing to negative cumulative impact.
- 4.4 The matrix approach provides a vision of what the licensing authority would like to see within its area and gives an indication of likelihood of success or otherwise to investors and local businesses making applications. It is a mechanism for the locally accountable licensing authority to shape its local area and address public, social policy issues. It balances the need for protection for local residents against the interests of the local economy, local employment and potential investors. The matrix does not apply to existing premises, just new/variation applications. It is illustrative and each panel must consider each application on merit, including location and type of premises/activities.
- 4.5 Café bar conditions have been around before the Licensing Act 2003 and were converted over from some licences from the old Magistrates court so they are not a new concept. Since café bars, as a category, were formerly introduced in to the Matrix in 2016 there has been an increase in the number of applications for café bars but a decrease in both restaurant and pub applications. Prior to this there was a lot of confusion around where café bars fell within the Matrix, whether they should be considered a restaurant or a bar.
- 4.6 Following consultation it is proposed to change the name from “café bar” to “café” both in the body of the policy and to add a note to the matrix.

- 4.7 Although the police do not support the reduction, the balance of supporters from the portal is marginally in favour of a reduction of hours, with most responses 10pm or later. Public Health make the point that licensed cafes may encourage moderate drinking in the evenings by the clientele who might otherwise go to pubs and bars.
- 4.8 Concern has been raised about the increase in café bars granted in the CIZ. Resident's representations to licensing panels have highlighted issues of saturation of licensing premises in the CIZ, particularly the North Laine area, leading to an increase in public nuisance and Members have raised their concerns. Therefore, it is suggested to reduce the hours of café bars in the CIZ from the current 11.30pm to 10pm.

## **5. CONSULTATION RESPONSES**

A summary of the responses are detailed below. A copy all the other consultation responses can be found in Appendix B.

- 2 Responsible Authorities responded (Police and Director of Public Health).
- 5 responses were received by letter or email, 3 from local residents, 1 local business, and British Beer and Pub Association (BBPA).
- 73 responses were received via the council's on-line consultation portal.

### **5.1 Sussex Police Response**

Sussex Police consultation response includes a report on extending the SSA into Central Hove and detailed analysis of incidents in café/bars compared to other categories of licensed premises. A full copy of the Police's consultation response can be found in Appendix B.

Q.1. Police support strongly agree with the proposal to extend the SSA into Central Hove and provide details of incident analysis and mapping of alcohol related incidents and licensed premises in Central Hove.

Q.2a. Police also strongly agree with the proposal to change the name of the café bar category to "café".

Q.2b. The Police tend to disagree with the proposal to reduce the hours for café bars in the CIZ. They have reviewed data relating to premises types, including the number of incidents and a weekly breakdown during 2017. Also included are tables for types of premises, number and types of incidents and the time those incidents occurred. The police conclude that there is not the evidence to support a reduction in the hours for the café bar category.

### **5.2 Director of Public Health Response**

A full copy of the Director of Public Health's (DoPH) consultation response can be found in Appendix B.



Q.1. Director of Public Health (DoPH) support the proposal to extend the SSA into Central Hove, referencing the Public Health Framework for Assessing Alcohol Licensing document.

Q.2. DoPH agrees with the change of name from “café/bars” to “café”. With regards to reducing hours for café/bar category in CIZ to earlier in the evening, the DoPH states that in general public health would support initiatives aimed at reducing the amount of alcohol available across the city. Reducing the times during which cafes could serve alcohol to their customers would most probably contribute to this. However, what is not clear is whether licensed cafes encourage moderate drinking in the evenings by their clientele who might otherwise go to pubs and bars.

### **5.3 Email responses**

Two local residents and 1 local business emailed in support of extending the SSA into Central Hove. The British Beer and Pub Association (BBPA) also made a submission against the extension of the SSA.

All responses can be found in Appendix B.

### **5.4 On-line Portal responses**

A total of 78 responses were received via the portal – 54 responding as local residents, 8 local community reps, 4 visitors, 1 stakeholder, 1 licence holder and 10 local businesses. A summary of the responses is detailed below:

Q.1. Extending the SSA into Central Hove

- 37 Strongly agreed
- 19 Tended to agree
- 9 Strongly disagreed
- 5 Tended to disagree
- 3 Neither

Q.2a. Change name “Café Bar” to “Café”

- 29 Strongly agreed
- 16 Tended to agree
- 11 Strongly disagreed
- 6 Tended to disagree
- 11 Neither

Q.2b. Reduce Hours for “Café Bars” in CIZ

- 30 Strongly agreed
- 12 Tended to agree
- 16 Strongly disagreed
- 9 Tended to disagree
- 6 Neither

For those respondents that agreed with the proposal to reduce hours for café bars in the CIZ, the following times were suggested:

- 23.00Hrs 7 suggestions
- 22.30Hrs 5 suggestions
- 22.00Hrs 10 suggestions
- 21.30Hrs 2 suggestion
- 21.00Hrs 4 suggestions
- 20.00Hrs 3 suggestions
- 19.00Hrs 1 suggestion

If members were minded to agree the statement of licensing policy, Full Council alone can exercise the function of revising the authority's policy.

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

### **6.1 Financial Implications:**

There are no financial implications arising from the recommendations made in this report. The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally by government.

Finance Officer Consulted: Michael Bentley

Date: 12.10.18

### **6.2 Legal Implications:**

These are set out in the report. The SoLP should follow the fundamental principles set out in the Licensing Act 2003 and statutory guidance. Following the consultation exercise, the views of all those persons or bodies should be given appropriate weight when determining the policy. Revisions made to the policy without evidential basis are likely to be vulnerable to challenge.

Lawyer Consulted: Rebecca Sidell

Date:

### **6.3 Equalities Implications:**

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.

### **6.4 Sustainability Implications:**

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.

### **6.5 Crime & Disorder Implications:**

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.

6.6 Risk and Opportunity Management Implications:

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.

6.7 Corporate / Citywide Implications:

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.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

**Appendix A** – Copy of consultation document and map of area to be covered by expansion of Special Stress Area

**Appendix B** – Consultation responses

**Appendix C** – Proposed Matrix and notes

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

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

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

### **Background Documents**

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

The council, as licensing authority, is carrying out a consultation exercise as part of a interim review of its Statement of Licensing Policy (SoLP), looking specifically at extending the Special Stress Area and reviewing the Matrix approach in relation to café bars. We will be consulting for 8 weeks from 23<sup>rd</sup> July 2018. I would be grateful to receive your comments, any suggested amendments or improvements and your reasons for recommending any changes by no later than 17<sup>th</sup> September 2018.

The policy reflects national legislation and guidance and demonstrates how responsible authorities will operate at a local level.

The council would like local stakeholders, residents and members of the public as well as statutory consultees and “responsible authorities” to have their say about the proposed policy.

### **Special Stress Area**

The Council, supported by Police Licensing, and local ward Councillor are proposing to extend the Special stress Area (SSA) (ref. 3.2 of the SoLP)) to cover Central Hove, to extend from the west side of Holland Road northwards/ intersection with the North side of Lansdowne Road, going westwards along Eaton Road/Blatchington Road to the junction and then south along Sackville Road down to the seafront ([see link for map of proposed extension](#)).

The SSA is defined as an area of concern to be monitored for levels of public nuisance and anti social behaviour (ASB). Applications in the SSA are expected to have a robust operating schedule with appropriate conditions. Unlike the CIZ there is no presumption of refusal. This proposal reflects the number of licensed premises in Church Road Hove, concerns which have been raised by residents and local Councillor in relation to the area, and the evidence from Public Health framework document. The proposal would also be consistent with the current SSA that acts as a buffer to the Cumulative Impact Zone (CIZ).

### **Question 1. Do you agree with the proposal to extend the SSA into Central Hove?**

### **Matrix approach in relation to café bars**

The second proposal is regarding the café bar category as described in 3.3.3 of the SoLP and categorised in the matrix ([see link to current SoLP where the matrix is shown on page 16](#)).

The Council’s Statement of Licensing Policy (SoLP) (paragraph 3.3.3) states:

**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.

It is suggested that the term “café bars” to define this category of premises is misleading. Officers suggest the term “café” is more appropriate as essentially we are not talking about bars but small food led cafes or delis where alcohol is not the primary activity and the venues do not open late. It is also suggested adding notes to the matrix that this category is defined as “small food led establishments”.

The Annual report shows an increase in café bars granted 2017/18 but a big decrease in pubs/clubs. There are considerably more pubs and restaurants in the City compared to café bars. As of March 2018 there were 323 Pubs, bars & nightclubs, 297 Restaurants and 89 café bars. [Please see link to Licensing Committee Report](#)

Concern has been raised about the increase in café bars granted in the CIZ. Resident’s representations to licensing panels have highlighted issues of saturation of licensing premises in the CIZ, particularly the North Laine area, leading to an increase in public nuisance and Members have raised their concerns.

Therefore, it has been agreed to consult on whether to reduce the hours of café bars in the CIZ from the current 11.30pm to earlier in the evening.

## Question 2

i) **Do you agree to the change of name from “café/bars” to “café” (notes to Matrix to be amended to “small food led establishment”)?**

ii) **Do you agree with the proposal to reduced hours for café/bar category in CIZ to earlier in the evening?**

**If you do agree, what time do you consider would be appropriate and why?**

This information can also be found on-line on the Council’s Portal <https://www.brighton-hove.gov.uk/solp-consultation>.

Please submit your response either on-line to [ehl.safety@brighton-hove.gov.uk](mailto:ehl.safety@brighton-hove.gov.uk), or to the Environmental Health & Licensing team, 2<sup>nd</sup> Floor, Bartholomew House, Brighton BN1 1JE.

## Privacy Notice (Consent)

The Council is the data controller for purposes of the EU General Data Protection Regulation and any UK legislation supplementary to this. The Council is registered as a data controller with the Information Commissioner’s Office (ICO) under registration number Z5840053.

Brighton and Hove City Council are committed to protecting your personal information. As a data controller we have a responsibility to make sure you know why and how your personal information is being collected in accordance with relevant data protection law.

#### Why we are processing your data

- We are collecting your data for the purpose of informing the Brighton & Hove Licensing Authority's Statement of Licensing Policy.
- We have a legal basis for collecting this data and any special category data under Explicit Consent and you will be required to provide consent below.
- Personal data from individuals responding as residents or visitors will not be shared with any other third party without you being informed.
- Data from individuals responding as a representative of an organisation or as a stakeholder may be shared with the Licensing Committee members and will be available as a public document on the internet.
- We will hold your data until Brighton & Hove Licensing Authority's Statement of Licensing Policy has been agreed by the council's Licensing Committee.

#### Your information rights

- You have rights around the information we hold on you, further information on your rights are available on [our website](#).

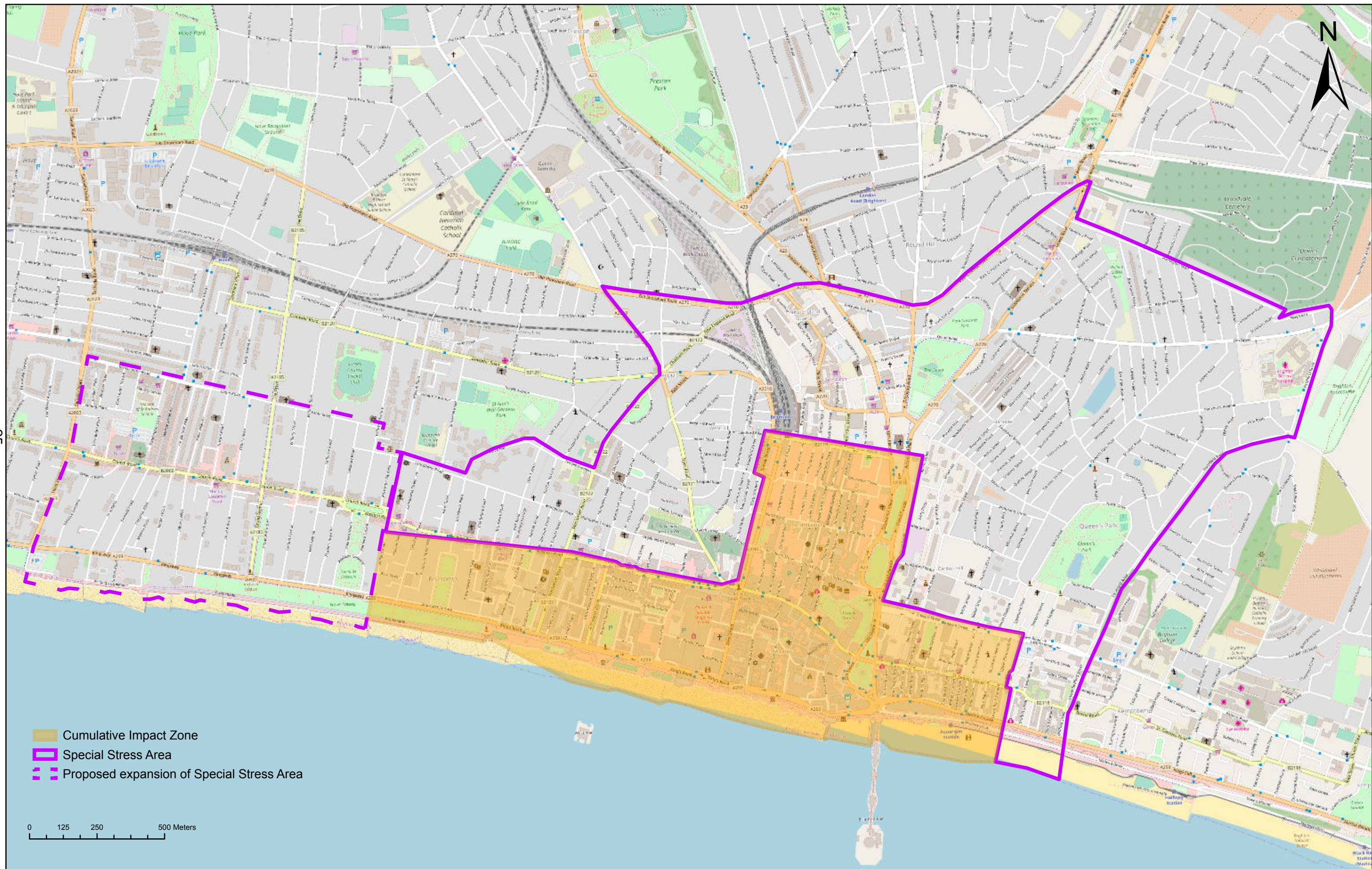
#### Further information

- If you would like to discuss this further please contact our Information Governance Team on 01273 295959 or [data.protection@brighton-hove.gov.uk](mailto:data.protection@brighton-hove.gov.uk)
- BHCC's Data Protection Officer may be contacted on [gdpr@brighton-hove.gov.uk](mailto:gdpr@brighton-hove.gov.uk)





# Proposed expansion of Special Stress Area, June 2018







## Sussex Police Consultation Response – September 2018

Responding as a Responsible Authority – Sussex Police

### **Special Stress Area**

*The Council, supported by Police Licensing, and local ward Councillor are proposing to extend the Special stress Area (SSA) ref. 3.2 of the SoLP)) to cover Central Hove, to extend from the west side of Holland Road northwards/ intersection with the North side of Lansdowne Road, going westwards along Eaton Road/Blatchington Road to the junction and then south along Sackville Road down to the seafront ([see link for map of proposed extension](#)).*

*The SSA is defined as an area of concern to be monitored for levels of public nuisance and anti social behaviour (ASB). Applications in the SSA are expected to have a robust operating schedule with appropriate conditions. Unlike the CIZ there is no presumption of refusal. This proposal reflects the number of licensed premises in Church Road Hove, concerns which have been raised by residents and local Councillor in relation to the area, and the evidence from Public Health framework document. The proposal would also be consistent with the current SSA that acts as a buffer to the Cumulative Impact Zone (CIZ).*

Q1.

**Do you agree or disagree with the proposal to extend the SSA into Central Hove?**

- ☒ Strongly agree
- ☐ Tend to agree
- ☐ Neither agree nor disagree
- ☐ Tend to disagree
- ☐ Strongly disagree
- ☐ Don't know / not sure

### **Police Comments:**

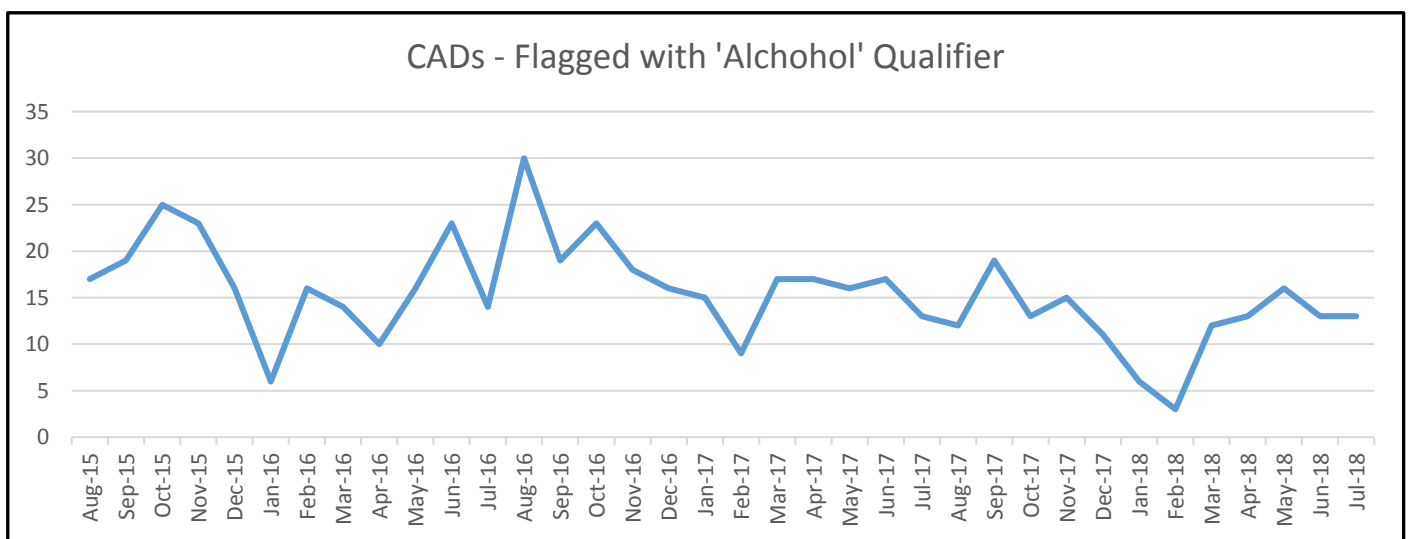
In response to the above Sussex Police Licensing asked analysts within the Prevention team to look at data around the proposed area where the SSA will be extended. The research request was to review the number of alcohol related crimes and incidents in Hove (area as shown in the consultation document) between August 2015 and July 2018 to establish if offending has increased and any hotspots.

Incident (CAD) data from Sussex Police's initial reporting system, Storm, are tagged with 'qualifiers' dependent on the content of the report. As a result, CAD data with an 'Alcohol' tag has been extracted to produce a report. Crime data held on police recording systems, Niche, also possess 'Alcohol' markers enabling easier extraction of alcohol related offences. Both data-sets were extracted using iBase (a further police system) but the accuracy of the figures are dependent on the consistency of staff entry.

