

LICENSING COMMITTEE

(Licensing Act 2003 Functions)

Agenda Item 28

Brighton & Hove City Council

Subject:	Annual Report of the Licensing Authority 2016		
Date of Meeting:	2 March 2017		
Report of:	Executive Director of Neighbourhoods, Communities & Housing		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT:

- 1.1. This report sets out the licensing and gambling functions for Brighton & Hove City Council carried out during 2016.
- 1.2. National matters: legislative changes and consultation
 - Immigration Act 2016 & Policing and Crime Bill (see Appendix 1)
- 1.3. Local licensing matters
 - Alcohol Programme Board
 - Street drinking/Sensible on Strength
 - Sexual exploitation in the night-time economy
- 1.4. Local/national gambling matters
 - Review Gambling Policy – risk rating inspection programme
- 1.5. Members are apprised of local and national issues.

2. RECOMMENDATIONS:

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

3. CONTEXT / BACKGROUND INFORMATION:

3.1. Licensing Act 2003

- 3.1.1. At the time of writing this report the total number of licensed premises and club premises in Brighton & Hove is 1340 and 34 respectively.
- 3.1.2. Table 1 below shows the numbers of applications and hearings for the last three years, including those granted, refused and withdrawn.

3.1.3. The Licensing Authority dealt with 5 reviews in 2016. The full list can be seen in the Review table report. 2 licences were revoked including Azure which was the first Review called by the Licensing Team in Brighton & Hove (see Appendix 2).

3.1.4. In Appendix 3 you will find more detailed tables showing “Total Premises Licences by venue type and ward” and “Licence Applications received 2016 – venue type and area”.

Table 1: Licensing Act 2003 figures 2016/2015/2014

1st Jan - 31st December 2016		1st Jan - 31st December 2015		1st Jan - 31st December 2014	
New apps 01.01.16-31.12.16	75	New apps 01.01.15-31.12.15	61	New apps 01.01.14-31.12.14	52
TOTAL fully	72	TOTAL fully	48	TOTAL fully processed*	52
(granted)	65	(granted)	42	(granted)	46
(refused)	5	(refused)	3	(refused)	3
(withdrawn)	2	(withdrawn)	3	(withdrawn)	3
Variations		Variations		Variations	
TOTAL	27	TOTAL	21	TOTAL	29
(granted)	22	(granted)	16	(granted)	25
(refused)	2	(refused)	2	(refused)	3
(withdrawn)	3	(withdrawn)	3	(withdrawn)	1
Minor Variations		Minor Variations		Minor Variations	
TOTAL	79	TOTAL	59	TOTAL	50
(granted)	75	(granted)	59	(granted)	49
(refused)	1	(refused)	0	(refused)	1
(pending)	3				
Panel hearings (apps)	22	Panel hearings (apps)	13	Panel hearings (apps)	16
Reviews	5	Reviews	5	Reviews	8
Appeals	1	Appeals	3	Appeals	3
TENS hearings	2	TENS hearings	5	TENS hearings	4
TOTAL TENS	1101	TOTAL TENS	1075	TOTAL TENS	903
TENS (granted)	1080	TENS (granted)	1053	TENS (granted)	884
TENS (refused)	14	TENS (refused)	17	TENS (refused)	16
TENS (withdrawn)	7	TENS (withdrawn)	5	TENS (withdrawn)	3

3.1.4 In 2016 a total of 75 new premises applications were received, 72 of which were fully processed between 01.01.16 and 31.12.16. Processing means receiving the application, entering it onto the database, receiving representations and proceeding to a panel hearing, sending out the panel decision letters, writing up the licences, sending out the licence and entering the decision onto the database. There can be some applications received near to the year end that might be counted as an application received but not as an application fully processed (because of 28 day consultation period, 20 day hearing period etc).

3.1.5 Headline trends

There was an increase in the number of applications received in 2016.

