

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 17

Brighton & Hove City Council

Subject: Review of Statement of Licensing Policy
Date of Meeting: 20 November 2014
Report of: Head of Regulatory Services
Contact Officer: Name: **Tim Nichols** Tel: **29-2163**
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Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Council, as Licensing Authority, has a statutory duty to review its Statement of Licensing Policy (SoLP) every five years. The previous review was adopted on 15 December 2011 by Full Council and the revised Statement of Licensing Policy came into effect on 20 December 2011.
- 1.2 The revised statement of licensing policy included an expanded cumulative impact zone (CIZ) and new larger special stress area (SSA). In addition, a matrix approach to licensing decision making was adopted.
- 1.3 It was further agreed that the cumulative impact zone and special stress area are reviewed regularly and as such we have reviewed data year on year from the implementation of the CIZ and SSA's.
- 1.4 On the 26th June 2014 Licensing Committee considered the Report of the Health & Well Being Overview & Scrutiny Panel (Scrutiny Panel on Alcohol February 2014) in relation to proposed revision of the current Statement of Licensing Policy and noted the following recommendations:
- 1.5 That the Committee notes the Panel's recognition of the strengths of the Statement of Licensing Policy and agrees to authorise officers to carry forward their recommendation that the Policy and Matrix be reviewed by this Committee, in particular
 - a) the geographical scope of the Cumulative Impact Zone;
 - b) that café bars are given their own categorisation in the Matrix to recognise that they are not restaurants or pubs and that different guidance may apply;
 - c) review the definition of residential or commercial areas;
 - d) review the statement on hours of alcohol sale; and
 - e) review the policy on food and alcohol retailers outside the CIZ;
 - f) gather and assess the evidence necessary for a review of the policy as above in particular the evidence for inclusion of further areas into the CIZ

and that officers report back to this committee with a detailed report and amended policy proposal for approval by the committee with a view to commencement of the statutory consultation process

2. RECOMMENDATIONS:

- 2.1 That Committee resolve to confirm the current Cumulative Impact Area (CIA) and Special Stress Area (SSA) as defined in the current SoLP and to continue to adopt the special policy in relation to that CIA and SSA and to continue to include these within the current statement of licensing policy.
- 2.2 To note the review of the matrix in accordance with the recommendations of Scrutiny Panel on Alcohol (paragraph 1.5). This new draft matrix is set out in Appendix A.
- 2.3 Officers to continue to carry out work to review the SoLP (set out in Appendix B) to incorporate emerging policy issues such as Sensible on Strength and off licences, and advice from Director of Public Health, Public Health England and the Local Government Association.
- 2.4 Officers to report back to March 2015 Committee with an updated draft SoLP for statutory and public consultation.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Guidance states that there should be an evidential basis for the decision to include a special policy within the Statement of Licensing Policy (SoLP). For instance, Crime and Disorder Reduction Partnerships may have collated information which demonstrates cumulative impact or Environmental Health Departments may be able to show concentrations of valid complaints relating to noise disturbance.
- 3.2 National Guidance states at 13.28: the steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are summarised below:–
 - Identify concern about crime & disorder or public nuisance
 - Consider whether there is good evidence that crime & disorder or public nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
 - Identify the boundaries of the area where problems are occurring
 - Consult with those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation
 - Include and publish details of special policy in licensing policy statement.
- 3.3 The Licensing Authority should ensure that there is good evidence, not only that crime and disorder or public nuisance are happening, but that they are caused by customers of licensed premises. The borders defined then need to identify the boundaries of the area where problems are occurring – not where they might occur at some time in the future, unless that is imminent.

