

<b>LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)</b>	<b>Agenda Item 2</b> Brighton & Hove City Council
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**BRIGHTON & HOVE CITY COUNCIL**

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

**3.30PM 4 MARCH 2010**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Cobb (Chairman), Lepper (Deputy Chairman), Alford, Duncan, Harmer-Strange, Hawkes, Hyde, Kitcat, Marsh, Older, Phillips, Pidgeon, C Theobald, Watkins and West

**Apologies:** Councillors Simson and Wrighton

**PART ONE**

**22. PROCEDURAL BUSINESS**

**22a Declaration of Substitutes**

22.1 Councillor Alford declared that he was substituting for Councillor Simson.

22.2 Councillor Duncan declared that he was substituting for Councillor Wrighton.

**22b Declarations of Interests**

22.3 Councillor Duncan declared a personal but not prejudicial interest in item 28: Reducing Alcohol Related Harm to Children and Young People; for the reason that he had sat on the scrutiny panel which had examined this issue.

**22c Exclusion of the Press and Public**

22.4 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Committee (Licensing Act 2003 Functions) considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item,

there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100(1) of the Act).

22.5 **RESOLVED** – That the press and public be not excluded.

### 23. MINUTES OF THE PREVIOUS MEETING

23.1 **RESOLVED** – That the minutes of the meeting held on 26 November 2009 be signed by the Chairman as a correct record.

### 24. CHAIRMAN'S COMMUNICATIONS

24.1 The Chairman stated that a 12 week consultation period on lap dancing controls had just been completed by central government, and Brighton & Hove City Council had responded. She stated that the Council would now be able to regulate sex establishments once the provisions were adopted, and these regulations would apply to already existing establishments. The regulations would commence on 12 April 2010 with a 12 month transitional period for the new arrangements to take effect. Officers were intending to consult Members on the options and then bring these back to the Committee for political steerage.

24.2 Councillor Lepper stated that she was very pleased these regulations were now coming into force as it had solved a big problem for the city.

24.3 Councillor West asked for Officers to present information to Members as quickly as possible to ensure they could make an informed an accurate decision about the proposals.

24.4 Councillor Hawkes felt that the Committee had been very clear on this issue in the past and expressed surprise that some Members may have doubts about the proposals. She noted the decision would be a personal rather than party political matter.

24.5 The Head of Environmental Health and Licensing, Mr Nichols, stated that Officers would consult through party leaders, but there was currently no timetable to the scheme, but felt that Members generally wanted these provisions. He added that if the proposals were not accepted, the Council would have to undertake public consultation as to why they did not want the provisions. The regulations would enable the Council to have discretionary grounds for refusal. A report would be drafted by Officers and any comments from Members about the issue would be taken on board.

24.6 Councillor Watkins asked what the appeal process was for pre-existing sex establishments if they were not granted a licence under the new regime. He added that he was currently chairing a Scrutiny Panel on sexual violence, and he asked that any evidence from this be used to draft the Licensing Officers report. Mr Nichols replied that the sex establishment appeal provisions set out in the Local Government (Miscellaneous Provisions) Act 1982, as amended, would apply. Conditions on the licence should be used to protect performer safety and he noted the availability of evidence from the scrutiny panel and undertook to use this where possible.

### 25. PUBLIC QUESTIONS

25.1 There were none.

## 26. PETITIONS

26.1 The Committee received an e-petition submitted via the Council's website and signed by 23 people regarding Late Night Noise.

26.2 **RESOLVED** – That the Committee notes the e-petition.

## 27. NOTICE OF MOTION FROM COUNCIL

27.1 The Committee received a Notice of Motion from Full Council regarding Responsible Licensing.

27.2 Councillor West introduced the Notice of Motion on behalf of Councillor Fryer, and stated that the Notice of Motion was accepted by Full Council as an important motion. There was a worrying increase in the number of hospital admissions related to alcohol misuse. He felt that the current drinking culture in this country equated to an "exploding time bomb", but believed there were ways that the Council could successfully tackle this problem.

The current licensing laws had exacerbated the problem with principle issues around pricing, availability and responsibility not being addressed adequately. Strong alcohol had in the past been a luxury item, but the incredible transformation in pricing of alcohol had made it prevalent in society. He noted that Councillor Fryer was a member of the Responsible Drinking Forum in London and was keen to help the Council develop progress on this issue. He felt that there was not an appropriate forum within the Council to address this issue on a partnership basis. Councillor West urged Members to look at the Big Drink Debate manifesto and sign up to the recommendations.

Councillor West referred to the DCMS response to the Notice of Motion, and recognised it dealt with issues around irresponsible trading and promotions. There were enhancements to the Councils powers to call a review of licensed premises, but Councillor West did not believe the DCMS response went far enough. He noted there were political moves to make traders more responsible and he asked the Committee to support this Notice of Motion to move the issue along.