### Initial incident reporting (CAD data)

The number of reported alcohol-related incidents reduced in the previous 12 months to 146 from 210 reported between August 2016 and July 2017. The graph below shows that over the previous eighteen months, **there has been 12-18 incidents consistently reported each month that are given an alcohol marker by the call-handler**. It is likely that the cold weather in the winter months of January and February caused a dip in reporting.

Reported Alcohol-related Incidents per year period	
Aug 15 - July 16	199
Aug 16 - July 17	210
Aug 17 - July 18	146

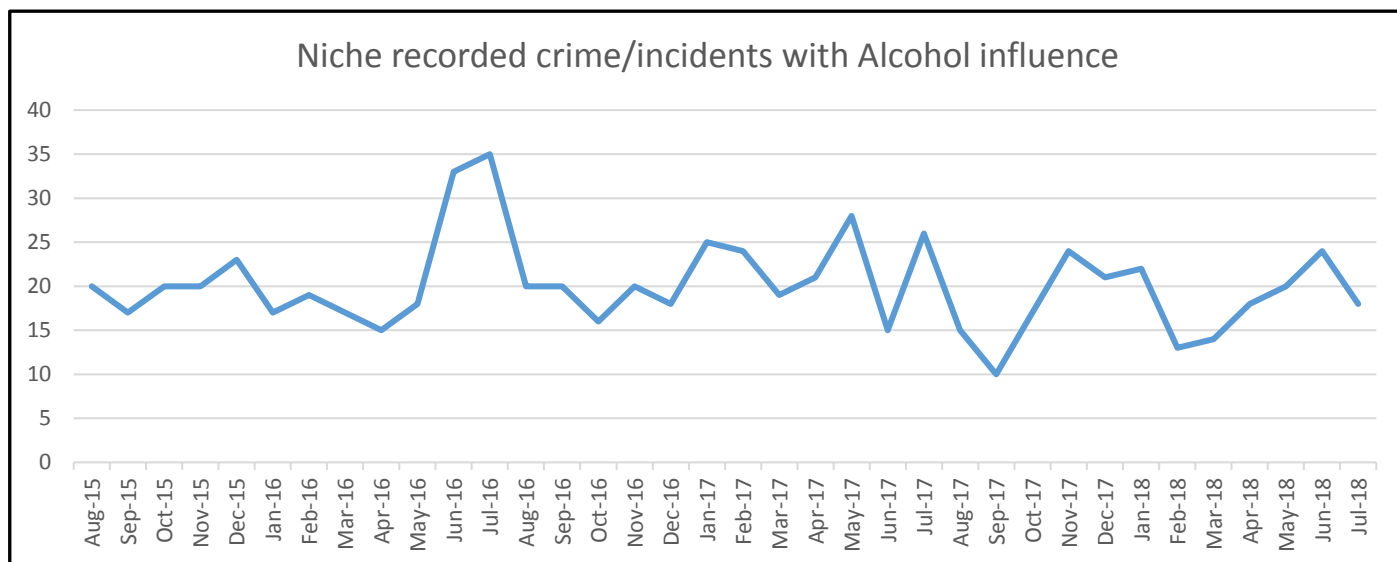


### Recorded Crimes (Niche)

Recorded crimes with an alcohol-influenced marker have decreased over the previous 12 month period similarly to reported incidents. Between August 2017 to July 2018 there were 51 (216 from 267) fewer offences recorded which were recorded as linked to alcohol.

Although the graph below presents that offending has remained fairly consistent between 15 -25 offences per month but a few anomalies such as a spikes in June-July 2016 and May 2017 and dips in September 2017 and February 2018 have influenced the yearly totals.

Recorded Alcohol-related Crimes per year period	
Aug 15 - July 16	254
Aug 16 - July 17	267
Aug 17 - July 18	216



### Alcohol related crime hotspots

The map below shows the hotspot for crimes involving alcohol over the three-year period considered. The predominant hotspots are near the public houses at the south of George Street and near the hostels at the south end of Seafield Road. For an individual road, Church Road has suffered the greatest level of offending, which is depicted by secondary hotspots stretching along the road.



Although incidents have slightly reduced over the last 3 years, looking at the hotspot map it shows that alcohol tagged incidents happen in key areas of Hove including George Street, Blatchington Road, sections of Church Road and the Southern End of Seafield Road/Osborne Villas.

When plotting existing licensed premises in the proposed area for the SSA to be extended to it is very clear that the hotspots for crime are focused in the areas where there are clusters of licensed premises.



This suggests a clear link between the availability of alcohol and the associated crime.

When looking at the Public Health Framework (published October 2017), Central Hove Ward, where the majority of the extended area lies, is ranked 5<sup>th</sup> for Police recorded alcohol related incidents and 5<sup>th</sup> for Alcohol suspected ambulance call outs. It is also 3<sup>rd</sup> for Alcohol specific hospital admissions in 2016-17 and 4<sup>th</sup> for A&E attendances with a record of alcohol. The other areas in the top 5 are as follows:

It is worth noting that the Royal Sussex County Hospital lies in the East Brighton Ward.

Police recorded alcohol related incidents:

Ward	Rank	CIZ/SSA?
St Peter's & North Laine	1	CIZ & SSA
Regency	2	CIZ
Queen's Park	3	CIZ & SSA
East Brighton	4	No
Central Hove	5	Proposed SSA

Alcohol suspected ambulance call outs:

Ward	Rank	CIZ/SSA?
Regency	1	CIZ
St Peter's & North Laine	2	CIZ & SSA
Queen's Park	3	CIZ & SSA
East Brighton	4	No
Central Hove	5	Proposed SSA

Alcohol specific hospital admissions:

Ward	Rank	CIZ/SSA?
Regency	1	CIZ
East Brighton	2	No
Central Hove	3	Proposed SSA
Westbourne	4	No
Rottingdean Coastal	5	No

A&E attendances with a record of alcohol:

Ward	Rank	CIZ/SSA?
Queen's Park	1	CIZ & SSA
Moulsecoomb & Bevendean	2	No
St Peter's & North Laine	3	CIZ & SSA
Central Hove	4	Proposed SSA
East Brighton	5	No

Data taken from:

[https://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/docforms/Public%20Health%20Framework%20for%20assessing%20Alcohol%20Licensing%20Annual%20Report%202017\\_0.pdf](https://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/docforms/Public%20Health%20Framework%20for%20assessing%20Alcohol%20Licensing%20Annual%20Report%202017_0.pdf)

Central Hove ward consistently sits amongst other wards already covered by the special policy in the BHCC Statement of Licensing Policy suggesting that an extension to cover it and the specific problems relating to alcohol, including crime and disorder, would be beneficial.

## **Matrix approach in relation to café bars**

*The second proposal is regarding the café bar category as described in 3.3.3 of the SoLP and categorised in the matrix [\(see link to current SoLP where the matrix is shown on page 16\)](#).*

*The Council's Statement of Licensing Policy (SoLP) (paragraph 3.3.3) states:*

**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.*

*It is suggested that the term "café bars" to define this category of premises is misleading. Officers suggest the term "café" is more appropriate as essentially we are not talking about bars but small food led cafes or delis where alcohol is not the primary activity and the venues do not open late. It is also suggested adding notes to the matrix that this category is defined as "small food led establishments".*

*The Annual report shows an increase in café bars granted 2017/18 but a big decrease in pubs/clubs. There are considerably more pubs and restaurants in the City compared to café bars. As of March 2018 there were 323 Pubs, bars & nightclubs, 297 Restaurants and 89 café bars. [Please see link to Licensing Committee Report](#)*

*Concern has been raised about the increase in café bars granted in the CIZ. Resident's representations to licensing panels have highlighted issues of saturation of licensing premises in the CIZ, particularly the North Laine area, leading to an increase in public nuisance and Members have raised their concerns.*

*Therefore, it has been agreed to consult on whether to reduce the hours of café bars in the CIZ from the current 11.30pm to earlier in the evening.*

Q2a.

**Do you agree to the change of name from "café/bars" to "café" (notes to Matrix to be amended to "small food led establishment")?**

- ☒ Strongly agree
- ☐ Tend to agree
- ☐ Neither agree nor disagree
- ☐ Tend to disagree
- ☐ Strongly disagree
- ☐ Don't know / not sure



### **Police Comments:**

A café suggests a seated environment where food and drink are readily available and more of a coffee shop with an added small alcohol element. Currently Police Licensing would ask for the following conditions to be added to the licence to ensure this:

1. The sale of intoxicating liquor and other beverages shall be by waiter/waitress service for consumption by persons seated at tables and there will be no vertical drinking.
2. Substantial food shall be available at all times that alcohol is offered for sale on these premises.

Sussex Police would agree that the name café/bars is misleading for what is intended as an application under this category of the matrix. 'Bars' are more in keeping with a 'Pub' style environment where the emphasis is far more on the alcohol offering e.g. cocktails, beers etc than the food. The renaming to 'café' would provide more clarity on what BHCC is expecting under the matrix and that food should be the lead part of any premises of this nature. '*Small food led establishments*' would suggest that the premises applying would have significant kitchen facilities in order to be able to cook and prepare food.

Q2b.

**Do you agree or disagree with the proposal to reduced hours for café/bar category in CIZ to earlier in the evening?**

- ☐ Strongly agree
- ☐ Tend to agree
- ☐ Neither agree nor disagree
- ☒ Tend to disagree
- ☐ Strongly disagree
- ☐ Don't know / not sure

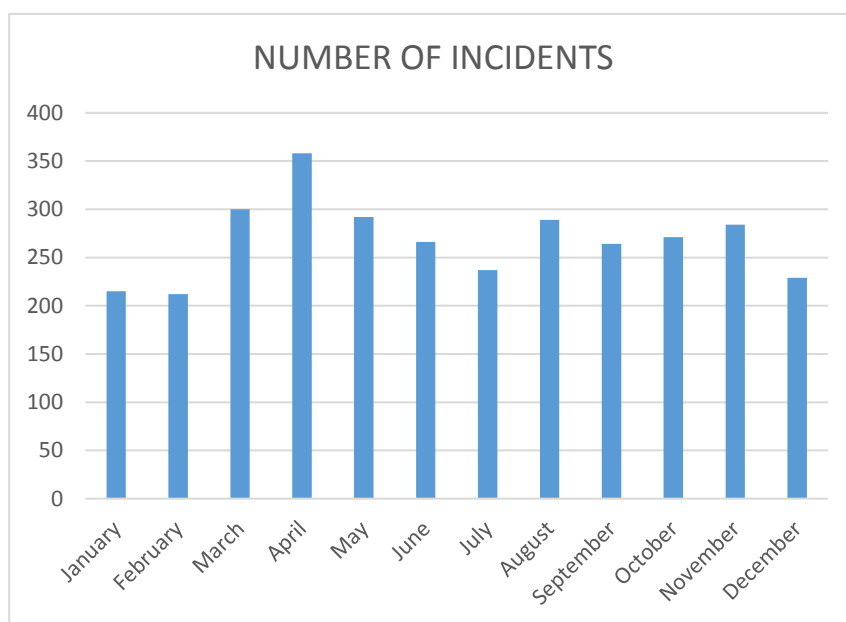
### **Police Comments:**

Sussex Police Licensing have reviewed data on their systems relating to premises types (broadly defined by the Matrix in the BHCC SoLP 2016). The following data is taken from the licensing recording system and is recorded by Licensing staff from 999 and 101 calls to police as well as crime reports and information received. An incident is only put on the record of the premises if it can be directly attributed to that premises. If it is a vicinity incident where the premises is used as a marker it will be described as such. Again, the accuracy of the figures are dependent on the consistency of staff entry. All data is for the period 1<sup>st</sup> January 2017 to 31<sup>st</sup> December 2017.

## Number of incidents in 2017

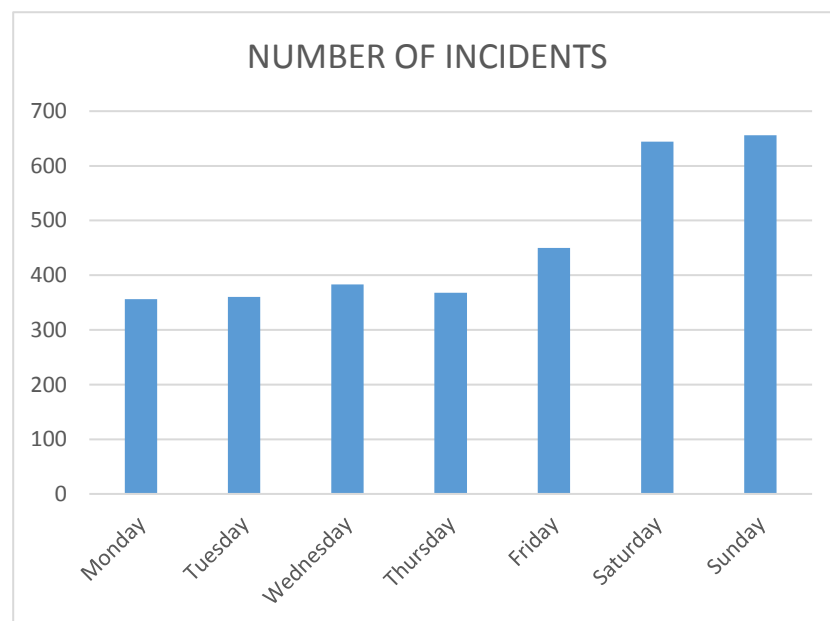
### Monthly breakdown

MONTH	NUMBER OF INCIDENTS
January	215
February	212
March	300
April	358
May	292
June	266
July	237
August	289
September	264
October	271
November	284
December	229
<b>TOTAL</b>	<b>3217</b>



### Weekly breakdown

DAY	NUMBER OF INCIDENTS
Monday	356
Tuesday	360
Wednesday	383
Thursday	368
Friday	450
Saturday	644
Sunday	656
<b>TOTAL</b>	<b>3217</b>



The majority of incidents occur at the weekends in the early hours of Saturday and Sunday morning.

### Incident breakdown by type of premises

Premises are defined by the conditions they have on their licence so a café bar will have seated consumption at tables with waiter/waitress service, restaurants will have alcohol ancillary to food etc

Highlighted in bold are the top 3 types of premises for average incidents as well as café bars.

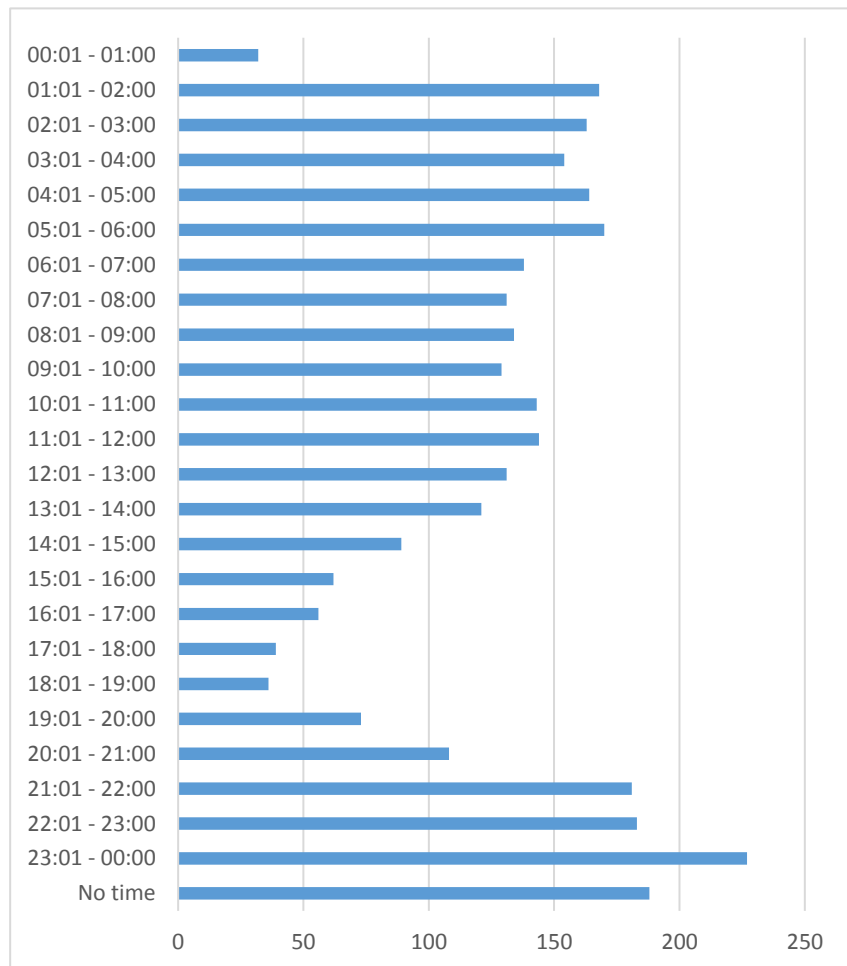
PREMISES TYPE	NUMBER OF INCIDENTS	NUMBER OF PREMISES	Average incidents per premises
<b>Pub/Bar</b>	1140	300	<b>3.8</b>
<b>Night Club</b>	686	27	<b>25.4</b>
<b>Supermarket</b>	297	32	<b>9.3</b>
Off licence	283	288	1
Residential/Hotel	212	76	2.8
Takeaway/Fast Food	163	120	1.4
Restaurant	130	317	0.4
Convenience Store	77	44	1.8
Other business (inc. SEV)	64	55	1.2
<b>Café/Café Bar</b>	48	137	<b>0.4</b>
<b>Petrol/Service Station</b>	34	9	<b>3.8</b>
Gaming Venue	30	14	2.1
Social/Sports Club & Grounds	21	68	0.3
Public Parks/Open Spaces	18	30	0.6
Theatre/Performance Venue	6	13	0.5
Community Centre	2	13	0.2
Religious Building	2	11	0.2
Retail Shop Other	2	18	0.1
B&B/Guesthouse	1	3	0.3
Club Premises	1	6	0.2
Educational Building	0	17	0
Farm/Brewery/Vineyard	0	3	0
Festival	0	1	0
Garden Centre	0	2	0
Holiday Venue	0	1	0
	3217	1605	

## Timings of incidents in 2017

For this only selected premises types were looked at so the total number of incidents considered reduces to 3164 as opposed to the whole years count of 3217.