1st Jan - 31st December 2016		1st Jan - 31st December 2015	
New apps 01.01.16-31.12.16	75	New apps 01.01.15-31.12.15	61
Pub/bar/nightclub	10	Pub/bar/nightclub	7
Convenience Store (off)	7	Convenience Store (off)	10
Restaurant	21	Restaurant	10
Café bar	13	Café bar	9
Late Night Refreshment	2	Late Night Refreshment	1
Large supermarket	1	Large supermarket	0
Petrol station	1	Petrol station	0
Church	2	Church	2
Cinema	1	Cinema	2
Hotel/guest house	0	Hotel/guest house	1
Other	16	Other	19

3.1.6 Of the 75 applications received during 2016, 22 were for premises within the CIZ and 17 were in the special stress area. 9 applications were for time limited licences (e.g. Big Beach Screen, Pride and Ice Rink) – 7 of which were in the CIZ. Looking at the 22 premises within the CIZ, 8 were granted after representations had been withdrawn & agreements reached, 8 were granted after no representations were received, 2 were refused, 3 were granted after a panel hearing and 1 is due to be heard before a panel hearing in Feb 17.

3.2. Gambling Act 2005 - Licensing Authority Functions

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

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

Premises Licences	Current (31/12/2016)	2007
Casinos	4	4
Bingo Licences	1	8
Adult Gaming Centres (AGCs)	10	28
Family Entertainment Centres (FECs)	2 (plus 4 FEC permits)	8
Betting tracks	2	2
Betting Shops	39	51
Gaming Machines Total	191	222
Gaming Machine Permit (> 2 x Cat C&D)	24	
Gaming Machine Auto Entitlement (2 x C&D)	157	
Club Machine Permits	7	
Club Gaming Permits	3	

3.3. **Press interest:** Licensing issues in Brighton and Hove have been at the forefront of the media between 1/1/16 – 31/12/16. Press interest includes:

- Planet India licensing application – Brighton & Hove News, The Argus
- Seafront restaurant (Azure) license revoked and alleged damage to units – Brighton & Hove News, Latest TV
- Uber licensing application renewal, meeting of licensing panel with Uber, and taxi drivers complaint about uber – Latest TV, Brighton & Hove News, The Argus
- Synergy Centre licensing – Latest TV, Brighton & Hove News – licence refused and appeal dismissed.
- Royal Standard pub and fake and smuggled alcohol – (The Argus, LGA press office) Royal Standard decision to ban the lessees while leaving the licence in the hands of Admiral Taverns. Local coverage, and the LGA also expressed an interest in using it as a case study for a national piece around action on fake and smuggled alcohol
- Bulldog - licence review gained local coverage
- Sensible on Strength campaign signs up Co-op stores
- Live music policy panel is a success

3.4. **Local Licensing Issues**

3.4.1. Alcohol Programme Board

The Alcohol Programme Board includes health commissioners and NHS/voluntary sector providers, the Council, University student reps, police, licensees, retailers and probation services, with Chair of Licensing invited. The work of the Alcohol Programme Board, domain group 2 (availability) developed an action plan which can be found at Appendix 4.

3.4.2. **Street drinking/Sensible on Strength**

- Now 3 years since launch
- 153 members
- Further 39 stopped selling but not joined scheme
- Southern Co-op's have joined:

'Sensible on Strength' Scheme – Quote from The Southern Co-operative

"The Southern Co-operative is pleased to confirm that all 5 of its stores in Brighton and Hove, including Bramber House at Sussex University, have joined the 'Sensible in Strength' scheme, and that all low-cost, high-strength alcohol will have been taken off the shelves.

The Southern Co-operative's decision to join the campaign was based on our shared ethos for promoting and supporting responsible retailing, and addresses our continued commitment to the four licensing objectives; the prevention of crime and disorder, prevention of public nuisance, public safety, and protection of children from harm.

We were delighted to hear that significant and positive changes have already been achieved by the campaign and its existing members, which is helping to reduce anti-social behaviour and improve the health of all those affected by alcohol addiction.

We are proud to be the first convenience store chain to take part in the scheme and hope that our involvement will encourage others to also pledge their support.”

Silena Dominy, Director of Corporate Affairs, The Southern Co-operative

- Letter has been sent to all existing members thanking for their support in conjunction with ‘Alcohol Awareness Week’.
- Quote from Jesse Wilde, Senior Business and Partnership Manager for Equinox:
Probably the most visible impact of higher strength alcohol sales is the presence of street drinkers. The Sensible on Strength scheme targets this group of people in particular. Along with colleagues in Equinox, we monitor the number of street drinkers in the city. In the first two years following the introduction of the scheme street drinking numbers dropped by 31%. The vast majority of street drinkers now drink 6% abv and below as opposed to the 9% which was the norm before SOS. This means street drinkers are more able to engage with support.
- Equinox contributed to research carried out last year by Alcohol Concern. This has now been published as National Best Practice by the Police and Crime Commissioners. Sensible on Strength is also mentioned.
- Press Release went out on 13 December 2016.
- University of Sussex, Falmer site have also joined the scheme.