27.3 The Chairman stated that the Notice of Motion had been agreed by Full Council and as such could not be amended by the Committee. The Committee must agree or not agree the actions requested therein.

27.4 Councillor Lepper noted that there was in fact an appropriate forum where these issues were being addressed within the Council called the Licensing Strategy Group.

27.5 Mr Nichols addressed the Committee and stated that the Licensing Act 2003 appeared to have achieved its stated aims of integrating several separate licensing regimes under the democratic, accountable control of local authorities and reducing disorder arising from artificially early, fixed closing times. In Brighton & Hove, public place violent crime was at a 10 year low and noise complaints from licensed premises declined last year; whereas the health implications of the joint strategic needs assessment showed that

children were drinking less than previously, but PCT reports showed that alcohol related hospital admissions and chronic liver disease had increased. The health impact assessment had demonstrated decreasing alcohol related offending but increasing domestic abuse.

Regarding the price elasticity of demand of alcohol, Mr Nichols stated that an increase in price could lead to a significant drop in demand. Pricing was recognised as a key influence on consumption.

Mr Nichols went on to note the request for a Scores on the Doors type system for alcohol premise, and that the department would look at all options, but added that the Scores on the Doors for food premises was a national Food Standards Agency backed scheme. A local scheme for licensed premises would be vulnerable to criticisms of defamation and inconsistency. Food safety had a single regulator whereas licensing has several responsible authorities, including two principal ones for age restricted sales (Police and Trading Standards). There would also be resource implications arising from this request, including increased inspection and revisit rates, website development and the implications for inspectorates outside local authority control. There were also complicating factors around a consistent risk based prioritised scheme with different inspectorates with different responsibilities.

- 27.6 Councillor Alford felt that price was always a significant issue but availability was also a large problem. He believed that twenty-four hour licensing laws were a disgrace and felt that there were now too many shops able to sell alcohol. The Chairman responded that statistics showed that pricing had the largest impact on alcohol consumption.
- 27.7 Councillor Hyde stated that she was concerned about cost implications if the Council tried to introduce a Scores on the Doors type system for licensed premises. She also felt that it would give a good indication to young people where they were most likely to be sold alcohol if they were underage, and providing publicity for less well managed premises may be counter-productive. She added that the Planning Department and Committee worked very hard to ensure cross-working on this issue.
- 27.8 Councillor Mrs Theobald stated that controlling the availability of alcohol through licensed premises was very difficult for the Council to achieve, but she believed the Licensing Team were working hard to ensure that the Council was doing as much as possible to mitigate the negative issues Councillor West had raised.
- 27.9 Councillor Older asked about the membership of the Licensing Strategy Group. Mr Nichols replied that representatives from the Licensing Authority, namely Officers, the Chairman and Deputy Chairman, responsible authorities, licensing trade and interested parties, plus residents associations and LAT groups, were invited to attend.
- 27.10 Councillor Duncan stated that reports showed the young people's average pocket money could now buy between 50 and 100 units of alcohol per week, which was a worrying factor. He added that enforcement was also an issue and enforcement of noise or public nuisance was not currently sufficient. He added that more money and resources needed to be directed to this area.

- 27.11 Councillor Kitcat added that many low level instances of antisocial behaviour or public nuisance were not being picked up on as the police also had resourcing issues and were often dealing with bigger problems. He felt that in many instances applications were agreed at planning without reference to licensing and there needed to be more joined up working on this issue. He asked whether, because licensing was a cost neutral service, could the department only enforce the elements that could be funded out of the licensing fee.
- 27.12 Councillor Hawkes noted that, in terms of cross-working, the Licensing Strategy Group was already working with the RU-OK service, and she commended this practise.
- 27.13 Councillor Hyde asked if licensing hours overrode planning application hours and Mr Nichols responded to both her question and Councillor Kitcat's comments. He stated that applicants may apply for permissions in whichever order they wished, but it was the business's responsibility to comply with whichever permission or condition was most restrictive. As Licensing and Planning had different considerations and objectives it was legitimate to grant one but refuse another, even though that may cause confusion and dissatisfaction to residents and businesses.
- 27.14 Councillor Lepper proposed a report with cost and legal implications to be prepared for the next committee meeting based on the Notice of Motion request. Councillor Cobb seconded this and the Committee Members agreed. Councillor Duncan noted that legal implications would have already been dealt with by the Monitoring Officer regarding the NoM as it had been agreed at Full Council.