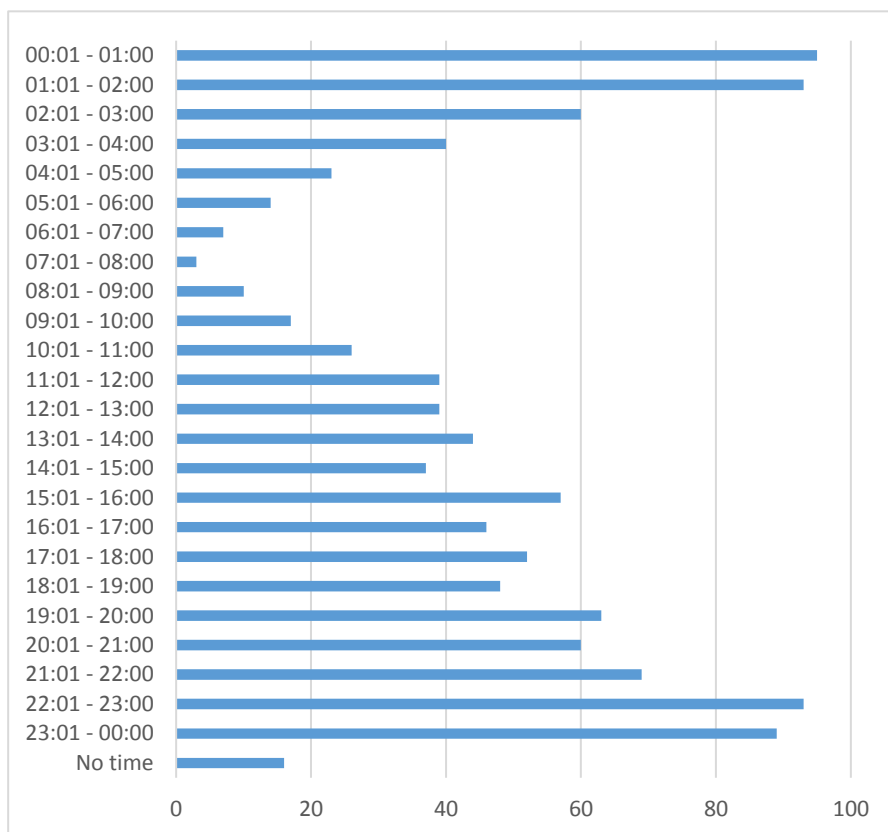
### Yearly timing breakdown

<b>Selected premises types</b>	<b>3164</b>
Timings	
No time given	188
23:01 - 00:00	227
22:01 - 23:00	183
21:01 - 22:00	181
20:01 - 21:00	108
19:01 - 20:00	73
18:01 - 19:00	36
17:01 - 18:00	39
16:01 - 17:00	56
15:01 - 16:00	62
14:01 - 15:00	89
13:01 - 14:00	121
12:01 - 13:00	131
11:01 - 12:00	144
10:01 - 11:00	143
09:01 - 10:00	129
08:01 - 09:00	134
07:01 - 08:00	131
06:01 - 07:00	138
05:01 - 06:00	170
04:01 - 05:00	164
03:01 - 04:00	154
02:01 - 03:00	163
01:01 - 02:00	168
00:01 - 01:00	32
	3164

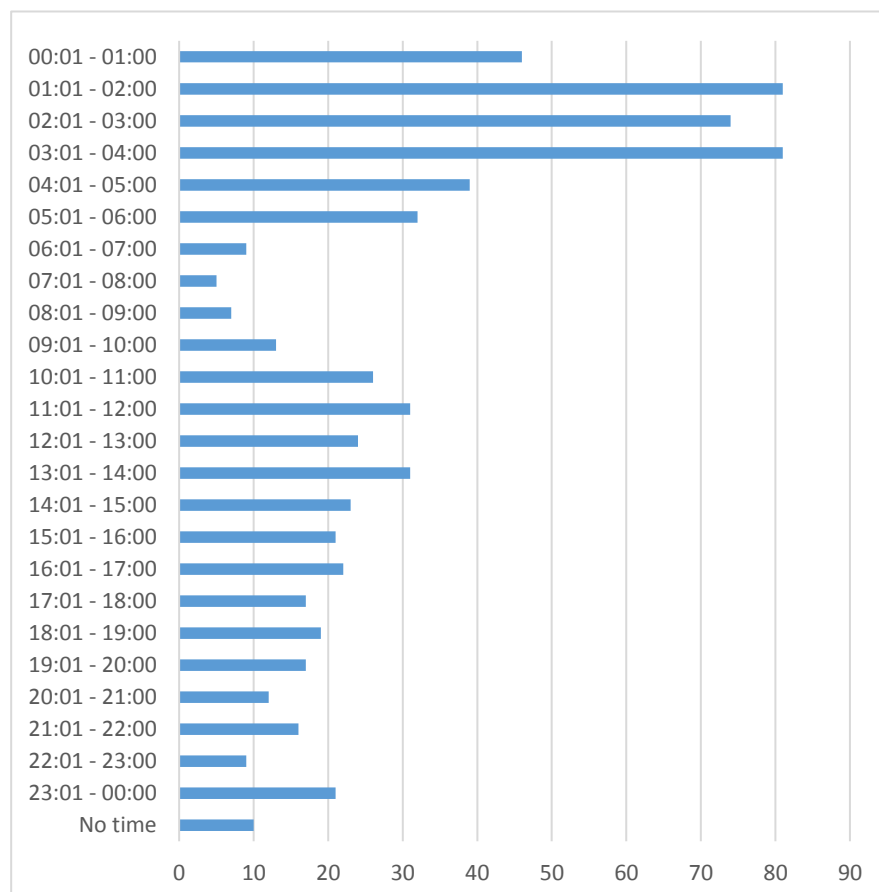


## Timing breakdowns by Premises Type (Top 4 for average incidents & Café bar)

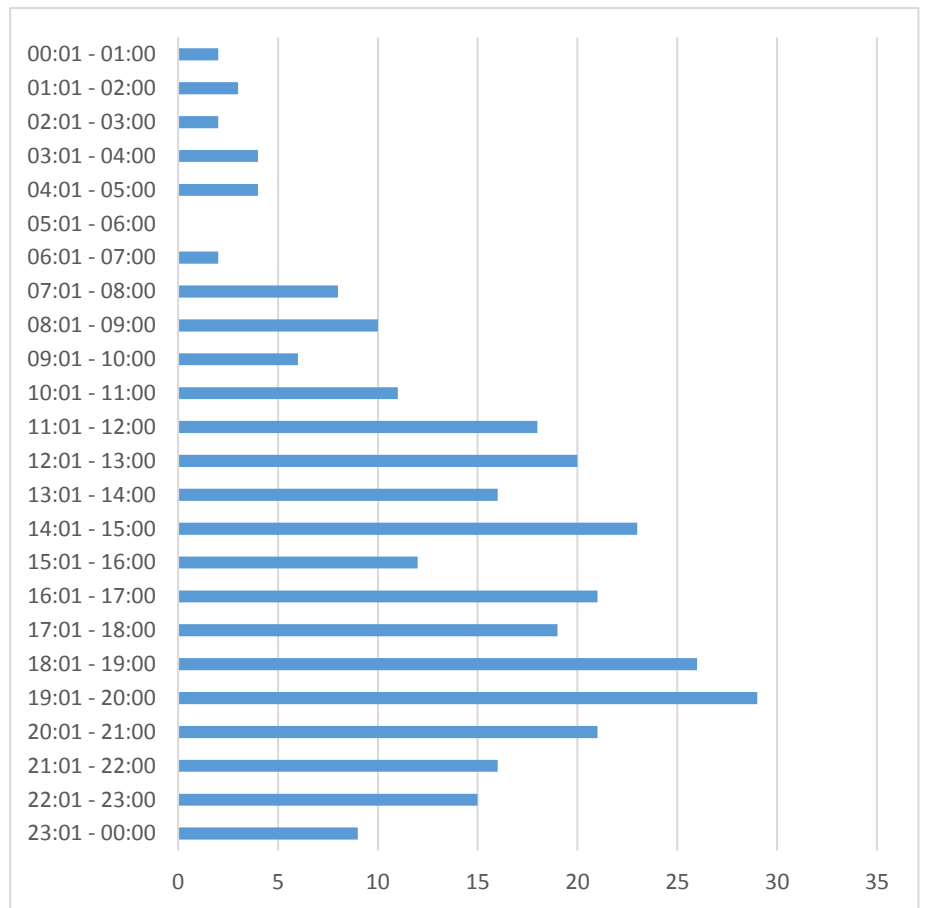
<b>Pub/Bar</b>	<b>1140</b>
No time given	16
23:01 - 00:00	89
22:01 - 23:00	93
21:01 - 22:00	70
20:01 - 21:00	60
19:01 - 20:00	63
18:01 - 19:00	48
17:01 - 18:00	52
16:01 - 17:00	46
15:01 - 16:00	57
14:01 - 15:00	37
13:01 - 14:00	44
12:01 - 13:00	39
11:01 - 12:00	39
10:01 - 11:00	26
09:01 - 10:00	17
08:01 - 09:00	10
07:01 - 08:00	3
06:01 - 07:00	7
05:01 - 06:00	14
04:01 - 05:00	23
03:01 - 04:00	40
02:01 - 03:00	61
01:01 - 02:00	93
00:01 - 01:00	95
	1140



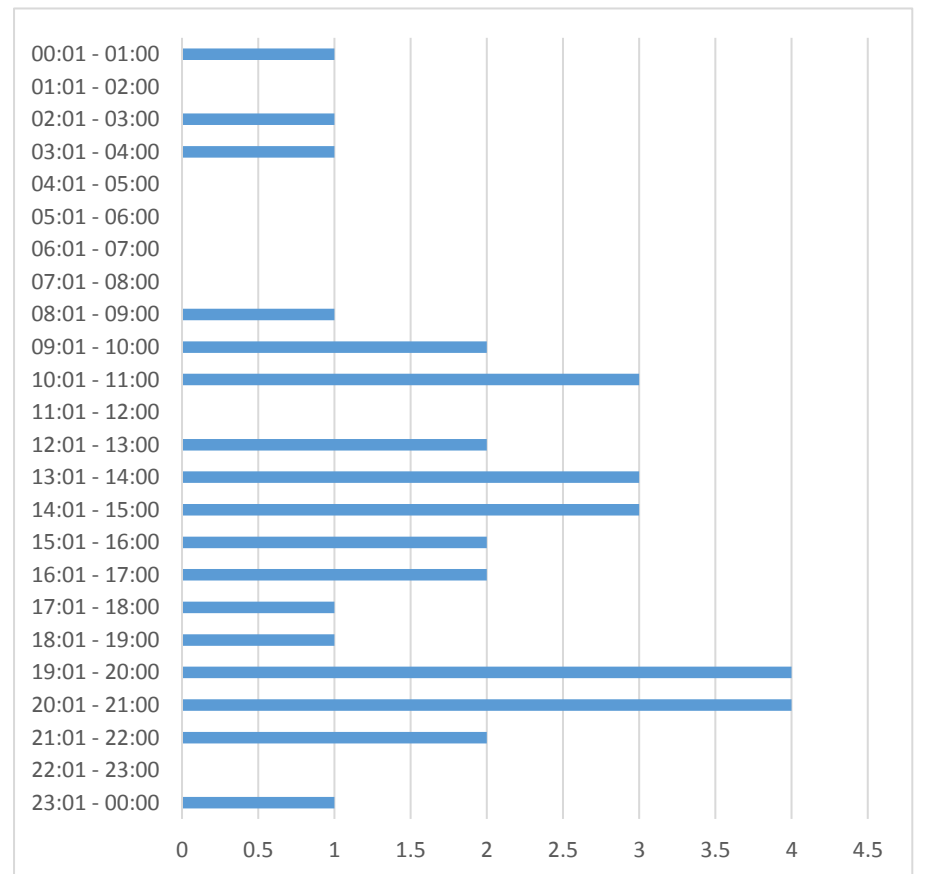
<b>Nightclub</b>	<b>686</b>
No time given	10
23:01 - 00:00	21
22:01 - 23:00	9
21:01 - 22:00	16
20:01 - 21:00	12
19:01 - 20:00	17
18:01 - 19:00	19
17:01 - 18:00	17
16:01 - 17:00	22
15:01 - 16:00	21
14:01 - 15:00	23
13:01 - 14:00	31
12:01 - 13:00	24
11:01 - 12:00	31
10:01 - 11:00	26
09:01 - 10:00	13
08:01 - 09:00	7
07:01 - 08:00	5
06:01 - 07:00	9
05:01 - 06:00	32
04:01 - 05:00	39
03:01 - 04:00	81
02:01 - 03:00	74
01:01 - 02:00	81
00:01 - 01:00	46
	686



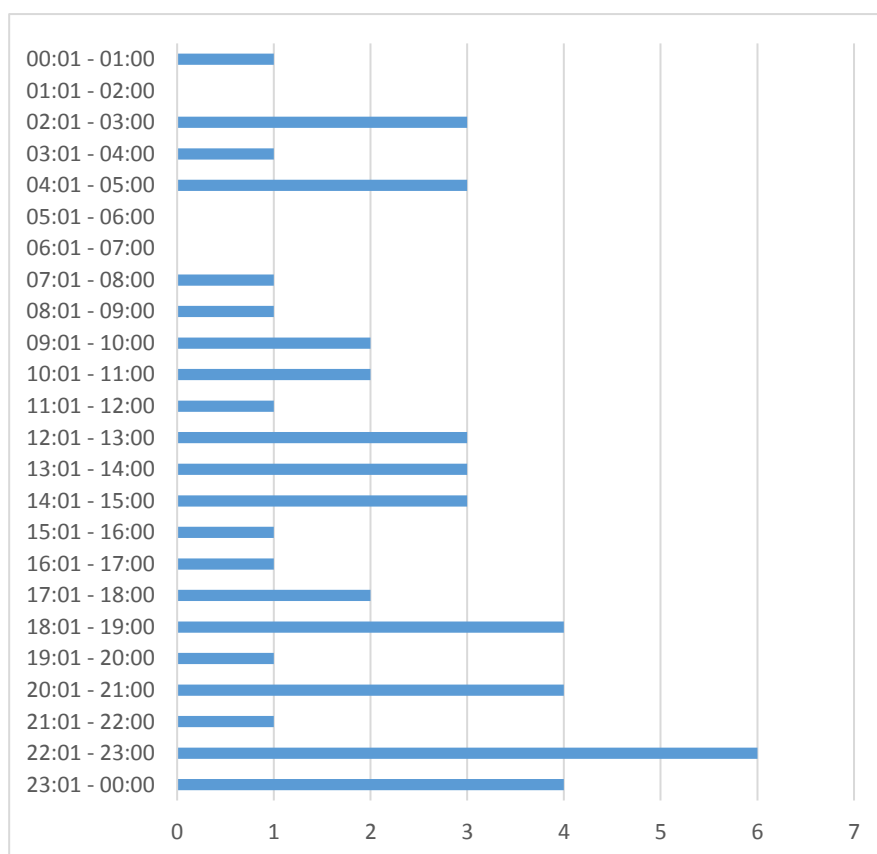
Supermarket	297
23:01 - 00:00	9
22:01 - 23:00	15
21:01 - 22:00	16
20:01 - 21:00	21
19:01 - 20:00	29
18:01 - 19:00	26
17:01 - 18:00	19
16:01 - 17:00	21
15:01 - 16:00	12
14:01 - 15:00	23
13:01 - 14:00	16
12:01 - 13:00	20
11:01 - 12:00	18
10:01 - 11:00	11
09:01 - 10:00	6
08:01 - 09:00	10
07:01 - 08:00	8
06:01 - 07:00	2
05:01 - 06:00	
04:01 - 05:00	4
03:01 - 04:00	4
02:01 - 03:00	2
01:01 - 02:00	3
00:01 - 01:00	2
	297



Petrol/Service Station	34
23:01 - 00:00	1
22:01 - 23:00	
21:01 - 22:00	2
20:01 - 21:00	4
19:01 - 20:00	4
18:01 - 19:00	1
17:01 - 18:00	1
16:01 - 17:00	2
15:01 - 16:00	2
14:01 - 15:00	3
13:01 - 14:00	3
12:01 - 13:00	2
11:01 - 12:00	
10:01 - 11:00	3
09:01 - 10:00	2
08:01 - 09:00	1
07:01 - 08:00	
06:01 - 07:00	
05:01 - 06:00	
04:01 - 05:00	
03:01 - 04:00	1
02:01 - 03:00	1
01:01 - 02:00	
00:01 - 01:00	1
	34



<b>Café/Café Bar</b>	<b>48</b>
23:01 - 00:00	4
22:01 - 23:00	6
21:01 - 22:00	1
20:01 - 21:00	4
19:01 - 20:00	1
18:01 - 19:00	4
17:01 - 18:00	2
16:01 - 17:00	1
15:01 - 16:00	1
14:01 - 15:00	3
13:01 - 14:00	3
12:01 - 13:00	3
11:01 - 12:00	1
10:01 - 11:00	2
09:01 - 10:00	2
08:01 - 09:00	1
07:01 - 08:00	1
06:01 - 07:00	
05:01 - 06:00	
04:01 - 05:00	3
03:01 - 04:00	1
02:01 - 03:00	3
01:01 - 02:00	
00:01 - 01:00	1
	48



It is worth noting that the incidents in the early hours for café bars consist of the following:

Timings	No. of Incidents	Incident description
22:01 - 23:00	6	D&D, THEFT X 2, CRIMINAL DAMAGE, INCIDENT IN VICINITY, HATE CRIME
23:01 - 00:00	4	BURGLARY (WHILE CLOSED), LICENCE BREACH, INFO RECEIVED, COMMON ASSAULT
00:01 - 01:00	1	LICENCE BREACH
01:01 - 02:00	0	
02:01 - 03:00	3	INCIDENT IN VICINITY, CRIMINAL DAMAGE (AFTER HOURS), LICENCE BREACH
03:01 - 04:00	1	INCIDENT IN VICINITY
04:01 - 05:00	3	LICENCE BREACH, CRIMINAL DAMAGE (AFTER HOURS) X 2
05:01 - 06:00	0	
06:01 - 07:00	0	

These are not incidents of ABH/GBH, sexual assault, anti social behaviour/noise or public order which would be of particular concern to Sussex Police.

Any licence breaches have been dealt with robustly. Burglaries and criminal damage have occurred after the Café bar premises has closed.

The incidents between 01:01-05:00 (7 in total) happened either after hours or in the vicinity of the premises or were breaches of the licence.

Therefore, Sussex Police do not currently hold evidence to support a reduction in the hours for café/bar category. Per defined café bar there were on average 0.4 incidents per premises in the year 2017 as opposed to 25.4 incidents per premises for night clubs and 3.8 for pubs/bars (the other main premises types which feature in the night time economy).

When looking closely at timings for these 3 premises types, the majority of incidents at pubs/bars peak between 22:00 and 02:00 and night clubs between 01:00 and 04:00. Café bars do not really see a significant peak as the amount of incidents are so small, the most being 6 between 22:00 and 23:00. Incidents occurring after 23:00 at café bars are not violent crimes or high levels of drunkenness/intoxication which is often what is being seen at pubs/bars and night clubs. Therefore, pubs/bars and night clubs pose a far greater risk of crime and disorder the later into the night time economy they remain open.



## **Public Health Response to consultation on Statement of Licensing Policy (SoLP) 2018**

### **Special Stress Area**

The Council, supported by Police Licensing, and local ward Councillor are proposing to extend the Special stress Area (SSA) (ref. 3.2 of the SoLP)) to cover Central Hove, to extend from the west side of Holland Road northwards/ intersection with the North side of Lansdowne Road, going westwards along Eaton Road/Blatchington Road to the junction and then south along Sackville Road down to the seafront ([see link for map of proposed extension](#)).

The SSA is defined as an area of concern to be monitored for levels of public nuisance and anti social behaviour (ASB). Applications in the SSA are expected to have a robust operating schedule with appropriate conditions. Unlike the CIZ there is no presumption of refusal. This proposal reflects the number of licensed premises in Church Road Hove, concerns which have been raised by residents and local Councillor in relation to the area, and the evidence from Public Health framework document. The proposal would also be consistent with the current SSA that acts as a buffer to the Cumulative Impact Zone (CIZ).