3.4.3. Statement of Licensing Policy and Gambling Policy

A major overhaul of both the Statement of Licensing Policy and the Gambling Policy was carried over 2015/16 and both policies were agreed at Full Council in March and December 2016 respectively.

3.4.4. Sexual Exploitation in the Night-Time Economy

The licensing authority continues to support safeguarding initiatives such as the Beach Patrol Quad bike, safe space and street pasters. A workshop for interested parties, looking at future proofing funding for these initiatives is being organised on the 21st February 2017 which the Councillors saw the benefit of on their late night visit. The licensing Authority worked with VisitBrighton to publise Vulnerability Training & Child Sexual Exploitation Awareness training in October 2016 for hotel staff, facilitated by the police.

3.5. **Gambling Local and National Issues**

Gambling Act 2005

Statement of Principles (Gambling Policy) was reviewed and agreed by Full Council in December 2016. The changes brought in by the Gambling Commission has been to improve social responsibility, reduce gambling related harm and give greater control to customers. The key change took effect is the requirement for operators to produce a local risk assessment taking into account relevant matters identified in the licensing authority's statement of licensing policy (LA's own local area profile and the new Statement). Officers are currently working on a risk rating inspection programme.

4. **ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

4.1 There were no other options considered as the report is for information only.

5. **COMMUNITY ENGAGEMENT AND CONSULTATION**

5.1. Licensing Strategy Group, finance and legal services.

6. **CONCLUSION**

6.1 That the information should be noted.

7. **FINANCIAL & OTHER IMPLICATIONS:**

Financial Implications:

7.1 The costs associated to activities allowable under the Licensing Act 2003 are funded by licence fee income; any variation between expenditure and income generated from licence fees is funded from existing revenue budgets.

7.2 Where fees are not set by central government, licence fees are set at a level that it is reasonably believed will cover the costs of providing the service and in accordance with the requirements of the legislation under which they are charged. Licence fees are approved annually at Licensing Committee.

Finance Officer Consulted: Monica Brooks Date: 17/01/17

Legal Implications:

7.3 Legal implications are contained within the body of this report.

Lawyer Consulted: Rebecca Sidell Date: 17/02/16

Equalities Implications:

7.4 There are no direct equalities implications.

Sustainability Implications:

7.5 There are no direct sustainability implications.

Crime & Disorder Implications:

- 7.6 Contained in the body of the report.

Risk and Opportunity Management Implications:

- 7.7 No implications

Public Health Implications:

- 7.8 Contained within report.

Corporate / Citywide Implications:

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

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix 1 – Legislative changes & consultation
2. Appendix 2 – Reviews and appeals tables
3. Appendix 3 – “Total premises Licences by venue type and ward” and “Licence applications received 2016 – venue type and area”
4. Appendix 4 - Alcohol Programme Board action plan

Documents in Members’ Rooms

1. None.

Background Documents

1. None.

National matters: legislative changes

Immigration Act 2016

Aim: to reduce illegal immigration.

Contains measures to remove incentives for illegal migrants to enter or remain in the UK, and to prevent and deter illegal working. To give Immigration Enforcement a statutory role within licensing.

82% of civil penalties served by immigration officers in the year ending June 2015 were served on the **retail industry or hotel, restaurant and leisure industry sectors.**

Amendments to the Licensing Act 2003 to commence spring 2017

Immigration Enforcement will be a responsible authority

Personal and premises licences: individuals must have permission to live and work in the UK

Immigration offences will be relevant offences (civil penalties)

Immigration officers will have the power of entry to investigate immigration offences

Policing and Crime Bill

Aim: to increase safeguards and prevent abuse of the licensing system

Amendments to the Licensing Act 2003:

- Definition of alcohol
- Summary reviews: interim steps
- Revocation and suspension of personal licences
- Updating the list of relevant offences
- S.182 guidance: publication
- Cumulative impact assessments
- Amendments to the late night levy

Revocation of Personal Licences

In 2015/16:

- 650,000 personal licences in existence
- 2 personal licences forfeited, 6 suspended

IoL survey March 2015:

- 114 responses: 79% licensing authorities, 17% police
- 75% have problems with the existing arrangements
- Licensing authorities will be able to revoke or suspend personal licences
- Licence holder will have 28 days to submit representations, and may appeal to magistrates' court
- Not for convictions received before the new arrangements commence

Summary Reviews

Review of premises associated with serious crime or serious disorder

Long-standing anomaly in the Licensing Act 2003:

- What should happen to the interim steps between the review hearing and the decision coming into effect (21 days or after appeal)

New process:

- Flexible for licensing authorities and fair for businesses
- Review interim steps at the review hearing and modify or withdraw
- Licensee or police may appeal ongoing interim steps to magistrates' court, heard within 28 days
- S.53B will be amended to limit repeat representations

Cumulative Impact

- **Aim:** legal certainty and transparency for applicants, licensing authorities and other responsible authorities on how CIPs are developed and operate.
- Licensing authority considers that the number of premises in a particular area is such that granting any further authorisations would be inconsistent with the licensing authority's duty to promote the licensing objectives.
- Consultation and evidence for this opinion
- Review and consult at least every 3 years

- Late Night Levys

- **Aim:** improve the levy by making it more flexible for licensing authorities, fairer to businesses and more transparent. To increase use of the levy.
- Target geographical areas
- Extend the levy to premises licensed to sell late night refreshment
- Give PCCs the right to request a consultation
- Licensing authorities to publish information about how the money is spent
- Public consultation on the charge for late night refreshment.

UPDATE - The Policing and Crime Bill received Royal Assent on Monday 31 January 2017.

Although the new Policing and Crime Act 2017 predominantly deals with police reform, there are a number of licensing measures included; Part 7 relates to alcohol and late night refreshment, cumulative impact policies and the late night levy. However the provisions are yet to come into force and this will be when Regulations are made with the commencement dates.

Section 137 - Meaning of "alcohol": inclusion of alcohol in any state - amends the definition of "alcohol" in the Licensing Act 2003 to include alcohol in any state.

Section 138 - Interim steps pending review: representations - Amends the Licensing Act 2003 to include a new section 9A: "Where the relevant licensing authority has determined under subsection (8) whether to withdraw or modify the interim steps taken, the holder of the premises licence may only make further representations under subsection (6) if there has been a material change in circumstances since the authority made its determination."

Section 139 - Summary reviews of premises licences: review of interim steps - Amends

the Licensing Act 2003 to clarify the position of interim steps following a summary review.

Section 140 - Personal licences: licensing authority powers in relation to convictions - Amends the Licensing Act 2003 to give licensing authorities new powers to act when a personal licence holder is found guilty of relevant offences (whereas at the moment, only HMCS has the power to act).

Section 141 - Licensing Act 2003: addition of further relevant offences - Amends the Licensing Act 2003 to add further relevant offences to the existing list.

Section 142 - Licensing Act 2003: guidance - Amends the Licensing Act 2003 to simplify the process for issuing new S.182 guidance by removing the requirement to ensure the guidance is approved by both Houses.

Section 143 - Cumulative impact assessments - Amends the Licensing Act 2003 to place cumulative impact policies on a statutory footing.

Section - 144 Late night levy requirements - Amends Police Reform and Social Responsibility Act 2011 to make changes to the current levy structure and requirements.

Section - 179 Licensing functions under taxi and PHV legislation: protection of children and vulnerable adults - Introduces a new discretionary power for the Secretary of State to issue statutory guidance "...to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm."

Appendix 2

Reviews table

NAME AND ADDRESS OF PREMISES	Review called by	DATE OF HEARING	DETERMINATION
Best Shop 91 Mill Lane Portslade BN41 2DF	Police	11.05.16	Suspended for 2 months & conditions added
Azure 9 - 11 Madeira Drive Brighton BN2 1PS	Licensing Authority	13.10.16	Revoked
Royal Standard 59 Queens Road Brighton BN1 3XD	Trading Standards	04.11.16	Conditions added
Brighton Racecourse Racehill Brighton	Environmental Protection	04.01.17	Conditions added
Tipple 52 Queens Road BN1 3XB	Trading Standards	05.01.17	Revoked

Schedule of Licensing Appeals

Premises	Appellant	PTR	Hearing	Outcome
The Synergy Centre	Synergy Centre	17.6.16	28 th , 30 th November and 1 st December 2016	Appeal dismissed and costs awarded to the Council.