- 3.4 Sussex Police recommend that the CIZ and SSA are retained in their current form. This position is supported by the Council's Environmental Health Officers dealing with pollution, prevention and minimisation. Evidence shows that the Special Policy has been successful as incidents of alcohol related crime and disorder and nuisance have decreased since 2011. Appendix C is the Sussex Police Review of Licensing in Brighton and Hove – August 2013 to August 2014. Public Health and Community Safety Team analysis maps including mapping of licensed premises, alcohol related crime, noise and treatment centres are shown in Appendix F.
- 3.5 The Council's Environmental Health and Licensing section provides an advice and enforcement service in respect of noise nuisance from commercial premises. The report on noise in the city centre is appended (Appendix D).
- 3.6 Revisions to the Matrix:

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/ variations. It is a framework and each panel must consider each application on merit, including location and type of premises/activities.

Officers suggest remove mixed commercial and residential, residential and marina areas, leaving four categories instead: CIZ, SSA, Outside City Centre and Marina (see revised Matrix at appendix A). To expand the narrative/rationale for the matrix to ensure a more defensible robust approach, including exceptional circumstances and densely residential areas. To remove the High Volume Vertical Drinking (super pub) category within Matrix. To add terminal time of 11pm for Members Clubs in CIZ. To add Café Bars to the Matrix.

- 3.7 Review SoLP para 4.7 & 4.8 as confusing and contrary to Matrix times. Suggest removing times in 4.7 and remove 4.8.
- 3.8 Off licences. We have seen considerable success with the Sensible on Strength scheme where off licences voluntarily sign up not to sell the cheap superstrength beers and ciders. Positive feedback from alcohol treatment centres, where 80% of the high profile street drinkers have moved to lower ABV and more clients are engaging with rehab treatment centres, as well as breaking up hot spots drinking areas.

Dr Tim Worthley's quote

"As the Lead GP at Brighton Homeless Healthcare I care for many of the most chaotic, entrenched, and visible street drinkers. We strive to combat the problems of severe alcohol

dependence on the individual and on the community, but this is unfortunately a battle we often lose. Despite our best efforts, a significant number of our patients die young each year due to alcohol dependence. I am certain that the recent Sensible on Strength campaign has made a significant difference to many of my patients. I am consistently told by my patients that it is much harder to obtain high strength lager and cider. As a result many of them now drink lower strength alcohol. This has reduced their number of seizures, reduced their confusional state, and improved their liver function. They are easier to engage with, and are now more able to access general medical care as well as care specific to their alcohol dependence.

In my professional opinion Sensible on Strength has been one of the most significant public health measures in Brighton in recent times and I strongly endorse it. I would also take strong issue with any recent reporting to the contrary, and would argue that such articles are misleading to the community and damaging to the health of some of our most vulnerable citizens.”

Kristy Tanner, Community Charge Nurse, Community Alcohol Team, Substance Misuse Service, NHS Sussex Partnership Trust.

“I have noticed people reporting in assessment in the relapse prevention group that they are finding it harder to purchase super strength alcohol round the city and having to go further a field i.e. Portslade to find shops that sell it. They have mentioned that as some of them are unwell they can not travel any distance to buy super strength and therefore drinking at lower strength levels. I have had 2 clients recently stating they are buying super strength in Portslade.”

3.9 However, we have seen some of the problems pushed out from the city centre. Consideration to be given to the inclusion of the following paragraph(s) into the SoLP.

- a) Over recent years problems associated with street drinking have been experienced across the city but particularly in the town centre, on the promenade, the beach and public parks & gardens. While there are some areas with recurring problems with regard to street drinking groups they also crop up in different areas at different times. These individuals and the shops that supply them can be a focus of antisocial behaviour, disorder and disturbance. The supply of alcohol to individuals involved in the day-long consumption of alcohol on the street and in open spaces can directly lead to these groups of drinkers causing various types of crime, public nuisance and anti-social behaviour.
- b) Pre-loading and post-loading, the sale of alcohol to people who consume it on the way to or from venues licensed for the consumption of alcohol on the premises, gives rise to problems of drunkenness and disorderly behaviour. The proliferation of stores selling alcohol for consumption off the premises is of concern if it leads to drinking on the streets or alcohol being carried into premises such as pubs and nightclubs. The council is concerned that alcohol loading from off-licence sales is a significant problem in the town and adversely affects the licensing objectives.
- c) Where the police or others make representations against the grant of a further licence for off sales, because of their serious concerns over any of the problems listed above and the disorder associated with the off sale of alcohol in the area, the council will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. The council will want to be assured that the Operating Schedule of premises, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. The

earliest and latest hours of opening will be of particular concern. This is because problematic street drinkers and others who are seriously addicted to alcohol, may be drawn to shops that sell alcohol earlier in the morning and later in the evening than other premises and consequently create public nuisance. Where there are representations on problems of disorder, the hours when alcohol may be sold for consumption off the premises may be conditioned to be less than the generally granted hours issued to public houses and restaurants in the area.