### **Question 1. Do you agree with the proposal to extend the SSA into Central Hove?**

Yes. To support potential applicants and others involved in the licensing application process, the Public Health Intelligence Team produces an annual report entitled “Public Health Framework for Assessing Alcohol Licensing”.

The framework provides information about a range of alcohol associated crime and disorder and health indicators. For each indicator the report ranks the ward by its position relative to the other 20 wards in the city (there are 21 wards in total).

As regards the crime and disorder indicators, in the most recent framework (4<sup>th</sup> edition October 2017) Central Hove is ranked the fifth worst for police recorded alcohol related incidents, the seventh worst for non-injury assault and the eight worst for both all violence against the person and for sexual offences. As for the health indicators Central Hove ward was ranked the third highest for alcohol specific admissions 2016–17, the fourth highest for both A&E attendances with

a record of alcohol and for alcohol related mortality 2013–15. The ward was ranked the fifth highest for alcohol suspected ambulance call outs and the eighth highest for clients in alcohol treatment.

Based on the above information it is clear that there is already considerable nuisance, crime and disorder from alcohol consumption in Central Hove and hence public health would support the extension of the Special Stress Area to include Central Hove.

### **Matrix approach in relation to café bars**

The second proposal is regarding the café bar category as described in 3.3.3 of the SoLP and categorised in the matrix ([see link to current SoLP where the matrix is shown on page 16](#)).

The Council's Statement of Licensing Policy (SoLP) (paragraph 3.3.3) states:

**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.

It is suggested that the term “café bars” to define this category of premises is misleading. Officers suggest the term “café” is more appropriate as essentially we are not talking about bars but small food led cafes or delis where alcohol is not the primary activity and the venues do not open late. It is also suggested adding notes to the matrix that this category is defined as “small food led establishments”.

The Annual report shows an increase in café bars granted 2017/18 but a big decrease in pubs/clubs. There are considerably more pubs and restaurants in the City compared to café bars. As of March 2018 there were 323 Pubs, bars & nightclubs, 297 Restaurants and 89 café bars. [Please see link to Licensing Committee Report](#)

Concern has been raised about the increase in café bars granted in the CIZ. Resident's representations to licensing panels have highlighted issues of saturation of licensing premises in the CIZ, particularly the North Laine area,

leading to an increase in public nuisance and Members have raised their concerns.

Therefore, it has been agreed to consult on whether to reduce the hours of café bars in the CIZ from the current 11.30pm to earlier in the evening.

## **Question 2**

- i) Do you agree to the change of name from “café/bars” to “café” (notes to Matrix to be amended to “small food led establishment”)?**

This would seem a reasonable change.

- ii) Do you agree with the proposal to reduced hours for café/bar category in CIZ to earlier in the evening?**

In general public health would support initiatives aimed at reducing the amount of alcohol available across the city. Reducing the times during which cafes could serve alcohol to their customers would most probably contribute to this. However, what is not clear is whether licensed cafes encourage moderate drinking in the evenings by their clientele who might otherwise go to pubs and bars.

**If you do agree, what time do you consider would be appropriate and why?**



1. Question 1. Do you agree with the proposal to extend the SSA into Central Hove?

Yes I agree whole heartedly

2. Dear Sir/Madam,

I'd just like to register my support for the to support the western extension of the Special Stress Area from Holland Road to Sackville Road.

I live in Fourth Avenue, Hove and the street drinkers can be aggressive at times so this will hopefully help.

3. To whom it may concern,

I feel strongly that the licensing restrictions imposed to the East of Holland Road should also be applied to the stretch of Church Road to the West as far as Grand Avenue.

My reasoning is that we have reached virtual saturation point already in the whole length of western Road/Church Road, which runs through a very densely populated residential area, unlike West Street and adjoining roads in the City Centre.

I can tell you that where I live, just off Western Road in Brunswick, this has an extremely detrimental effect upon one's ability to enjoy the human right of a good night's sleep as a result of constant noise from night-time revellers travelling to, from and between the many late-night establishments, whether licensed or not to sell alcohol.

Enough is enough.

4. Dear Mr Whitelegg,

I have received an email from my Daughter in law, xxxxxxxxxx, who looks after my interests in Hove/Brighton, she is also a resident of Fourth Avenue. There are enormous concerns locally I know, as I have a private property in Seafield, and I know the work done by her and residents to address the anti social problems that people are living with there, a lot of it driven by easily obtained alcohol, drugs and hostels that seem to have endless problems. It all seems that the local residents, and taxpayers have to shoulder any situation, and I know that there has been endless contact with the agencies who should be in control and are quite obviously not.

I am strongly in favour of reducing the hours of licensing, the anti social abuses in the area are having a massive impact on local residents, and it seems crazy to me that yet another establishment will fuel an already very worrying situation.

So I am voicing my objection to more licences being granted, and feel that the hours of legal sales should be reduced.

It seems to me that the voices of the local people are not being heeded, and that the problem with hostels being in the heart of residential accommodation, families feeling and fearing anti social behaviour on their doorsteps daily, would be magnified by a lack of control.

Thank you for your time,

Yours sincerely,



# Brighton & Hove City Council Consultation – Review of Statement of Licensing Policy – July 2018



**The British Beer & Pub Association is the UK's leading organisation representing the brewing and pub sector.**

Our members account for some 90 per cent of beer brewed in Britain today, and own around 20,000 of the nation's pubs. A full list of our members can be found [here](#).

Our members operate pubs across the UK and, as such, are impacted by national and local licensing issues. We welcome the opportunity to respond to this consultation and our views are set out below.



## Introduction

The British Beer & Pub Association is the UK's leading organisation representing the brewing and pub sector. Our members account for 90% of the beer sold in the UK and own around 20,000 of Britain's pubs.

The pub plays a vital role in community cohesion and social life in Britain. They remain one of the few places where communities can come together to socialise. The British pub has been part of people's lives for hundreds of years. First and foremost, they are businesses which serve their local communities and contribute much to the social life of each and every community. The pub sector has enormous potential to generate economic growth and create jobs. It can also play an important part in local regeneration projects and has been at the heart of the regeneration of many of our key towns and cities over the last fifteen years. A major study undertaken by Oxford Economics in 2018 clearly identifies the significant local impact of brewing and pubs. Currently over £1.5 billion is invested in the pub sector per annum. Indeed, pubs are labour-intensive businesses so this investment directly correlates to jobs. Pubs employ 600,000 people across the UK, often providing vital work in small towns and villages. Indeed, 45% of those employed in the sector are aged 16-24 providing a vital route to work and first career-step for many young people.

Across Britain, 30 million people visit Britain's pubs each month, with over 15 million people drinking beer.

## BBPA's Concerns and Objections to the Proposed Extension of the "Special Stress Area" (SSA)

We note that the explanation provided by the Council for the proposed extension is:

"The SSA is defined as an area of concern to be monitored for levels of public nuisance and anti-social behaviour (ASB). Applications in the SSA are expected to have a robust operating schedule with appropriate conditions. Unlike the CIZ there is no presumption of refusal. This proposal reflects the number of licensed premises in Church Road Hove, concerns which have been raised by residents and local Councillor in relation to the area, and the evidence from Public Health framework document. The proposal would also be consistent with the current SSA that acts as a buffer to the Cumulative Impact Zone (CIZ)."

We are concerned that the extension of the SSA to cover Central Hove is being proposed without a proper examination of either the current effectiveness in Central Brighton (where there is already a SSA in place), or presentation of a robust justification for the extension itself. In particular there is an absence of evidence that considers the impact of it on the late-night economy and, by direct link, the retail economy generally.

A licensing authority should only adopt, or extend, a SAA if there is evidence that a significant number of licensed premises concentrated in one area is causing an impact on one or more of the licensing objectives.

The Council recognises that any decision to extend the SAA must be evidence-based. By the same token, if there is no evidence it should not be extended. The Licensing Committee minutes (notably March 2018 and June, including the paper supporting Agenda Item 9 of the June 2018 meeting) do not set out the case or the evidence for extending the SSA. No other evidence has been presented by the Council in its consultation to support the proposed extension.

Equally, the consultation does not provide any information about:

- The basis upon which has the geographic boundaries of the SSA have been determined or the criteria used to define the proposed area;
- The criteria that the Council will use when deciding upon licensing applications or variations within the proposed SSA;
- The framework of the measures that applicants will be expected to address if they are located within the SSA;

- How the impacts within the SSA will be monitored (e.g. which indicators will be used).

We note that the Council's intention is to present any evidence collected via this consultation to the Licensing Committee, but failure to present that evidence to a wider audience removes the opportunity for interested parties to comment upon or challenge that evidence.

In offering an opinion, the BBPA would confirm that as noted in the Introduction above, pubs have many beneficial effects, both societal and economic, for the communities in which they are located. Un-evidenced extension of the SSA could limit these benefits and particularly investment potential and the associated job creation.

In the absence of evidence and a case supported by that evidence, we feel that the Council does not have the basis for extending the SSA. On that basis the BBPA objects to the extension of the SSA.

**BBPA contact re this response:**

**Andrew Green, Policy Manager – Pub Operations**

**[agreen@beerandpub.com](mailto:agreen@beerandpub.com) / 0207 627 9144**

How are you responding to this consultation.			
		Responses	Perecent of respondents
	Local resident	54	74.0%
	Visitor to the city	4	5.5%
	As a representative of a local business	10	13.7%
	As a representative of a local community or voluntary group	8	11.0%
	As a representative of a stakeholder group	1	1.4%
	Licence holder	1	1.4%
Total		78	106.8%
Base: All respondents (n=73)			

Q1. Do you agree or disagree with the proposal to extend the SSA into Central Hove?								
		How are you responding to this consultation.						All respondents
		Local resident	Visitor to the city	As a representative of a local business	As a representative of a local CVS group	As a representative of a stakeholder group	Licence holder	
	Strongly agree	30	1	0	7	0	1	37
		55.6%	25.0%	0.0%	87.5%	0.0%	100.0%	51%
	Tend to agree	15	2	3	1	0	0	19
		27.8%	50.0%	30.0%	12.5%	0.0%	0.0%	26%
	Neither agree nor disagree	2	0	1	0	0	0	3
		3.7%	0.0%	10.0%	0.0%	0.0%	0.0%	4%
	tend to disagree	2	0	3	0	1	0	5
		3.7%	0.0%	30.0%	0.0%	100.0%	0.0%	7%
	Strongly disagree	5	1	3	0	0	0	9
		9.3%	25.0%	30.0%	0.0%	0.0%	0.0%	12%
Total		54	4	10	8	1	1	73

**Q2. Do you agree to the change of name from “café/bars” to “café”?**

		How are you responding to this consultation.						All respondents
		Local resident	Visitor to the city	As a representative of a local business	As a representative of a local CVS group	As a representative of a stakeholder group	Licence holder	
	Strongly agree	20	3	0	8	0	1	29
		37.0%	75.0%	0.0%	100.0%	0.0%	100.0%	40%
	Tend to agree	14	0	2	0	0	0	16
		25.9%	0.0%	20.0%	0.0%	0.0%	0.0%	22%
	Neither agree nor disagree	7	0	3	0	0	0	9
		13.0%	0.0%	30.0%	0.0%	0.0%	0.0%	12%
	tend to disagree	6	0	0	0	0	0	6
		11.1%	0.0%	0.0%	0.0%	0.0%	0.0%	8%
	Strongly disagree	5	1	5	0	1	0	11
		9.3%	25.0%	50.0%	0.0%	100.0%	0.0%	15%
Don't know / not sure	2	0	0	0	0	0	2	
	3.7%	0.0%	0.0%	0.0%	0.0%	0.0%	3%	
Total		54	4	10	8	1	1	73

**Q3. Do you agree or disagree with the proposal to reduced hours for café/bar category in CIZ to earlier in the evening?**

		How are you responding to this consultation.						All respondents
		Local resident	Visitor to the city	As a representative of a local business	As a representative of a local CVS group	As a representative of a stakeholder group	Licence holder	
	Strongly agree	21	1	3	5	0	0	29
		40.4%	25.0%	30.0%	62.5%	0.0%	0.0%	40%

Tend to agree	11	0	0	1	0	0	12
	21.2%	0.0%	0.0%	12.5%	0.0%	0.0%	16%
Neither agree nor disagree	3	0	0	1	0	1	3
	5.8%	0.0%	0.0%	12.5%	0.0%	100.0%	4%
tend to disagree	6	2	1	0	0	0	9
	11.5%	50.0%	10.0%	0.0%	0.0%	0.0%	12%
Strongly disagree	10	1	6	1	1	0	17
	19.2%	25.0%	60.0%	12.5%	100.0%	0.0%	23%
Don't know / not sure	1	0	0	0	0	0	1
	1.9%	0.0%	0.0%	0.0%	0.0%	0.0%	1%
Total	52	4	10	8	1	1	71

<b>Q3b. All who agree with a reduced hours for café/bar. What time do you consider would be appropriate and why?</b>
10;30pm or later if consideration is given to residential areas regarding noise.
10:00 PM
10;30pm or later if consideration is given to residential areas regarding noise.
10:00 PM
10pm is a good time as people can eat by then and won't be drunk
10pm is more acceptable as less chance of mixing with pub customers
10pm when food is generally finished in cafes
10pm would be appropriate for those dining - as well as those drinking. The later it is open, the more drunk people may get and the louder they may shout going home and disturb local residents.
10pm would be late enough if these are genuinely cafe/bars rather than bars
10pm. Ties in with pubs not allowing outside drinking after that time.
11.30
11pm
11pm
11pm
11pm so that people have dispersed in surrounding streets by 11.30...
11pm. Customers don't leave as soon as the outlet stops serving and the outlet continues to be 'at work' long after the last customer has left, cleaning and clearing up. Last service at 11pm limits the likelihood of activity at the premises still going on after midnight.
21:00
22:00 so people are not disturbed with noise and groups dispersing

22.00 is late enough.this would give small bars a chance of survival
22.00.
22.30. A business that is ostensibly a cafe does not need to be open past that time.
7 pm. Most cafes serve food during the daytime period and evening extensions appear to be designed to circumvent alcohol restrictions
8 pm This would allow cafes to operate into the evening, but not all evening.
8pm - this reflects the fact that they are not bars.
9:00pm. Any later and these cafes will become drinking establishments.
9.30 pm
9/10, after that people would be drinking rather than eating....
9pm - there are plenty of other establishments in the area where people can purchase alcohol after this time.
Closure at 11pm
I would suggest 9pm latest. Any later time means that the establishment is really a 'Restaurant', not a Cafe. There needs to be a clearer definition of what constitutes a Cafe and what constitutes a Restaurant, especially if both have licences to serve alcohol with their food. On a separate but related point, you need to find a way of better defining "substantial" food. I see possible wriggle room here for establishments really wanting to focus more on selling alcoholic beverage than on providing food.

<p>i) Do you agree to the change of name from 'café/bars' to 'café' notes to Matrix to be amended to 'small food led establishment'? I do agree with the change in name. The rise in café bars in the city has been caused in part by applicants using the café bar designation to sell alcohol when they would not be able to get a pub licence. This rise has facilitated the rise in the number of café bars so that the CIZ in some areas (North Laine) is saturated with licensed premises. This term first used by local residents is now used by Councillors on the Licensing Panel to describe the situation in North Laine and also as part justification to refuse applications. In addition to the name change, I would welcome a tightening up of the conditions in 3.3.3. Tables should not include the bar. A definition of 'substantial food' should be provided. My dictionary (Chambers) defines substantial as 'considerable in amount' or 'nourishing' in relation to food. Many café bars have been given licences although they do not sell 'substantial' food as defined by a dictionary. I don't believe the Council should be providing its own definition or ignoring this condition. ii) Do you agree with the proposal to reduced hours for café/bar category in CIZ to earlier in the evening? The CIZ is an area where the concentration of licensed premises is 'causing problems of crime and disorder'. The Licensing Panel has described areas of the city centre (particularly North Laine) as being saturated with licensed premises. The Government's Alcohol Strategy, 2012, makes it quite clear in section 3.7 that 'there is evidence of a clear link between the number of venues selling alcohol in one area and levels of harm, whether this is crime, damage to health, or harm to young people'. The Council's own 'Health Impact Assessment' 2009 made a number of pertinent points about the increase in licensed premises and the increase in the availability of alcohol. Is it not time that the Council consider in the face of all this evidence, putting a limit on the number of licensed premises and not granting any further alcohol licences in the CIZ. If areas of the city centre are saturated with licensed premises, and the concentration of licensed premises causes problems, why do we continue to grant licences? If the Council continues to grant café bar licences even in the CIZ then such areas will be well and truly inundated with café bars. Not only does this have an adverse impact on anti-social behaviour, it changes the character of the area. At the very least you could consider limiting the number to be found in any one street (eg no more than 10% of the properties), in the same way that the Council attempts to limit the spread of HMOs. In the Council's Scrutiny Panel on Alcohol, it was noted that 'all cafes will want to sell alcohol soon, which we note is already causing concern in the community'. In the Panel's list of recommendations was included the recommendation that the definition of residential or commercial area be reviewed and that the hours of sale be likewise reviewed. Section 7.16 If you do agree, what time do you consider would be appropriate and why? The Scrutiny Panel noted that many cafes were asking for café bar conditions. Such cafes probably closed at 6pm before becoming café bars. Certainly in North</p>
<p>If in a residential area, 10.30pm is late enough.</p>
<p>It may seem arbitrary but 10pm would seem to be a realistic cut off for an evening meal, and would allow those wanting to drink to move to 'pubs'.</p>
<p>It should be discussed.</p>
<p>Most people use a cafe during the day Either on way to work to pick up breakfast and if time sit and eat their breakfast. Then lunchtime and after noon tea and maybe a bite to eat. So good time 7am through until 7pm.</p>

Traditionally, cafes in North Laine have always closed at 6pm; most still do. Starbucks in Jubilee Street and Costa in Bond Street (chains) close at 8pm. If people require food and/or coffee after this time, nearly all the reputable pubs supply bespoke coffee and substantial food until late in the evening. Examples are Weatherspoons in North Street/corner of Bond Street who supply food and coffees until 10pm for food, and coffee is offered at Â£1.90 unlimited for the whole of the day and evening. The Dorset Arms in Gardner Street, and the Nelson in Trafalgar Street sell food and coffee until late in the evening. We believe there is no need for additional licensed outlets as the general public is well served for food and coffee by the existing high number of licensed outlets in North Laine. The problems that have arisen with caf  /bars (apart from the saturation throughout the city) is that although many of them were granted licences on the grounds that they sold substantial food, served at tables, unfortunately licences were granted where applicants could serve just a plate of olives â   justified as substantial food. In effect, they are bars, and can stay open until 11.30pm which has resulted in increased disturbance in the area. We therefore agree with the proposal to reduced hours for the cafe/bar category in CIZs and would suggest 10pm. We agree to the change of name from caf  /bars to caf   (notes to Matrix to be amended to â  small food led establishmentâ  ) with a closing time of 6pm. This will differentiate between cafes and restaurants. With closing time for cafes at 6pm, cafe/bars for 10pm and pubs 11 - midnight creates an improved balance in opening hours. There are 72 licensed premises in North Laine. Three have 24hrs licences. In 2005 there were 20 (mostly pubs).