27.15 **RESOLVED -**

1. That the Notice of Motion from Full Council is noted, and
2. That the Licensing Committee will draw up a list of 'best practice' which takes into account the recommendations of the 'Reducing Alcohol Related Harm to Children and Young People scrutiny panel and looks into ways of publicly recognising and rewarding responsible licensees who follow best practice, in a similar way to its successful "Scores on the Doors" scheme.

**28. REDUCING ALCOHOL RELATED HARM TO CHILDREN AND YOUNG PEOPLE - CYPOSC REFERRAL**

- 28.1 The Committee considered a report from the Director of Environment regarding Reducing Alcohol Related Harm to Children and Young People – CYPOSC Referral.
- 28.2 The Head of Overview and Scrutiny, Mr Hook, introduced the report and highlighted the recommendations that directly related to the Licensing Committee, which covered a range of different options for the Committee to consider.
- 28.3 Councillor Duncan stated that he had sat on the CYPOSC panel which conducted this review and felt it had been an excellent non-party analysis of the problem. He noted that children in the city were suffering increasing impact from alcohol abuse and there was evidence to suggest it was getting worse in the eastern part of the city. He highlighted the recommendations and felt that a co-operative approach to these issues needed to

be taken with the trade. Recommendation six related to the proliferation of licensed establishments outside of the Cumulative Impact Area and Councillor Duncan felt that this year's review of the boundary needed to take this into consideration. He urged the Committee Members to support the recommendations.

- 28.4 Councillor Older noted that whilst recommendation eight dealt with impacts to health, this was not a licensing consideration. Mr Nichols agreed but added that this recommendation, and some others, were directed towards Children's and Young Person's Trust rather than the Licensing Committee.
- 28.5 Councillor Hawkes noted that youth workers were working with young people on many of the issues raised within the report, and added that this valuable work needed to continue and be supported.
- 28.6 Councillor West noted that the recommendations of this report could inform the Best Practice for Responsible Licensing Notice of Motion, which was being drafted by Officers in the near future.
- 28.7 **RESOLVED –**
1. That the Committee notes the evidence, findings and recommendations of the Children's and Young People's Overview and Scrutiny Committee and its scrutiny panel, in relation to Reducing Alcohol Related Harm to Children and Young People.
  2. That the Committee agrees the response to recommendations 1, 2, 3, 4, 6 and 11 (those specific to Licensing and Trading Standards) as set out in appendix 1 of the report.

## **29. WORK OF THE LICENSING AUTHORITY DURING 2009/10**

- 29.1 The Committee considered a report from the Director of Environment regarding the Work of the Licensing Authority during 2009/10.
- 29.2 Mr Nichols introduced the report and felt that it demonstrated the good work conducted by the Licensing Authority over the last year. He highlighted recent changes within the Policing and Crime Act 2009, necessitating new advice appended to the report that advised Councillors on acting as interested parties in their capacity as Ward Councillor. This allowed Councillors to give views in the own right to ensure reviews were brought in certain cases.
- 29.3 Councillor Kitcat asked when this change came into effect and the Solicitor to the Committee, Ms Sidell, replied that it was already in place.
- 29.4 Councillor Marsh referred to the breakdown of panel membership in the report and felt that membership needed to be distributed more evenly among the Groups.
- 29.5 Councillor West felt the breakdown of membership was one-dimensional in nature and did not take account of the process whereby the Chairman and Deputy Chairman were asked to sit on the panel first. He added that he had volunteered to sit on many panels

that had been cancelled at short notice, but assumed these had not been included in the figures. He thanked the Licensing Team for the hard work they had put in over the year.

- 29.6 Councillor Kitcat noted the general trend in reduction of public place violent crime, but felt that violent crime was increasing in his ward and that the increase in alcohol premises was related to this and was changing the traditional street scene. He added that he was quite often representing residents on panel hearings as many applications came up in his ward, and was therefore unable to take part in the panel proceedings. He also noted that Members' working patterns were different and those who worked full time or during the day found it especially difficult to attend these meetings. The Chairman agreed the difficulties, noting that she also worked full time.
- 29.7 Councillor Duncan welcomed the strengthening of a Councillor's ability to call a review and represent ward constituents, as the vast majority of complaints in a city centre ward were about licensing issues. He felt that people expected Councillors to be public representatives, and now they were able to do this fully.
- 29.8 Councillor Lepper asked for more information on review and appeals recently conducted by the authority. Ms Sidell gave details on upcoming appeals and those recently completed, which had come out of several reviews of licensed premises.

29.9 **RESOLVED –**

1. That the Committee notes the contents of the report.
2. That Members endorse guidance at appendix 4.

**30. ITEMS TO GO FORWARD TO COUNCIL**

- 30.1 There was none.

The meeting concluded at 4.55pm

Signed

Chairman

Dated this

day of