3.10 Public Health: Policy Statement

Officers considered John Guzek, Public Health Intelligence Analyst survey, Safe & Well at School Survey 2013, which looks at the data on protecting children from harm, and noted that 35% of 14-16 year old publics reported that they drink with the sole purpose of getting drunk, and the figure is slightly higher for girls, with spirits being the most common alcohol choice among 11-16 year olds.

Police TP and intelligence suggests a bigger problem than first thought. Licensing Team working with police to promote fake ID poster campaign and advise about under age. Those premises found to sell to underage after an advice visit will be subject to Review and team will be asked to support this by confirming we had given previous advice. The Licensing Team are also hoping to link in with schools and six form colleges to promote dangers of underage drinking.

4. CONSULTATION

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

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

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

Finance Officer Consulted: Steven Bedford

Date: 21/10/2014

Legal Implications:

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

Lawyer Consulted: Rebecca Sidell

Date: 21/10/2014

Equalities Implications:

- 5.3 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.

Sustainability Implications:

- 5.4 Licensed premises throughout the city rely on local licensing policies in ensuring there is clear guidance on the continued operation of local businesses. Maintaining a regularly reviewed policy, which has undergone public consultation, will ensure a consistency of support to licensed premises, members of the public and other stakeholders affected by these activities.

Crime & Disorder Implications:

- 5.5 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.

Risk and Opportunity Management Implications:

- 5.6 Failure to meet this statutory duty would lead to uncertainties in decision making, loss of business continuity and an inability to meet customer care standards.

Corporate / Citywide Implications:

- 5.7 The policy promotes the licensing objectives and sets out a general approach to making licensing decisions. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this Special Policy is framed around those objectives.

Proposals for new licensed premises, or for certain variations to existing ones, within a CIA will normally be refused following relevant representations unless it can be demonstrated that there will be no negative cumulative impact.

SUPPORTING DOCUMENTATION

Appendices:

SUPPORTING DOCUMENTATION

Appendices:

- Appendix A – Proposed Matrix Approach
- Appendix B – Updated Statement of Licensing Policy
- Appendix C – Sussex Police Summary Review
- Appendix D – Environmental Health – noise complaints regarding licensed premises (to follow)
- Appendix E – Public Health Framework for Assessing Alcohol Licensing Annual Report
- Appendix F – Public Health and Community Safety Team analysis maps:
 - 1. All Alcohol Licences 2014 – CIZ/SSA and citywide
 - 2. All Alcohol Licences 2011 – CIZ/SSA and citywide
 - 3. Off-sale Only Licensed Premises 2014 – CIZ/SSA and citywide
 - 4. Off-sale Only Licensed Premises 2011 – CIZ/SSA and citywide
 - 5. All Alcohol Licences 2014 – CIZ/SSA
 - 6. 2010/11 and 2013/14 noise maps
 - 7. Police Recorded Violent Crime Hotspot 2014-15
 - 8. Police Recorded Alcohol Related incidents 2013-14
 - 9. Police Recorded Violent Crime Hotspot 2010-11
 - 10. Police Recorded Alcohol Related incidents 2009-10
 - 11. Treatment Centres (band 2 & 3 Accommodation), off licences & SoS 2014
 - 12. Number of alcohol related ambulance call-outs in 2013-14
 - 13. Number of off-licences per ward, also showing treatment centres and band 2 and 3 accommodation

Documents in Members' Rooms:

None.

Background Documents:

None.