Up to 8 pm at latest. To avoid noise and to tie in with parking restrictions thereby to try to keep parking spaces in north Laine for residents who are paying increasingly more for permits but having fewer spaces. If cafe bar times extended people can drive to area and park in resident bags after 8 pm



### 3.3 The Matrix Approach

#### The Licensing Authority will support:

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

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

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

	<b>Cumulative Impact Area</b>	<b>Special Stress Area</b>	<b>Marina</b>	<b>Other Areas</b>
<b>Restaurant</b>	Yes (midnight)	Yes (midnight)	Yes	Yes (midnight)
<b>Café <del>bar</del></b>	Yes (10pm)	Yes (midnight)	Yes	Yes (midnight)
<b>Late Night Takeaways</b>	No	Yes (midnight)	Yes	Yes (midnight)
<b>Night Club</b>	No	No	Yes	No
<b>Pub</b>	No	Yes (11pm)	Yes	Yes (midnight)
<b>Non-alcohol lead (eg Theatre)</b>	Yes (favourable)	Yes (favourable)	Yes	Yes (favourable)
<b>Off-licence</b>	No	No	Yes	Yes (Up to 11pm but if in densely residential area may be earlier – see note 8 below)
<b>Members Club (club premises certificate)</b>	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes	Yes

Notes on matrix

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

- 1) Each application will be considered on individual merit
- 2) Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.
- 3) Departure from the matrix policy is expected only in exceptional circumstances
- 4) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
- 5) Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to off set impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts).
- 6) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.
- 7) Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or café bars, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing and the Street Community and Drug Activity Profile. These documents are available on the following page of our website [www.brighton-hove.gov.uk/licensingact](http://www.brighton-hove.gov.uk/licensingact).
- 8) In an area where there are already several existing off-licences and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds.
- 9) Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The Licensing Authority will have regard to Noise Council guidance.

3.3.3 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.

3.3.4 Restaurants - the licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following restaurant condition.

- Intoxicating liquor shall not be supplied or sold on the premises otherwise than to persons taking table meals there and for the consumption by such a person as an ancillary to their meal. There will be no vertical drinking.
- 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.



# **LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)**

**Agenda Item 19**  
Brighton & Hove City Council

<b>Subject:</b>	<b>Gambling Act 2005 – Review of Gambling Policy 2019-21</b>		
<b>Date of Meeting:</b>	<b>29 November 2018</b>		
<b>Report of:</b>	<b>Director of Neighbourhoods, Communities and Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jim Whitelegg, Regulatory Services (Licensing &amp; Trading Stds) Manager</b>	<b>Tel: 29-2438</b>
	<b>Email:</b>	<b>Jim.whitelegg@brighton-hove.gcsx.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

## **FOR GENERAL RELEASE**

### **1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The Gambling Act 2005 requires Licensing Authorities to prepare, every three years, a statement (also known as a Policy) of the principles which they propose to apply when exercising their functions, and they must publish the statement following the procedure set out in the Act, including whom they should consult.

### **2. RECOMMENDATIONS:**

- 2.1 That members approve the final version of the Statement of Gambling Policy (see Appendix 1)
- 2.2 That the final Statement of Gambling Policy is presented to Full Council.

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

- 3.1 On 28 June 2018, Licensing Committee received a report and asked officers to initiate consultation regarding a review of the council's revised Gambling Policy.
- 3.2 Brighton & Hove's gambling policies and practices has been highlighted by the Gambling Commission as an examples of good practice, in

particular the work and links developed with Public Health to tackle gambling related harm.

- 3.3 As a result of the comprehensive review in 2016, where Licensing officers, in conjunction with colleagues from the Public Health analyst team re-wrote the Gambling Statement of Principles, it is not proposed that this statutory review will incorporate any major changes.

#### **4. CONSULTATION**

- 4.1 Consultation commenced on 23<sup>rd</sup> July 2018 and lasted 2 months, closing on the 17<sup>th</sup> September 2018.
- 4.2 Prior to consultation the following changes around increasing awareness of mental health issues and concerns about the use of privacy booths have been identified:
- Operators should make information publicly available via leaflets, etc about organisations that can provide advice and support, both in relation to gambling itself, to debt and mental wellbeing, e.g. GamCare, Gamblers Anonymous, Gordon House Association, National Debtline, local Citizens Advice Bureaux, Samaritans and independent advice agencies (para.12.7 of report).
  - Mental health is of particular concern locally. When compared with our benchmark partners Brighton and Hove has the highest percentage of patients with long term mental health problems, and also the highest percentage of patients with depression and anxiety (para.13.13).
  - Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times. The Licensing Authority has concerns that the use of gaming machines in privacy booths may prevent adequate supervision and protection of vulnerable persons and problem gamblers. The Licensing Authority seeks to discourage the use of privacy screens (para.21.6).

The revised statement of gambling policy was sent to statutory consultees and was available on the council's website and consultation portal. In addition, Licensing Strategy Group, the city LATs (Local Action Teams), BID, B&H Economic Partnership and Brilliant Brighton were consulted.

- 4.3 A total of 2 responses were received, 1 from local residents and 1 from Gambling Commission:

*Consultation responses via letter, email and consultation portal*

From:	Response:	Whether accommodated or reasons not:
Local Resident	As much information should be available also to ensure people don't start borrowing money that's difficult to pay back. Leaflets should be refreshed on a regular basis as there's no point in putting them in once then letting them run out.	Support for current policy
Gambling Commission	Whilst there is no statutory requirement for licensees to share their risk assessments with responsible authorities or interested parties, ordinary code 10.1.2 states that licensees should share their risk assessment with licensing authorities on request as best practice. We therefore consider it appropriate for operators to hold premises risks assessments on premises. Doing so can also save considerable time and expense, as well as increasing the confidence of those agencies as to the operator's awareness of their obligations.	Paragraph added to policy (ref. para 13.18)

4.4 Before the revised "Statement of Gambling Policy", comes into effect the local authority is required to publish the Statement of policy on the Council's website, and make it available for inspection at one or more public libraries for a period of at least 4 weeks before the date on which it will come into effect. The authority must also publish a notice of its intention to publish a statement no later than the first day on which the statement is published. The notice must:

- a) Specify the date on which the statement is to be published
- b) Specify the date on which the statement will come into effect
- c) Specify the internet address where the statement will be published and the address of the premises at which it may be inspected, and
- d) Be published on the authority's website and in or on one or more of the following places:
  - A local newspaper circulating in the area covered by the statement
  - A local newsletter, circular or similar document circulating in the area covered by the statement
  - A public notice board on or near the principal office of the authority's public notice board on the premises of public libraries in the area covered by the statement.

4.5 The timetable is as follows:

- Licensing Committee 29 November 2018
- Full Council **XX** December 2018

- Advertised and published during December 2018
- January 2019 Revised Statement comes into effect

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

### **5.1 Financial Implications:**

There are no financial implications arising from the production of this statement, as licensing fees are set at a level that will be cost neutral to the licensing authority.

Finance Officer Consulted: Michael Bentley

Date: 12/10/18

### **5.2 Legal Implications:**

Local authority responsibilities include: upholding licensing objectives, publishing a three year licensing policy, determining applications for premises licences and regulating members clubs – club gaming and machine permits. The Licensing Committee established under section 6 of the Licensing Act 2003 has authority to exercise functions under the Gambling Act 2005 with the exception of: a resolution not to issue casino licences, the three year licensing policy (full council) and setting fees.

Lawyer Consulted: Rebecca Sidell

Date:

### **5.3 Equalities Implications:**

Protecting children and other vulnerable persons from being harmed or exploited by gambling is one of the licensing objectives. The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. “Vulnerable persons” will not be defined but for regulatory purposes the assumption is that this group includes people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. Operators should encourage where appropriate, strategies for self help and provide information on organisations where advice and help can be sought.

With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments.

### **5.4 Sustainability Implications:**

None.



5.5 Crime & Disorder Implications:

Gambling Commission inspectors have the main enforcement/compliance role. The police and licensing authority officers have powers of entry and inspection.

5.6 Risk and Opportunity Management Implications:

Gambling licensing objectives are:

- a) Preventing gambling from being a source of crime and disorder, being associated with crime and disorder, or being used to support crime
- b) Ensuring gambling is conducted in a fair and open way
- c) Protection children and other vulnerable persons from being harmed or exploited by gambling.

5.7 Corporate/Citywide Implications:

Licensing authorities licence all gambling premises in the city: casinos, bingo, betting, tracks, adult gaming centres, family entertainment centres as well as administering notices and granting gaming permits.

## SUPPORTING DOCUMENTATION

Appendix A      Proposed statement of Gambling policy

Documents in Members' Rooms

None

Background Documents

None

Documents In Members' Rooms:

None

Background Documents:

None

# Gambling Policy (Statement of Principles) 2019 – 2021

Gambling Act 2005

**Further copies of this document can be obtained from:**

Licensing Team  
Brighton & Hove City Council  
Bartholomew House  
Bartholomew Square  
Brighton  
BN1 1JP

Tel: 01273 294429

Email: [Ehl.safety@brighton-hove.gov.uk](mailto:Ehl.safety@brighton-hove.gov.uk)

Web: <http://www.brighton-hove.gov.uk/content/business-and-trade/licensing-and-gambling>

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## Executive Summary

The Gambling Act 2005 obtained Royal Assent in 2005 and came into effect in 2007.

Under Section 349 of the Gambling Act 2005, the Licensing Authority is required to prepare a statement of principles that they propose to apply in exercising their functions under this Act. This process is to be repeated every three years from 31<sup>st</sup> January 2007.

The consultation process is laid out clearly in the Gambling Act 2005, the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 and the Guidance to Licensing Authorities issued by the Gambling Commission ([www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)).

The purpose of the Statement of Licensing Policy is to set out the principles that the Council propose to apply when determining licences, permits and registrations under the Gambling Act 2005.

Any decision taken by the Council in regard to determination of licences, permits and registrations should aim to permit the use of premises for gambling in so far as it is reasonably consistent with the licensing objectives, which are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Ensuring gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The principles to be applied specifically to the determination of premises licence applications include definition of premises, location, duplication with other regulatory regimes, conditions, door supervision, layout of the premises and supervision of gaming facilities. The policy also specifically mentions adult gaming centres, family entertainment centres, casinos, bingo premises, betting premises, tracks and travelling fairs.

The Council has the ability to issue permits for prize gaming and unlicensed family entertainment centres. The Council is able to specify the information it requires as part of the application process which will aid determination and this information is described in this Policy.

Club gaming and club machine permits are also issued by the Council. The process for this is described, along with other processes specified in the legislation for example temporary use notices, occasional use notices and small society lotteries.

Enforcement of the legislation is a requirement of the Act that is undertaken by the Council in conjunction with the Gambling Commission. The policy describes the Council's enforcement principles and the principles underpinning the right of review.

The policy has three appendices, describing the stakes and prizes which determine the category of a gaming machine, a glossary of terms and exempt gaming in pubs and clubs.

## Part A The Gambling Act 2005

### 1. The licensing objectives

- 1.1. Under the Gambling Act 2005 (the Act) Brighton and Hove Council is the licensing authority responsible for licensing premises for gambling activities as well as granting various other gambling permits. In this document, unless otherwise stated, any references to the Council are to the Brighton and Hove Licensing Authority.
- 1.2. The Council will carry out its functions under the Act with a view to aiming to permit the use of premises for gambling in so far as it is reasonably consistent with the three licensing objectives set out at Section 1 of the Act. The licensing objectives are:
  - preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - ensuring that gambling is conducted in a fair and open way;
  - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.1. More information can be found about how the Council will achieve this in Part B and Part C of this document.
- 1.2. The Council will follow any regulations and statutory guidance issued in accordance with the Act and will have regard to any codes of practice issued by the national gambling regulator, the Gambling Commission.
- 1.3. The Council is aware that in making decisions about premises licences, it should aim to permit the use of premises for gambling in so far as it thinks it is:
  - in accordance with any relevant code of practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission
  - reasonable consistent with the licensing objectives, and
  - in accordance with this document.
- 1.4. The Gambling Commission's Licence Conditions and Code of Practice (LCCP) require gambling premises to undertake a risk assessment taking into consideration local information. Specific information about localities is provided in this policy at Part C.

### 2. Brighton & Hove

#### 2.1. Local features

The population of Brighton & Hove is approximately 275,000, but this number increases significantly in the summer months with the influx of tourists. The local visitor economy is characterised by three sectors: conferences, leisure and English language education. The city receives 10 million tourism day trips and 1.4 million staying visitors per year. 27% of staying visitors originate from overseas. Tourism generates £829m of direct income for local businesses and supports 21,682 jobs. 18% of the total Brighton & Hove labour force is employed in jobs supported by tourism expenditure.



Brighton Marina is one of the largest in Europe, and the City is a major centre for heritage and culture, hosting the largest annual international arts festival in England every May. There are also two Universities, a City College and a large number of language schools, which together make the City very popular with students from many parts of the world. Thirty five percent of the population is aged 20-39, which is much higher than the national average. This is quite different from the large retirement age population associated with many coastal cities and reflects the City's reputation among young people as an attractive place to live.

## 2.2. Culture and Tourism

Licensing policy supports entrepreneurial activity, promoting the City's businesses, supporting growth of the creative industries sector, extending the business improvement district. 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. VisitBrighton, the Council's tourism unit, has developed and implemented a full brand strategy and guidelines for the City's tourism offering.

The City of Brighton & Hove already provides many gambling facilities. There are two racetracks, Brighton Racecourse on Whitehawk Down which has been a site of organised public racing since the late eighteenth century and Coral Greyhound Racing Stadium in Hove. Brighton and Hove were two of the 53 permitted areas in Great Britain with four casinos under the 1968 Act. There are numerous bingo and betting premises. As a seaside resort, there is a history of amusement arcades, known as family entertainment centres, and adult gaming centres.

## 3. The Purpose of the Gambling Act 2005 – Statement of Licensing Policy

3.1. Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose when exercising their functions under the Act. This document fulfils this requirement. Such statement must be published at least every three years. The statement can also be reviewed from "time to time" and any amendments must be consulted upon. The statement must then be re-published.

3.2. Consultation was undertaken with the following:-

- the chief officer of police for the authority's area; and HM Revenue & Customs;
- persons representing the interests of persons carrying on gambling businesses in the authority's area – including existing casino operators, the British Casino Association, betting shops and the Association of British Bookmakers, bingo premises, operators of amusement facilities in the area, the Racecourse Association, Brighton Business Forum;
- persons who represent the interests of persons who are likely to be affected by the Act, including faith groups, local residents and tenants associations, voluntary and community organisations working with children and young people, operators of small lotteries, organisations working with people who are problem gamblers, medical practices, and advocacy organisations such as Citizens Advice Bureau, The Money Advice Trust and National Debtline, GamCare, Members and trade unions, and others via the Council's consultation portal.

- 3.3. The consultation took place between 4<sup>th</sup> April and 3<sup>rd</sup> July 2016 and followed the Council's Officer's Code of Practice on Consultation. The consultation elicited 8 responses which are available on request. The policy was approved at a meeting of the Full Council on 15<sup>th</sup> December 2016.

#### **4. The licensing framework**

- 4.1. The Gambling Act 2005 brought about changes to the way that gambling is administered in the United Kingdom. The Gambling Commission is the national gambling regulator and has a lead role in working with central government and local authorities to regulate gambling activity.
- 4.2. The Gambling Commission issues operators' licences and personal licences. Any operator wishing to provide gambling at a certain premises must have applied for the requisite personal licence and operator licence before they can approach the Council for a premises licence. In this way the Gambling Commission is able to screen applicants and organisations to ensure they have the correct credentials to operate gambling premises. The Council's role is to ensure premises are suitable for providing gambling in line with the three licensing objectives and any codes of practice issued by the Gambling Commission. The Council also issues various permits and notices to regulate smaller scale and or ad hoc gambling in various other locations such as pubs, clubs and hotels.
- 4.3. The Council does not licence large society lotteries or remote gambling through websites. These areas fall to the Gambling Commission. The National Lottery is not licensed by the Gambling Act 2005 and is regulated by the Gambling Commission under the National Lottery Act 1993.

#### **5. Declaration**

- 5.1. This statement of licensing policy will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.
- 5.2. In producing this document, the Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the policy statement.

#### **6. Responsible Authorities**

- 6.1. The Act empowers certain agencies to act as responsible authorities so that they can employ their particular area of expertise to help promote the licensing objectives. Responsible authorities are able to make representations about licence applications, or apply for a review of an existing licence. Responsible authorities will also offer advice and guidance to applicants.
- 6.2. The Council is required by regulations to state the principles it will apply to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of the licensing authority's area;
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.

6.3. In accordance with the regulations, the Council designates the Local Safeguarding Children Board for this purpose. The Local Safeguarding Children Board has specific Safeguarding & Child Protection procedures which can be found at <https://sussexchildprotection.procedures.org.uk/> Applicants may find these procedures useful as a point of reference, a guide for good practice and the mechanism by which to make a referral to Children's social work, when producing their own policies and procedures in relation to the objective of protection of children and vulnerable people.

6.4. The contact details of all the responsible authorities under s157 of the Gambling Act 2005 are available on the Council's website within the Gambling Policy at page 39.

## **7. Interested Parties**

7.1. Interested parties are certain types of people or organisations that have the right to make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

"For the purposes of this Part, a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person –

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy paragraph (a) or (b)."

7.2 The Council is required by regulations to state the principles it will apply to determine whether a person is an interested party. The principles are:

- Each case will be decided upon its merits. The Council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's guidance to local authorities.
- Within this framework, the Council will accept representations made on behalf of residents and tenants' associations
- In order to determine if an interested party lives or has business interests sufficiently close to the premises to be likely to be affected by the gambling activities, the Council will consider factors such as the size of the premises and the nature of the activities taking place.

## **8 Exchange of Information**

8.1 Licensing authorities are required to include in their policy statement, the principles to be applied by the authority with regards to the exchange of information between it and

the Gambling Commission, as well as other persons listed in Schedule 6 to the Act.

8.2 The principle that the Council applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened. The Council will also have regard to any guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

8.3 **Please note:** *names and addresses of those making representations will usually be disclosed to applicants.*

8.4 The gambling authority shall secure the proper integration of this policy with local crime prevention, planning, tourism and cultural strategies by:-

- liaising and consulting with the Sussex Police, HM Revenue & Customs and the Community Safety Strategy representatives, and following the guidance in community safety and crime and disorder strategy;
- liaising and consulting with the planning authority;
- liaising and consulting with tourism, stakeholder groups, business groups such as the business forums 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.

## 9 Licensing authority functions

9.1 Licensing authorities are responsible under the Act for:

- licensing premises where gambling activities are to take place by issuing premises licences
- issuing provisional statements
- regulating members' clubs institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- issuing Club Machine Permits to commercial clubs
- granting permits for the use of certain lower stake gaming machines at Unlicensed Family Entertainment Centres
- receiving notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines
- granting Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises under the Licensing Act 2003, where more than two machines are required
- registering small society lotteries below prescribed thresholds
- issuing Prize Gaming Permits
- receiving and endorsing Temporary Use Notices
- receiving Occasional Use Notices (for tracks)
- providing information to the Gambling Commission regarding details of licences issued (see section above on "Exchange of information")
- maintaining registers of the permits and licences that are issued under these functions.

## 9.2 Family Entertainment Centres –

Applicants for permits for family entertainment centres will be required to submit enhanced DBS (Disclosure and Barring Service) certificate and declaration from an applicant that he or she has not been convicted of a relevant offence.

9.3 The functions of the Licensing Authority under the Act may be carried out by the Licensing Committee, but a Sub-Committee or by one or more officers acting under delegated authority. Delegated powers shall be in accordance with the table below.

Matter to be dealt with	Full Council	Sub-Committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		X
Fee setting (when appropriate)		X	
Application for premises licence		If a representation made	If no representation made
Application for a variation to a licence		If a representation made	If no representation made
Application for a transfer of a licence		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Review of a premises licence		X	
Application for club gaming/club machine permits		If a representation made	If no representation made
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

9.4 At the time of adopting this Policy, the Licensing Authority was responsible for the following number of premises licences and permits:

Number of Gambling Authorisations – Current Figures (November 2016)	
Betting Premises Licences	39
Bingo Premises Licences	1
Adult Gaming Centre Premises Licences	12
Family Entertainment Centre Premises Licences	2
Family Entertainment Centre Permits	4
Alcohol licensed premises providing two or less gaming machines	163
Alcohol licences premises providing three or more gaming machines	25
Club Gaming Permits	3
Club Machine Permits	7
Casinos	4
Betting Track	2

**10 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.**

- 10.1 Applicants for premises licences will have to hold an operating licence from the Gambling Commission before the premises licence can be issued. The licensing authority will not need to investigate the suitability of an applicant since the Commission will have already done so for both operating and personal licences.
- 10.2 If, during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.
- 10.3 Licensing authorities will need to consider the location of premises in the context of this objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems, e.g. organised crime, the authority should think about what controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence. Section 169 of the Act allows the authority to impose conditions to prevent disorder.
- 10.4 Consideration may be given to imposition of conditions concerning:
- Security and door supervision – guarding premises against unauthorised access or occupation, or against outbreaks of disorder or against damage may only be undertaken by Security Industry Authority licensed personnel.
  - As set by regulation.
- 10.5 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises, that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

**11 Ensuring that gambling is conducted in a fair and open way**

- 11.1 Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter dealt with under the operating licence or personal licence.
- 11.2 In relation to the licensing of tracks, the licensing authority's role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances, the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. Off-course operators with on-course facilities may be required to hold a separate betting premises licence for this area, but this will not be a mandatory requirement and will be at the discretion of the racecourse and the betting operator.

## 12 Protecting children and other vulnerable persons from being harmed or exploited by gambling

12.1 The Act provides the following definition for child and young adult in Section 45:

Meaning of “child” and “young person”

(1) In this Act “child” means an individual who is less than 16 years old.

(2) In this Act “young person” means an individual who is not a child but who is less than 18 years old.

For the purpose of this section, protection of children will encompass both child and young person as defined by the Act.

12.2 The Council will pay particular attention to any codes of practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises such as casinos.

12.3 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

12.4 In the case of premises licences, the Council is aware of the extensive requirements set out for operators in the Gambling Commission’s Code of Practice. In this document, the Gambling Commission clearly describe the policies and procedures that operators should put in place regarding:

- Combating problem gambling
- Access to gambling by children and young persons
- Information on how to gamble responsibly and help for problem gamblers
- Customer interaction
- Self exclusion
- Employment of children and young persons

12.5 All applicants should familiarise themselves with the operator licence conditions and codes of practice relating to this objective, and determine if these policies and procedures are appropriate in their circumstances. The Council will communicate any concerns to the Gambling Commission about any absence of this required information.

12.6 Applicants may also like to make reference to the Council’s Professional Standards, Safeguarding and Quality Monitoring Team document entitled “[Sussex Safeguarding Adults Policy and Procedures](http://sussexsafeguardingadults.procedures.org.uk/)” which provides extensive guidance on identifying vulnerable people and what can be done to reduce risk for this group. This document can be accessed via <http://sussexsafeguardingadults.procedures.org.uk/>.

12.7 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Gambling Commission, in its Guidance to Local Authorities, does not seek to offer a definition for the term “vulnerable people” but will, for regulatory purposes, assume that this group includes people:

“who gamble more than they want to, people who gamble beyond their means,

elderly persons, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or because of the influence of alcohol or drugs”.

Operators should make information publicly available via leaflets, etc about organisations that can provide advice and support, both in relation to gambling itself, to debt and mental wellbeing, e.g. GamCare, Gamblers Anonymous, Gordon House Association, National Debtline, local Citizens Advice Bureaux, Samaritans and independent advice agencies.

12.8 Applicants should consider the following proposed measures for protecting and supporting vulnerable persons, for example:

- leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet, such as toilets;
- training for staff members which focuses on building an employee’s ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable.
- trained personnel for the purpose of identifying and providing support to vulnerable persons
- self exclusion schemes
- operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people
- posters with GamCare Helpline and website in prominent locations
- windows, entrances and advertisements to be positioned or designed not to entice passers-by.

12.9 It should be noted that some of these measures form part of the mandatory conditions placed on premises licences.

12.10 The Council may consider any of the above or similar measures as licence conditions should these not be adequately addressed by any mandatory conditions, default conditions or proposed by the applicant.

12.11 With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises that are adult-only environments. Children must be protected from being “harmed or exploited by gambling” which in practice means preventing them from taking part in, or being in close proximity to, gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

12.12 Specific measures to prevent this may include:-

- Supervision of entrances
- Segregation of gambling from areas frequented by children
- Supervision of gaming machines in non-adult gambling specific premises
- Gaming machines in betting shops should not be visible from outside the premises



- Enhanced DBS (Disclosure and Barring Service) checks may be required for all applicants in relation to Family Entertainment Centres and declaration from an applicant that he or she has not been convicted of a relevant offence.

These considerations will be particularly relevant on tracks (where children will be permitted in the betting areas on race-days).

- 12.13 Consideration must be given, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations will need to be balanced against the authority's objective to aim to permit the use of premises for gambling.
- 12.14 The licensing authority recognises Brighton & Hove Children's Services as being competent to advise on matters relating to the protection of children from harm. Applicants shall copy their applications to: Head of Safeguarding, Brighton & Hove City Council, Children's Services, Moulsecoomb Hub North, Hodshrove Lane, Brighton, BN2 4SE in its capacity as the responsible authority.
- 12.15 Children are permitted to enter family entertainment centres and may play category D machines.

### 13 Premises Licences

- 13.1 The Council will issue premises licences to allow those premises to be used for certain types of gambling. For example premises licences will be issued to amusement arcades, bingo halls, bookmakers and casinos.
- 13.2 Premises licences are subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach other conditions, where it is believed to be necessary and proportionate.
- 13.3 Applicants should also be aware that the Gambling Commission has issued Codes of Practice for each interest area for which they must have regard. The Council will also have regard to these Codes of Practice.

#### Definition of “premises”

- 13.4 Premises is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances.
- 13.5 The Council will take care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular the Council will assess entrances and exits from parts of a building covered by one or more licences to satisfy itself that they are separate and identifiable so that the separation of different premises is not compromised and that people do not “drift” into a gambling area.
- 13.6 The Council will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Issues that the Council will consider before granting such applications include whether children can gain access, compatibility of the two establishments; and the ability to comply with the requirements of the Act. In addition, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or could, be prohibited under the Act.
- 13.7 An applicant cannot obtain a full premises licence until they have the right to occupy the premises to which the application relates.
- 13.8 The Council is aware that demand issues (eg. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The

Council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

13.9 With regard to these objectives, it is the Council's policy, upon receipt of any relevant representations, to look at specific location issues, including:

- the possible impact a gambling premises may have on any premises that provide services to children or young people, i.e. a school, or vulnerable adult centres in the area;
- the possible impact a gambling premises may have on residential areas where there may be a high concentration of families with children;
- the size of the premises and the nature of the activities taking place;
- any levels of organised crime in the area.

13.10 In order for location to be considered, the Council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives.

### **Local Risk Assessment**

13.11 From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

13.12 The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstance, including those identified in this policy;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- when applying for a variation of a premises licence; and
- in any case, undertake a local risk assessment when applying for a new premises licence.

13.13 Mental health is of particular concern locally. When compared with our benchmark partners Brighton and Hove has the highest percentage of patients with long term mental health problems, and also the highest percentage of patients with depression and anxiety<sup>1</sup>. The Council will expect the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation;

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<sup>1</sup> Public Health England Fingertips Depression and Long Term Mental Health problems recorded prevalence (QOF) % of practice register aged 18+ (2016-17)

- whether the premises is in an area subject to high levels of crime and/or disorder;
- the demographics of the area in relation to vulnerable groups;
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather;
- significant presence of young children, both residents and visitors;
- high unemployment area;
- nearby homeless hostels;
- nearby gambling, alcohol, drug or mental health support facility;
- the area has a high number of rough sleepers/homeless people;
- the area has a specific ethnic population;
- pawn broker/pay day loan businesses in the vicinity;
- other gambling premises in the vicinity.

Information around these groups is available in the Local Area Profile (LAP) in section 13.18.

13.14 In any case, the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

13.15 Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by, etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

13.16 Such information may be used to inform the decision the Council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

- 13.17 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.
- 13.18 Whilst there is no statutory requirement for licensees to share their risk assessments with responsible authorities or interested parties, the Gambling Commission's Licensing Conditions & Codes of Practice document states that licensees should share their risk assessment with licensing authorities on request as best practice (ordinary code 10.1.2). We therefore consider it appropriate for operators to hold premises risks assessments on premises. Doing so can also save considerable time and expense, as well as increasing the confidence of those agencies as to the operator's awareness of their obligations.

### **Local Area Profile**

- 13.19 Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Council has published a local area profile. This profile, compiled in conjunction with the Public Health Intelligence Team, can be obtained from <http://www.brighton-hove.gov.uk/content/business-and-trade/licensing-and-gambling>.
- 13.20 The local area profile should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the profiles, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profile will be presented to any subsequent licensing sub-committee when they determine an application that has received representations.
- 13.21 The Council recognises that it cannot insist on applicants using the local area profile when completing their risk assessments. However, an applicant who decides to disregard the profile may face additional representations and the expense of a hearing as a result.

### **Conditions**

- 13.22 The Council is aware that the Secretary of State has set mandatory conditions and default conditions and the Gambling Commission has set Licence Conditions and Codes of Practice which are necessary for the general good conduct of gambling premises, therefore it is unlikely that the Council will need to impose individual conditions imposing a more restricted regime in relation to matters that have already been dealt with.
- 13.23 Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the Council will attach individual conditions to address this.
- 13.24 Any conditions attached to a licence issued by the Council will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for and/or related to the area where the premises is based
- fairly and reasonably related to the scale, type and location of premises
- consistent with the licensing objectives, and
- reasonable in all other respects.

13.25 Decisions about individual conditions will be made on a case by case basis, although there will be a number of control measures the Council will consider using, such as supervision of entrances, supervision of adult gaming machines, appropriate signage for adult only areas, etc. There are specific comments made in this regard under each of the licence types in this policy. The Council will also expect the applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

13.26 Where certain measures are not already addressed by the mandatory/default conditions or by the applicant, the Council may consider licence conditions to cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances
- supervision of machine areas
- a reduction in the number of betting machines (betting premises)
- the staffing of premises
- physical separation of areas
- location of entrance points
- notices/signage
- specific opening hours
- a requirement that children must be accompanied by an adult
- enhanced DBS checks of the applicant and/or staff
- support to persons with gambling addiction
- policies to address seasonal periods where children may more frequently attempt to gain access to premises and gamble such as pre and post school hours, and school holidays
- policies to address the problems associated with truant children who may attempt to gain access to premises and gamble
- any one or a combination of the measures as set out in this policy.

13.27 This list is not mandatory or exhaustive and is merely indicative of examples of certain measures which may satisfy the requirements of the licensing authority and the responsible authorities, depending on the nature and location of the premises and the gambling facilities to be provided.

13.28 There are conditions which the Council cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible for the applicant to comply with an operating licence condition;

- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
- conditions in relation to stakes, fees, winnings or prizes.

## **Door Supervision**

13.29 The Council will consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted, though, that the Gambling Act 2005 has amended the Private Security Industry Act 2001, and that the door supervisors at casinos or bingo premises are not required to be licensed by the Security Industry Authority. Where door supervisors are provided at these premises, the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties. Possible ways to achieve this could be to carry out a DBS (Disclosure and Barring Service) check on potential staff and for such personnel to have attended industry recognised training.

## **14 Adult Gaming Centres**

- 14.1 Under the Act a premises holding an adult gaming centre licence will be able to make category B, C and D gaming machines available and no one under 18 will be permitted to enter such premises (see Appendix 2).
- 14.2 As no one under the age of 18 is permitted to enter an Adult Gaming Centre, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to consider their own measures to meet the Licensing Objectives and comply with all mandatory conditions and Gambling Commission Codes of Practice. However, the appropriate measure may cover issues such as:

- CCTV
- Minimum staffing levels
- Induction training for new staff and refresher training for existing staff
- Refusals register
- Proof of age schemes (e.g. Think 21)
- Third party test purchasing
- Location of entry to premises
- Infra Red Beam positioned across the entrance to the premises.

The list, however, is not mandatory, nor exhaustive and applicants are recommended to consider this Licensing Objective very carefully when applying for an Adult Gaming Centre Premises Licence.

Where the Adult Gaming Centre is situated in a complex, the Licensing Authority will pay particular attention to the location of entry so as to minimise opportunities for children gaining access. In particular, the Licensing Authority will not look

favourably on situations where child orientated machines or facilities are sited close to the entrance to an Adult Gaming Centre.

## **15 Licensing family entertainment centres (FECs)**

- 15.1 Licensed family entertainment centres are those premises which usually provide a range of amusements such as computer games, penny pushers and may have a separate section set aside for adult only gaming machines with higher stakes and prizes.
- 15.2 Licensed family entertainment centres will be able to make available unlimited category C and D machines where there is clear segregation in place so children do not access the areas where the category C machines are located (see Appendix 1).
- 15.3 Where category C or above machines are available in premises to which children are admitted then the Council will ensure that:
- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance. For this purpose, a rope, floor markings or similar provision will not suffice and the Council may insist on a permanent barrier of at least 1 meter high.
  - Only adults are admitted to the area where the machines (category C) are located
  - Access to the area where the machines are located is supervised at all times
  - The area where the machines are located is arranged so that it can be observed by staff; and
  - At the entrance to, and inside any such area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 15.4 The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 15.5 Children and young persons may enter Licensed FECs but are not permitted to play Category C machines. The Licensing Authority will expect the applicant to ensure that there will be sufficient measures to prevent under 18 year olds having access to the adult only gaming machine areas. The Licensing Authority will expect applicants to meet the Licensing Objectives and comply with all mandatory conditions and Codes of Practice issued by the Gambling Commission. However, appropriate measures may cover issues such as:
- CCTV, specifically sited where the adult machines are likely to be situated
  - Controlled supervision of entrance and machine areas
  - Physical segregation of machines and areas
  - Provision of information leaflets/helpline numbers of organisations such as GamCare
  - Minimum staffing levels
  - Induction training for new staff and refresher training for existing staff
  - Refusals register



- Proof of age schemes (e.g. Think 21)
- Third party test purchasing
- Location of entry to premises
- Infra Red Beam positioned across the entrance to the premises.

This list is not mandatory, nor exhaustive and is merely indicative of example measures.

With regard to vulnerable persons, the Licensing Authority will consider measures such as the use of self barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare as appropriate.

- 15.6 Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should consult with the Council's Performance and Safeguarding team within Children's Services to determine if their staff need to be DBS checked.

## **16 Casinos**

- 16.1 There are four current casino licences in Brighton & Hove, three of which are currently operating, Mint Casino in Preston Street, Grosvenor Seafront Casino in Grand Junction Road and Rendezvous Casino in the Marina which were licensed under the Gaming Act 1968, and which have been subsequently converted into Gambling Act 2005 Converted Casino Premises Licences. What was the Grosvenor, Fourth Avenue, Hove, Casino licence is current but they are not operating.
- 16.2 Statement regarding casino resolution – The licensing authority has taken a decision to pass a resolution not to issue new casino licences in Brighton & Hove.

## **17 Bingo Premises**

- 17.1 There is no official definition for bingo in the Gambling Act 2005, however, from a licensing point of view there is a category of premises licence specifically for bingo premises which is used by traditional commercial bingo halls for both cash and prize bingo. In addition, this premises licence will authorise the provision of a limited number of gaming machines in line with the provisions of the Act (see Appendix 1).
- 17.2 The Council is aware that it is important that if children are allowed to enter premises licensed for bingo, they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted, then the Council will ensure that:
- All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance. For this purpose, a rope, floor markings or similar provision will not suffice and the Council may insist on a permanent barrier of at least one meter high
  - Only adults are admitted to the area where the machines are located
  - Access to the area where the machines are located is supervised at all times
  - The area where the machines are located is arranged so that it can be observed by staff

- At the entrance to, and inside any such area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18
  - Children will not be admitted to bingo premises unless accompanied by an adult.
- 17.3 The Gambling Commission has provided Guidance for Licensing Authorities and Licence Conditions and Code of Practice which are applied to Operators' Licences. The Council will take this into consideration when determining licence applications for bingo premises.
- 17.4 Where certain measures are not already addressed by the mandatory/default conditions, the Gambling Commission Code of Practice or the applicant, the Council may consider licence conditions to address such issues.
- 17.5 The Gambling Commission has issued Codes of Practice relating to Bingo premises and the Licensing Authority expects all applicants to comply with these codes. The Licensing Authority will not look favourably upon an application where an applicant seeks a Bingo Premises Licence with the sole intention of placing Category B2 Gaming Machines only in the premises with no provision for facilities for bingo, as this is not considered to be in the spirit of the Act. This is referred to in more detail in the Gaming Machines section of this Policy Statement. Applicants and premises licence holders are reminded of the Gambling Commission's operator licence conditions requiring that bingo is provided as the primary activity in any premises that hold or apply for bingo premises licence.
- 17.6 Where bingo is permitted in alcohol-licensed premises, this must be low turnover bingo only and applicants are expected to comply with any Codes of Practice and advice issued by the Gambling Commission. High turnover bingo will require a Bingo Operating Licence. Definitions of low and high turnover bingo are available by contacting the Licensing Team or by referring to the Gambling Commission's website.

## **18 Betting Premises**

- 18.1 The Licensing Authority is responsible for issuing and monitoring Premises Licences for all betting premises and children will not be permitted entry to a premises with a Betting Premises Licence. They may, however, be permitted entry to tracks and special rules will apply. In addition, the Licensing Authority recommends that an applicant for gaming machines in such premises, considers carefully the location of betting machines to ensure that they are not in sight of the entrance to the premises.

### **Betting Machines**

- 18.2 While the Licensing Authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. The Licensing Authority will consider limiting the number of machines only where there is clear evidence that such machines have been, or are likely to be, used in breach of the Licensing Objectives. Where there is such evidence, the Licensing Authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter. When considering whether or not to impose such a condition, the Licensing Authority will

take into account the following:

- The size of the premises
- The number of counter positions available for person to person transactions; and
- The ability of staff to monitor the use of the machines by children and young or vulnerable persons.

18.3 The Licensing Authority will expect applicants to meet the Licensing Objectives and comply with all mandatory conditions and Codes of Practice issued by the Gambling Commission. In determining whether an application meets the aforementioned criteria, the Licensing Authority may give consideration as to whether appropriate measures are or will be in place to address the matters listed below:

- Minimum staffing levels
- Induction training for new staff and refresher training for existing staff
- Refusals register
- Proof of age schemes (e.g. Think 21)
- Provision of CCTV
- Entry control system
- Supervision of entrances / machine areas
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

18.4 This list is not exhaustive and is merely indicative of example measures. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives.

18.5 With regard to vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets /helpline numbers for organisations such as GamCare as appropriate measures.

## 19 Tracks

19.1 Tracks are sites (including racecourses and dog tracks) where races or other sporting events take place. The Licensing Authority recognise that tracks are different from other premises in that there may be more than one Premises Licence in effect, and that the track operator may not be required to hold an Operator's Licence as there may be several premises licence holders at the track who will need to hold their own operator licences. As children and young persons will be permitted to enter track areas where facilities for betting are provided (e.g. dog racing and/or horse racing), the Licensing Authority will expect premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. The Licensing Authority will expect applicants to consider their own measures to meet the Licensing Objectives, however, appropriate measures may cover issues such as:

- Proof of Age schemes
- CCTV

- Door supervisors
- Supervision of entrances/exits/machine areas
- Physical separation of areas
- Notices / signage
- Specific opening hours
- Location of entry and gaming machines
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

19.2 Where appropriate, in order for the Licensing Authority to gain a proper understanding of what it is being asked to licence, applicants will be required to:

- Provide a detailed plan of the grounds, indicating where the betting is to take place and the location of the race track;
- In the case of dog tracks and horse racecourses, indicate the location of any fixed and mobile pool betting facilities operated by the Tote or track operator as well as any other proposed gambling facilities;
- Evidence measures taken to ensure the third Licensing Objective will be complied with;
- Indicate what arrangements are being proposed for the administration of the betting; the Gambling Commission and Licensing Authority recommend that betting takes place in areas reserved for, and identified as being for, that purpose;
- Define the areas of the track that will be used by on-course operators visiting the track on race days;
- Define any temporary structures erected on the track for providing facilities for betting;
- Define the location of any gaming machines (if any).

19.3 With regard to gaming machines on tracks, the Licensing Authority will consider carefully the location of any adult gaming machines at tracks to ensure that these machines are in areas from which children are excluded, though it is recognised that children and young persons are not prohibited from playing Category D machines on a track.

19.4 Betting and Gaming Machines on Tracks – The Licensing Authority recognises the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines. It is the responsibility of the track operator to ensure compliance with the law in preventing children from using these machines. It is for this reason the Licensing Authority may consider restricting the number and location of machines, however, each application will be considered on its own merit.

19.5 Self contained betting offices on Tracks – In general, the rules that apply to betting premises away from tracks will apply to self contained betting premises on tracks and the Licensing Authority will consider future guidance from the Gambling Commission about how such premises should be delineated, both to make it clear to

the public that they are entering a “betting office” and to prevent the entry of children and young persons. Applicants are recommended to consider the Gambling Commission’s view that it would be preferable for all self-contained premises operated by off course betting operators on track to be the subjects of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off course betting operator running a self-contained unit on the premises.

- 19.6 On advice from the Gambling Commission, the Licensing Authority may attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race card or made available in leaflet form from the track office. The Licensing Authority would welcome other suitable methods.

## **20 Travelling Fairs**

- 20.1 Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a licence or permit, provided that certain conditions are met, and this provision continues in similar fashion under the Act.
- 20.2 Travelling fairs have the right to provide an unlimited number of Category D gaming machines and/or equal chance prize gaming (without the need for a permit) as long as the gambling amounts to no more than an ancillary amusement at the fair (see Appendix 1).
- 20.3 The Council will consider whether any fairs which take up the above entitlement fall within the statutory definition of a travelling fair.
- 20.4 The Council is aware that the 27 day statutory maximum for the land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Council will work with its neighbouring authorities to ensure that land which crosses the Council boundary is monitored so that the statutory limits are not exceeded.

## **21 Gaming Machines**

- 21.1 Where the Licensing Authority is uncertain of whether or not a machine is a gaming machine as defined under the Act, it will seek the advice of the Gambling Commission.
- 21.2 Where the Licensing Authority has concerns about the manufacture, supply or repair of a gaming machine, it will bring this to the attention of the Gambling Commission.
- 21.3 The Licensing Authority will expect the holder of a Permit or Premises Licence to comply with the Codes of Practice issued by the Commission on the location of, and access to, Category D machines by children and young persons and their separation from Category C and B machines where those are also located on the same

premises.

- 21.4 The Licensing Authority seeks to discourage applications for Premises Licences for the sole purpose of obtaining the ancillary provision of additional gaming machines where the principal activity either does not take place or is minimal. The Licensing Authority believes that the Gambling Act 2005 intended to set restrictions on the number of gaming machines for certain premises and considers that the fact that the licence authorised the holder to provide facilities for betting or bingo means that the operator must provide those facilities to qualify for the ancillary entitlement to gaming machines. Whilst this has not yet been legally contested, the Licensing Authority fully supports this view. The Licensing Authority is aware that the Gambling Commission has amended its operator licence conditions to address the issue of the primary gambling activity.
- 21.5 Brighton & Hove have a long history of providing family type gaming machines, such as penny falls and cranes. Such machines are primarily aimed at children and family type gaming. We recognise that, on the whole, such machines provide a low risk in relation to the licensing objectives. However, as with all gaming machines, such machines must be operated in a fair and open manner and in line with the protection of children from harm licensing objective.
- 21.6 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times. The Licensing Authority has concerns that the use of gaming machines in privacy booths may prevent adequate supervision and protection of vulnerable persons and problem gamblers. The Licensing Authority seeks to discourage the use of privacy screens.
- 21.7 Any non-monetary prizes within such machines must comply with the maximum prize limits laid down in the regulations prescribing gaming machine categories and entitlements. If items such as toy mobile phones (or other similar novelty items) are offered as prizes, then this Authority will expect to see clear signage (displayed on or near the machine in question) indicating that such items are toys / novelty items.
- 21.8 This Authority will bring to the attention of specific machine operators any examples of prizes which it feels are inappropriate or require clarification to prospective machine users. In addition, where it is able to do so, this Authority will undertake appropriate compliance action when it feels that prizes within penny falls, cranes and other similar machines are outside the scope of the open and fair and protection of children licensing objectives.

## **Part D Permits, notices and lottery registrations**

### **Permits /Temporary & Occasional Use Notice**

Note for information: The Gambling Act 2005 introduced a range of permits for gambling. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. The Licensing Authority may only grant or reject an application for a permit and cannot impose or attach any conditions. There are different considerations to be taken into account when considering the

different types of permit applications. Where a Permit is granted, the Licensing Authority will issue the Permit as soon as is reasonably practicable.

## **22 Unlicensed Family Entertainment Centre (uFEC) Gaming Machine Permits**

- 22.1 The term “unlicensed family entertainment centre” is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny pushers. The premises is “unlicensed” in that it does not require a premises licence but does require a permit to be able to provide category D machines. It should not be confused with a “licensed family entertainment centre” which requires a premises licence because it contains both category C and D gaming machines.
- 22.2 The Licensing Authority must be satisfied that the premises will be used as an unlicensed Family Entertainment Centre and Sussex Police must be consulted on all applications.
- 22.3 When determining a permit, the Licensing Authority will have regard to the Gambling Commission’s Guidance to Licensing Authorities and although not required to, will have regard to the three Licensing Objectives.
- 22.4 As these premises particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues. An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and the Licensing Authority will expect applicants to demonstrate:
- A full understanding of the maximum stakes and prizes of the gambling, which is permissible in unlicensed FECs;
  - That staff are trained to have a full understanding of the maximum stakes and prizes;
  - The applicant’s previous history and experience of running similar premises;
  - Applicants must produce a DBS check dated within one calendar month of the date of the application being submitted to the Licensing Authority. The Disclosure will reveal the existence and content of any criminal record (not spent under the terms of the Rehabilitation of Offenders Act) held in the name of the applicant.
- 22.5 Where an applicant provides evidence that he has an Operating Licence and has as a result undergone rigorous checks by the Gambling Commission, then a DBS check will not normally be required.
- 22.6 When considering any convictions revealed in an application, the Licensing Authority will consider the nature and relevance of the offence, how long ago the offence took place and any other factors that may be relevant. The application will be subject to the terms of the Rehabilitation of Offenders Act and “spent” convictions may not be referred to when considering the permit application. The application process will make specific reference to the Relevant Offences listed in Schedule 8 to the Gambling Act 2005.

- 22.7 Statement of Principles for Unlicensed Family Entertainment Centres – As these premises are open to children and young persons, the Licensing Authority will require additional information when an applicant applies for this Permit, as follows:
- A scaled plan of the premises indicating the location of Category D machines, Automated Teller Machines and any appropriate notices that are to be displayed;
  - The approximate number of Category D machines that will be provided;
  - Evidence that staff are trained to have a full understanding of the maximum stakes and prizes that are permissible;
  - A basic DBS check dated within one calendar month of the date of the application being submitted to the Licensing Authority (unless the applicant holds a current Operators' Licence issued by the Gambling Commission);
  - Evidence of staff training by way of a Premises Log Book which should be signed and dated by staff to prove that training has been undertaken and understood;
  - Training for staff as regards dealing with suspected truant school children on the premises;
  - Policies and procedures in place to protect children from harm. Harm in this case is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures such as training, covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises;
  - The amount of space around gaming machines to prevent jostling of players or intimidation;
  - Details of opening hours;
  - Approximate numbers of staff employed.
- 22.8 Where an applicant fails to comply with the above requirements, the Licensing Authority may refuse the application. Where there is a reason for such a refusal, the Licensing Authority will notify the applicant of its intention to refuse and the reasons for the refusal. The applicant will then have an opportunity to make representations orally, in writing, or both, and will have a right of appeal against any decision made.
- 22.9 With regard to renewal applications, the Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the Licensing Objectives.
- 22.10 Where the Permit has been granted, the Licensing Authority will issue the permit as soon as is reasonably practicable, and in any event in line with the Regulations issued by the Secretary of State. The permit will then remain in effect for 10 years unless surrendered or lapsed.
- 22.11 The Licensing Authority recommends that applicants for unlicensed FEC Permits consider adopting BACTA's voluntary Code of Practice for Amusement with Prizes Machines in Family Entertainment Centres. This Code of Practice promotes awareness of social responsibility and acknowledges that proactive, specific and



appropriate commitment will be given to educating children and young persons, thereby minimising the potential for harm.

## **23 Gaming Machine Permits in Premises Licensed for the Sale of Alcohol**

- 23.1 With regard to gaming machines on premises that sell alcohol, the applicant is entitled to up to 2 gaming machines of Category C or D machines, subject to the applicant notifying the Licensing Authority, paying the prescribed fee and complying with any relevant Codes of Practice issued by the Gambling Commission.
- 23.2 The Licensing Authority may remove the automatic authorisation if:
- Provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives;
  - Provision of the machines is not compliant with the mandatory conditions relating to location and operation of machines;
  - Gaming has taken place on the premises that breaches a condition of Section 282 of the Gambling Act;
  - An offence under the Gambling Act has been committed on the premises; or
  - The premises are mainly used for gaming.
- 23.3 The Licensing Authority will expect the applicant to comply with any Codes of Practice issued by the Gambling Commission and consider such measures to ensure that the under 18s do not have access to the adult only gaming machines. The Licensing Authority recommends considering such measures as:
- The adult machines being sited close to the bar;
  - The adult machines being sited where staff can monitor them;
  - Appropriate notices and signage;
  - Provision of information leaflets/helpline numbers for organisations such as GamCare.
- 23.4 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant”. This Licensing Authority considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

- 23.5 There is no statutory limit on the number of machines which may be applied for. However, it is the Licensing Authority's policy that a licensing hearing must consider any application for three or more machines where Officers are of the opinion that the premises is not suitable for the number of machines applied for. It is important to note that the hearing is unlikely to grant a permit for more than six machines and even then six machines will normally only be granted to exceptionally large premises.
- 23.6 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of machines.
- 23.7 It is recognised that some alcohol-licensed premises may apply for a premises licence or an uFEC permit for their non-alcohol licensed areas. For the room in question to obtain a permit, its predominant use must be that of an amusement arcade. There must also be some form of acceptable delineation, which indicates that the alcohol area and family entertainment centre are two separate premises.
- 23.8 Gaming in alcohol-licensed premises – The Licensing Authority recognises that low level gaming may take place in alcohol-licensed premises. Exempt gaming being equal chance gaming that should be ancillary to the purposes of the premises. This gaming, however, is subject to statutory stakes and prize limits determined by the Secretary of State. A nominated gaming supervisor should therefore supervise gaming in alcohol-licensed premises, (i.e. the Designated Premises Supervisor (DPS)) and all gaming should comply with Codes of Practice issued by the Gambling Commission. As there is likely to be limited regulatory scrutiny of gaming provided in these premises, the Licensing Authority expects the applicant to be aware of, and adopt, these Codes of Practice and to ensure that all gaming in such premises is suitably managed.

## **24 Prize Gaming Permits**

- 24.1 Prize Gaming Permits must be obtained where a Casino or Bingo Operating Licence is not in effect. However, a casino is not entitled to provide bingo without a Prize Gaming Permit. As children and young persons may participate in equal chance prize gaming, and given that the premises will particularly appeal to children and young persons, the Licensing Authority has prepared a Statement of Principles that it proposes to apply in exercising its functions which specifies matters that the Licensing Authority propose to consider in determining the suitability of an applicant for a Prize Gaming Permit.
- 24.2 The Licensing Authority will require detailed information when an applicant applies for this Permit, as follows:
- A scaled plan of the premises indicating the location of the machines, other prize gaming facilities, etc., and any appropriate notices that are to be displayed;
  - Evidence that applicants have a full understanding of the maximum stakes and prizes that are permissible;
  - Evidence that staff are trained to have a full understanding of the maximum stakes and prizes that are permissible;

- A basic DBS check dated within one calendar month of the date of the application being submitted to the Licensing Authority (unless the applicant holds a current Operator's Licence issued by the Gambling Commission);
  - Evidence of staff training by way of a Premises Log Book which should be signed and dated by staff to prove that training has been undertaken and understood;
  - Policies and procedures in place to protect children from harm. Harm in this case is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures such as training, covering how staff would deal with unsupervised very young children being on the premises or children causing perceived problems on or around the premises;
  - The amount of space around gaming machines to prevent jostling of players or intimidation;
  - Details of opening hours;
  - Approximate numbers of staff employed.
- 24.3 Where an applicant provides evidence that he has an Operating Licence and has as a result undergone rigorous checks by the Gambling Commission, then a DBS check will not normally be required.
- 24.4 When considering any convictions revealed in an application, the Licensing Authority will consider the nature and relevance of the offence, how long ago the offence took place, and any other factors which may be relevant. The application will be subject to the terms of the Rehabilitation of Offenders Act and "spent" convictions may not be referred to when considering the permit application. The application process will make specific reference to the Relevant Offences listed in Schedule 8 to the Gambling Act 2005.
- 24.5 In making its decision on a application for this permit, the Licensing Authority does not need to have regard to the Licensing Objectives and will take into account, after consultation, any objections that the Police may wish to make, whether relevant to the Licensing Objectives. The grounds for decision-making as regards renewals are the same as for initial applications.
- 24.6 Where the Licensing Authority intends to refuse the application for a permit, it will notify the applicant of its intention to refuse it, stating the reasons and offering the applicant an opportunity to make representations orally, in writing, or both.
- 24.7 Where an application is granted, the Licensing Authority will issue it as soon as is reasonably practicable.
- 24.8 The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling, but includes wider child protection considerations.

## **25 Club Gaming and Club Machine Permits**

- 25.1 Members' clubs and miners' welfare institutes may apply for a "club gaming permit" or a "club machine permit". The "club gaming permit" will enable the premises to

provide gaming machines (three machines of categories B4, C or D), equal chance gaming, i.e. poker, bingo, etc. A “club machine permit” will enable the premises to provide gaming machines (three machines of categories B4, C or D). Commercial clubs may apply for a “club machine permit” only.

- 25.2 To qualify for these special club permits, a members club must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of the Royal British Legion and clubs with political affiliations.
- 25.3 Clubs must have regard to the protection of children and vulnerable persons from harm or being exploited by gambling. They must provide sufficient measures to ensure that any under 18 year olds do not use the adult only gaming machines. These measures may include:
- The machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised;
  - Notices and signage;
  - The provision of information leaflets/helpline numbers for organisations such as GamCare.
- 25.4 Before granting the permit, the Council will need to satisfy itself that the premises meets the requirements of a members’ club, and that the majority of members are over 18.
- 25.5 The Council may only refuse an application on the grounds that:
- The applicant does not fulfil the requirements for a members’ or commercial club or miners’ welfare institute and therefore is not entitled to receive the type of permit for which they have applied;
  - The applicant’s premises are used wholly or mainly by children and/or young persons;
  - An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - A permit held by the applicant has been cancelled in the previous ten years;
  - An objection has been lodged by the Commission or the police.
- 25.6 There is also a “fast-track” procedure available for premises which hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure, there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the Council can refuse a permit is reduced. The grounds on which an application under the process may be refused are:
- That the club is established primarily for gaming;
  - That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

## 26 Temporary Use Notices

- 26.1 Temporary use notices allow the use of premises on not more than 21 days in any 12 months period for gambling where there is no premises licence, but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be useful for a temporary use notice would include hotels, conference centres and sporting venues.
- 26.2 Temporary Use Notices allow the use of premises for any form of equal chance gambling where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner.
- 26.3 Only persons or companies holding a relevant operating licence can apply for a temporary use notice to authorise the particular class of gambling permitted by their operating licence.
- 26.4 A temporary use notice must be lodged with the licensing authority not less than three months and one day before the day on which the gambling is due to take place. Detailed information about how to serve a temporary use notice will be available in a separate guidance note.
- 26.5 The Act makes a special reference, in the context of temporary use notices, to a “set of premises” to try and ensure that large premises which cannot reasonably be viewed as separate are not used for more temporary use notices than permitted under the Act. The Council considers that the determination of what constitutes “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a “set of premises”, the Council will look at, amongst other things, the ownership/ occupation and control of the premises. The Council will be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

## **27 Occasional Use Notices (for tracks)**

- 27.1 There is a special provision in the Act which provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. Track operators and occupiers need to be aware that the procedure for applying for an occasional use notice is different to that for a temporary use notice. The application may be made in writing to the Council by the person responsible for the administration of the events on a track, or by an occupier of the track.
- 27.2 The Council has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Council will, however, consider the definition of a “track” and whether the applicant is entitled to benefit from such notice.

## **28 Small Society Lottery Registrations**

- 28.1 A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part.

- 28.2 The Act creates two principal classes of lotteries: Licensed lotteries and exempt lotteries. Licensing lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Within the class of exempt lotteries, there are four sub-classes, one of which is small society lotteries.
- 28.3 A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the Act which also meets specific financial requirements set out in the Act. These will be administered by the Council for small societies who have a principal office in Brighton & Hove and want to run such lottery.
- 28.4 A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less.
- 28.5 To be “non-commercial” a society must be established and conducted:
- For charitable purposes;
  - For the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity; or
  - For any other non-commercial purpose other than that of private gain.
- 28.6 The other types of exempt lotteries are “incidental non-commercial lotteries”, “private lotteries” and “customer lotteries”. If you require guidance on the different categories of lotteries, please contact the Council’s Licensing Team.
- 28.7 The National Lottery is not licensed by the Gambling Act 2005, and continues to be regulated by the National Lottery Commission under the National Lottery Act 1993.

#### 28.8 **Small Society Lotteries**

The Licensing Authority registers and deals with small society lotteries. Promoting or facilitating a lottery falls within one of the following categories:

- Licensed Lotteries (requiring an Operating Licence from the Gambling Commission);
  - Small Society Lotteries (registered with the Licensing Authority); and
  - Exempt Lotteries.
- 28.9 Lotteries permitted to be conducted without a licence from the Gambling Commission and these are:
- Small Society Lotteries (registered with the Licensing Authority);
  - Incidental Non-Commercial Lotteries;
  - Private Lotteries: (Private Society Lottery, Work Lottery, Residents’ Lottery);
  - Customer Lotteries.
- 28.10 Societies may organise lotteries if they are licensed by the Gambling Commission, registered with the Licensing Authority or fall within the exempt category. The Licensing Authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. However, guidance notes with regard to all lotteries, limits placed on small society lotteries and information

setting out financial limits are available by contacting the Licensing Team.

- 28.11 Applicants for lottery licences must apply to the Licensing Authority in the area where the principal office is located. Where the Licensing Authority believes that the Society's principal office is situated in another area, it will inform the Society as soon as possible, and where possible, will inform the other Licensing Authority.
- 28.12 The Licensing Authority will keep a Public Register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the Register is completed, the Licensing Authority will notify the applicant of registration.
- 28.13 The Licensing Authority will ask applicants to set out the purposes for which the Society is established and will ask the Society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The Licensing Authority may, however, seek further information from the Society and in particular may require a copy of the society's constitution.
- 28.14 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration, and supply evidence on which it has reached that preliminary conclusion.
- 28.15 The Licensing Authority may revoke the registered status of a society if it thinks that they would have had to, or would be entitled, to refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.
- 28.16 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following guidance criteria to all small society lotteries it registers:
- Tickets should not be sold in a street – street includes any bridge, road, land, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls); and
  - Tickets may be sold from a kiosk, in a shop or door-to-door.

This approach is consistent with the operating licence conditions imposed by the Gambling Commission upon operators of large lotteries.

## Part E Enforcement

### 29 Enforcement Principles

- 29.1 The Council will work closely with the responsible authorities in accordance with a locally established joint enforcement protocol and will aim to promote the licensing

objectives by targeting known high risk premises following government guidance around better regulation.

- 29.2 In carrying out its enforcement duties with regards to the inspection of premises; and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council will endeavour to be:

<b>Proportionate:</b>	regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
<b>Accountable:</b>	regulators must be able to justify decisions, and be subject public scrutiny;
<b>Consistent:</b>	Rules and standards must be joined up and implemented fairly;
<b>Transparent:</b>	Regulators should be open, and keep regulators simple and user friendly; and
<b>Targeted:</b>	Regulation should be focused on the problem, and minimise side effects.

- 29.3 The Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

- 29.4 Where there is a Primary Authority scheme in place, the Council will seek guidance from the Primary Authority before taking any enforcement action. At the time of the publication of this policy, there were four Primary Authority arrangements with host local authorities:

Coral	London Borough of Newham
William Hill	City of Westminster
Ladbrokes	Milton Keynes
Paddy Power	Reading

- 29.5 Further information, including an index of all Primary Authority arrangements, can be found at <https://primaryauthorityregister.info/par/index.php/home>

- 29.6 The Council will also adopt a risk-based inspection programme in line with government recommendations around better regulation and the principles of the Hampton Review.

- 29.7 The main enforcement and compliance role for the Council in terms of the Gambling Act 2005, will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operator and personal licences. Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Council, but will be notified to the Gambling Commission. In circumstances where the Council believes a premises requires a premises licence for gambling activities and no such licence is in force, the Council will alert the Gambling Commission.

- 29.8 The Council will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of



local authorities.

- 29.9 The Council's enforcement/compliance protocols/written agreements will be available upon request.

## **30 Reviews**

- 30.1 A review is a process defined in the legislation which ultimately leads to a licence being reassessed by the Licensing Committee with the possibility that the licence may be revoked, suspended or that conditions may be amended or new conditions added.
- 30.2 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Council to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is:
- In accordance with any relevant code of practice issued by the Gambling Commission;
  - In accordance with any relevant guidance issued by the Gambling Commission;
  - Reasonably consistent with the licensing objectives; and
  - In accordance with this authority's Gambling Act 2005 – Statement of Licensing Policy.

In addition, the Council may also reject the application on the grounds that the request is frivolous, vexatious, will certainly not cause this authority to wish to alter, revoke or suspend the licence, or is substantially the same as previous representations or requests for review.

- 30.3 The Council can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

## **31 Test Purchasing**

- 31.1 This Authority will undertake covert test purchasing exercises in order to check compliance with the requirement that under-18s do not access "adult only" gambling facilities. This exercise is in response to concerns about underage gambling vulnerabilities in particular sub-sectors of the gambling industry. Under the terms of the Gambling Commission's Licence Conditions and Codes of Practice, operators must monitor the effectiveness of their policies and procedures for preventing underage access to gambling premises and products. At the time of the drafting of this policy, certain sub-sectors of the gambling industry had not provided the Gambling Commission with any assurances that this was happening. Those sub-sectors are, broadly, the small and medium-sized Betting Premises, Adult Gaming Centres and Family Entertainment Centres.
- 31.2 Both this Authority and the Gambling Commission have particular concerns with regards to access to adult only gaming machines, which may be accessible without any interaction between the player and a member of staff. With this in mind, this Authority will continue with its policy of targeted test purchasing exercises.

31.3 Those premises that fail a test purchase will be asked to address the weaknesses in their underage gambling procedures shown by this test and submit improvement plans, and in appropriate cases, enforcement action will be taken. There are a number of steps which this Authority would recommend to operators in order to prevent underage access and monitor the effectiveness of their policies, including:

- Re-positioning of machines and change of layout
- Infra red security beam to alert staff to presence of customers in age-restricted areas and maglocks to restrict access
- Maintenance of a Refusal Register
- Independent test purchasing
- Upgrade CCTV
- Induction and refresher training for staff
- Challenge 25
- Signage and Prominent GamCare Documentation
- Minimum levels of supervision.

## Contact Details, Advice and Guidance

Further details for applicants about the gambling and application process, including application forms, can be found:

- By contacting the Licensing Team at: Bartholomew House, Bartholomew Square, Brighton, BN1 1JP. Tel. 01273 294429, E-mail [ehl.safety@brighton-hove.gov.uk](mailto:ehl.safety@brighton-hove.gov.uk), via [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk) (search under Licensing Act 2003 and follow the gambling links), or via Customer Services Contact Centre.
- Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
- Police Licensing Unit, Police Station, John Street, Brighton, BN2 2LA. Tel: 01273 665523
- Fire Authority, East Sussex Fire and Rescue Service, Brighton & Hove Fire Safety Office, Hove Fire Station, English Close, Hove, BN3 7EE. Tel: 01323 462130
- Planning, Development Control, Hove Town Hall, Norton Road, Hove, BN3 1PT. Tel: 01273 290000
- Environmental Health, Environmental Protection Team, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP. Tel: 01273 290000
- Child protection – Children and Young People's Trust, Assistant Director, (Children's Social Care), Hove Town Hall, Hove, BN3 4AH.
- HMRC, Excise Processing Teams, BX9 1GL, United Kingdom contact telephone number is now 0300 322 7072 Option 7. Email address: [NRUBetting&Gaming@hmrc.gsi.gov.uk](mailto:NRUBetting&Gaming@hmrc.gsi.gov.uk)

## Appendix 1 Glossary of terms

Term	Description
ATM	Auto teller machine or cash machine
Betting	Betting is defined as making or accepting a bet on the outcome of a race, competition or other event or process or on the outcome of anything occurring or not occurring or on whether anything is or is not true. It is irrelevant if the event has already happened or not, and likewise whether one person knows the outcome or not. (Spread betting is not included within this definition).
Betting Machines / Bet Receipt Terminal	Betting machines can be described as automated betting terminals where people can place bets on sporting events removing the need to queue up and place a bet over the counter.
Bingo	There are essentially two types of bingo: cash bingo, where the stakes paid make up the cash prizes that can be won and prize bingo, where various forms of prizes can be won, not directly related to the stakes paid.
Book	Running a “book” is the act of quoting odds and accepting bets on an event. Hence the term “Bookmaker”.
Casino games	A game of chance, which is not equal chance gaming. Casino games includes Roulette and black jack, etc.
Chip	Casinos in the UK require you use chips to denote money. They are usually purchased and exchanged at a cashier’s booth.
Coin pusher or penny falls machine	A machine of the kind which is neither a money prize machine nor a non-money prize machine.
Crane grab machine	A non-money prize machine in respect of which every prize which can be won consists of an individual physical object (such as a stuffed toy) won by a person’s success in manipulating a device forming part of the machine so as to separate, and keep separate, one or more physical objects from a group of such objects.
Default condition	These are prescribed in regulations and will be attached to all classes of premises licence, unless excluded by the Council.
Equal Chance Gaming	Gaming which does not involve playing or staking against a bank.
Fixed odds betting	If a gambler is able to establish what the return on a bet will be when it is placed, (and the activity is not “gaming” see below), then it is likely to be betting at fixed odds.
Fixed Odds betting terminals (FOBTs)	FOBTs are a type of gaming machine which generally appear in licensed bookmakers. FOBTs have “touch screen” displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.
Gaming	Gaming can be defined as “the playing of a game of chance for winnings in money or monies worth, whether any person playing the game is at risk of losing any money or monies worth or not”.
Gaming Machine	Any type of machine allowing any sort of gambling activity, including betting on virtual events but not including home computers even though users can access online gaming websites.

<b>Term</b>	<b>Description</b>
Licensing Objectives	<p>The Licensing Objectives are three principal goals which form the basis of the Act. Stakeholders who have an interest in the Act need to try and promote these objectives: The licensing objectives are:</p> <ul style="list-style-type: none"> <li>• Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime</li> <li>• Ensuring that gambling is conducted in a fair and open way</li> <li>• Protecting children and other vulnerable persons from being harmed or exploited by gambling.</li> </ul>
Lottery	<p>A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part. A lottery is defined as either a simple lottery or a complex lottery. A simple lottery is one where persons are required to pay to participate and one or more prizes are allocated to one or more members of a class and the prizes are allocated by a process which relies wholly on chance. A complex lottery is where persons are required to pay to participate and one or more members of a class and the prizes are allocated by a series of processes where the first of those processes relies wholly on chance. Prize means money, articles or services provided by the members of the class among whom the prize is allocated. (It should be noted that the National Lottery is not included in this definition of lottery and is regulated by the National Lottery Commission).</p>
Mandatory condition	<p>A condition which will be set by the Secretary of State (some set out in the Act and some to be prescribed by regulations) which will be automatically attached to a specific type of premises licence. The Council will have no discretion to alter or remove these conditions.</p>
Money Prize Machine	<p>A machine in respect of which every prize which can be won as a result of using the machine is a money prize.</p>
Non-money prize machine	<p>A machine in respect of which every prize which can be won as a result of using the machine is a non-money prize. The winner of the prize is determined by:</p> <ul style="list-style-type: none"> <li>• The position in which the coin or token comes to rest after it has been inserted into the machine, together with the position of other coins or tokens which have previously been inserted into the machine to pay a charge for use, or</li> <li>• If the insertion of a single coin to pay the charge for use enables the person using the machine to release one or more tokens within the machine, the position in which such tokens come to rest after being released, together with the position of other tokens which have previously been so released.</li> </ul>
Odds	<p>The ratio to which a bet will be paid if the bet wins. E.g. 3-1 means for every £1 bet, a person would received £3 of winnings.</p>
Off-course betting operator	<p>Off-course betting operators may, in addition to premises away from the track, operate self contained betting premises within a track premises. Such self-contained premises will provide facilities</p>

	for betting on both events taking place at the track (on-course betting), as well as other sporting events taking place away from the track (off-course betting). In essence, such premises operate like a traditional high street bookmakers. They will, however, only normally operate on race days.
<b>Term</b>	<b>Description</b>
On-course betting operator	The on-course betting operator is one who comes onto a track temporarily, while races are taking place, and operates at the track side. On-course betting operators tend to offer betting only on the events taking place on the track that day (on-course betting).
Pool Betting	For the purposes of the Gambling Act, pool betting is made on terms that all or part of the winnings: <ul style="list-style-type: none"> <li>• Shall be determined by reference to the aggregate of the stakes paid or agreed to be paid by the persons betting;</li> <li>• Shall be divided among the winners; or</li> <li>• Shall or may be something other than money.</li> </ul> For the purposes of the Gambling Act, pool betting is horse-race pool betting if it relates to horse-racing in Britain.
Regulations of Statutory Instruments	Regulations are a form of law, often referred to as delegated or secondary legislation. They have the same binding legal effect as Acts and usually state rules that apply generally, rather than to specific persons or things. However, regulations are not made by Parliament. Rather, they are made by persons or bodies to whom Parliament has delegated the authority to make them, such as a minister or an administrative agency.
Representations	In the context of the Gambling Act, representations are either positive statements of support or negative objections which are made in relation to a licensing application. Representations must be made in time, e.g. during a designated notice period.
Responsible authority (authorities)	Responsible authorities (RAs) are agencies which have been appointed by the Gambling Act, or regulations to fulfil a designated role during the licensing process. RAs must be sent copies of all licensing applications and have the power to make representations about such applications. RAs also have the power to ask for licences to be reviewed.
Skill machine / Skill with prizes machine	The Act does not cover machines that give prizes as a result of the application of pure skill by players. A skill with prizes machine is one on which the winning of a prize is determined only by the player's skill – any element of chance imparted by the action of the machine would cause it to be a gaming machine. An example of a skill game would be trivia game machines, popular in pubs and clubs, which require the player to answer general knowledge questions to win cash prizes.
Spread betting	A form of investing which is more akin to betting, and can be applied either to sporting events or to the financial markets. Spread betting is regulated by the Financial Services Authority.
Stake	The amount pledged when taking part in gambling activity as either a bet, or deposit to the bank or house where the house could be a gaming machine.

Statement of principles document	A document prepared by the Council which outlines the areas that applicants need to consider before applying for gaming permits.
Table gaming	Card games played in casinos.
Tote	“Tote” is short for Totaliser, a system introduced to Britain in 1929 to offer pool betting on racecourses.
Track	Tracks are sites (including horse tracks and dog tracks) where races or other sporting events take place.

## Appendix 2 Gaming Machines

This appendix describes the categories of gaming machine as set out in the Act (and in regulations) and the number of such machines that may be permitted in each type of gambling premises.

- Table 1 below sets out the current proposals for the different categories with the maximum stakes and prizes that will apply. This table will be updated as soon as the proposals are confirmed.
- Table 2 overleaf shows the maximum number of machines permitted and in the case of casinos the ratios between tables and machines.

Table 1

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 (with the option of a max £20,000 linked progressive jackpot on a premises basis only)
B2	£100	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D – money prize	10p	£5
D – non-money prize (other than a crane grab machine)	30p	£8
D – non-money prize (crane grab machine)	£1	£50
D – combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machine)	20p	£15 (of which no more than £8 may be a money prize)

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<sup>1</sup> The category B2 is not actually a traditional slot machine. It refers to a type of gaming machine known as a fixed odds betting terminal (FOBTs). These are a new type of gaming machine which generally appear in licensed bookmakers. FOBTs have 'touch-screen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.



Table 2

	Machine category						
Premises Type	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act Casinos (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks operated by pool betting			Maximum of 4 machines categories B2 to D (except B3A machines)				
Bingo Premises <sup>1</sup>				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*		No limit C or D machines	
Adult gaming centre <sup>2</sup>				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*		No limit C or D machines	
Licensed family entertainment centre <sup>3</sup>						No limit C or D machines	
Family entertainment centre (with permit)							No limit on category D machines
Clubs or miners' welfare institutes with permits <sup>4</sup>					Maximum of 3 machines in categories B3A or B4 to D*		
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licensed premises with licensed premises gaming machine permit						Number of category C-D machines as specified on permit	
Travelling fair							No limit on category D machines
	A	B1	B2	B3	B4	C	D

1. Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premise. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A.
2. Adult gaming centres are entitled to make available for use a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13<sup>th</sup> July 2011, they are entitled to make available four Category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.
3. Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FECs and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.
4. Members' clubs and miners' welfare institutes with a club gaming permit, or with a club machine permit, are entitled to site a total of three machines in categories B3A to D, but only one B3A machine can be sited as part of this entitlement.
5. Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

## Appendix 3 Summary of Gaming Entitlements for Clubs and Pubs

	Members' club or MW institute with club gaming permit	Bridge or whist club	Members' club or commercial club with club machine permit	Members' club, commercial club or MW institute without a club gaming permit	Pubs and other alcohol-licensed premises
<b>Equal chance gaming</b>	Yes	Bridge and/or whist only	Yes	Yes	Yes
<b>Limits on stakes</b>	No limit	No limit	<u>Poker</u> £1000 per week £250 per day £10 per person per game  <u>Other gaming</u> No limit	<u>Poker</u> £1000 per week £250 per day £10 per person per game  <u>Other gaming</u> No limit	<u>Cribbage &amp; dominoes</u> No limit  <u>Poker</u> £100 per premises per day  <u>Other gaming</u> £5 per person per game
<b>Limits on prizes</b>	No limit	No limit	<u>Poker</u> £250 per game  <u>Other gaming</u> No limit	<u>Poker</u> £250 per game  <u>Other gaming</u> No limit	<u>Poker</u> £100 per game  <u>Other gaming</u> No limit
<b>Maximum participation fees – per person per day</b>	<u>Bridge and/or whist*</u> £20  <u>Other gaming</u> £3	£18 (without club gaming permit)  £20 (with club gaming permit)	<u>Bridge and/or whist*</u> £18  <u>Other gaming</u> £3 (commercial club) £1 (members club)	<u>Bridge and/or whist*</u> £18  <u>Other gaming</u> £1	None permitted
<b>Bankers or unequal chance gaming</b>	Pontoon Chemin de Fer	None permitted	None permitted	None permitted	None permitted
<b>Limits on bingo</b>	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	No bingo permitted	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.

\* On a day when no other facilities for gaming are provided

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