

BBPA Consultation Response

Portsmouth Draft Statement of Licensing Policy – BBPA Response

Introduction

The British Beer & Pub Association is the UK's leading organisation representing the brewing and pub sector. Its members account for 96 per cent of the beer brewed in the UK and own almost half of Britain's 50,000 pubs. The UK pub sector contributes over £19 billion to the economy and supports in the region of 900,000 jobs. Over 80% of pubs (i.e. nearly 40,000 outlets) are small businesses which are independently managed or run by self-employed licensees.

Our members' pubs operate across the UK and, as such, we have experience dealing with licensing issues throughout the country. We welcome the opportunity to respond to this consultation and agree that the draft document is generally well written. We do, however, have a number of concerns and these are outlined below.

22.32

The Draft Statement of Licensing Policy (SoLP) is correct to state that public health is not a licensing objective. This has been reinforced by the recent House of Lords Committee report¹ on the Licensing Act which stated that *'promotion of health and well-being is a necessary and desirable objective for an alcohol strategy, but... it is not appropriate as a licensing objective'*. We would urge the council only to consider public health representations when concerning specific premises and to the detriment of one of the licensing objectives, as the Licensing Act intends.

We would further highlight that it is often difficult to link health representations directly to an individual premises. Indeed, it is often the case that a well-run premises is penalised through inaccurate use of health data when an incident is linked to that premises but not necessarily caused by it. We would recommend the SoLP suggests that health representations are considered on an individual basis to determine whether there is a direct link with a particular premises. The SoLP, as it stands, also fails to recognise that licensed premises contribute significantly to the creation of a more responsible drinking environment and that public health concerns may result from alcohol consumption outside of or before entering the responsible drinking environment of the premises.

22.40

Within this section we are particularly concerned with the suggestion to ban high strength beer and cider above 6.5% ABV to reduce alcohol related harms. It is not widely accepted to suggest that imposing bans on higher strength beers and ciders is 'best practice', as suggested in the licensing policy. Encouraging licensees to consider such initiatives may create issues around competition law and will restrict certain products from entering the market. Although the SoLP suggests that premium products should not be included, it does not set out a definition of 'premium' and, indeed, there will be significant difficulty in defining such products. Premises may, therefore, choose not to stock any products over 6.5% ABV.

There is also a lack of evidence to suggest that this policy is effective in tackling alcohol related crime and disorder or public health concerns. For example, research conducted by the London School of

¹ <https://www.publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/146.pdf>

Hygiene and Tropical Medicine and Camden/Islington Public Health², as well as Alcohol Research UK³ has indicated that bans on higher strength beer and cider prove ineffective as problem drinkers will simply purchase alcohol from alternative premises that are not restricted by the condition or switch to an alternative replacement such as spirits or drugs.

To suggest that licensees adopt this as a blanket approach to tackle public health issues is a perfect illustration of type of measure that has proved to be ineffective. It is in contrast to the targeted and collaborative initiatives that are broadly considered by the majority of stakeholders as the preferred approach. Partnership working is specific to local issues and the targeted approach has a proven positive impact on alcohol related harm and disorder. The partnership approaches that we support are detailed further in the following section.

24.1

Whilst Portsmouth does not currently impose a Late Night Levy (LNL), the SoLP states that the Council will keep the option under review. The BBPA is opposed the LNL as a licensing and taxation tool. This is inclusive of the updated definition of the LNL, set out in the new Modern Crime Prevention Strategy⁴ and proposed in the current Policing and Crime bill⁵, which looks to increase levy flexibility.

We would urge Portsmouth Council not to implement a levy at any point. We would also highlight the recently published House of Lords committee report⁶ regarding the Licensing Act 2003, which looked at all aspects of licensing in detail, including LNLs. The independent committee heard extensive evidence from all parties involved in the licensing system and concluded that *'given the weight of evidence criticising the late night levy in its current form, we believe on balance it has failed to achieve its objectives and should be abolished.'*

A Late Night Levy is a direct tax on local businesses and has a number of fatal flaws, including the fact that it fails to achieve predicted revenues. Most importantly it does not include businesses as stakeholders in the safety of the local night-time economy when, in fact, they are vital in ensuring a safe and responsible environment. We would, instead advocate for a local Business Improvement District, alongside a number of other local partnership initiatives that have proven effective, such as Pubwatch, Best Bar None, Street Pastors, Purple Flag and Community Alcohol Partnerships.

Indeed, local councils are beginning to recognise that a LNL is not the way forward. Cheltenham has now repealed its levy in favour of a Business Improvement District and Gloucester has postponed its levy for similar reasons. The BBPA has produced a report⁷ outlining more effective alternatives to the LNL and we would urge Portsmouth Council to consider its evidence.

² Colin Sumpter et al. 2016. Reducing the strength: a mixed methods evaluation of alcohol retailers' willingness to voluntarily reduce the availability of low cost, high strength beers and ciders in two UK local authorities. BMC Public Health.

³ C. Hatworth, J. Hatworth. 2016. Evaluation of the Super Strength Free Scheme in East Newcastle Upon Tyne. Barefoot Research and Evaluation. Alcohol Research UK.

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509831/6.1770_Modern_Crime_Prevention_Strategy_final_WEB_version.pdf


⁵ <http://services.parliament.uk/bills/2016-17/policingandcrime/documents.html>


⁶ <https://www.publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/146.pdf>

⁷ http://s3.amazonaws.com/bbpa-prod/attachments/documents/uploads/24046/original/Late%20Night%20Levy%20Report%20March%202016.pdf?1460975810?from_search=1

Summary of Comments on Draft Statement of Licensing Policy - 2017 - Version 4_KC_HFRS_240317 (2).pdf

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 Author: firekc Subject: Highlight Date: 24/03/2017 15:48:49 Z

 Author: firekc Subject: Sticky Note Date: 24/03/2017 15:49:54 Z
Should this read '....one or more of the above activities....'





Author: firekc Subject: Highlight Date: 24/03/2017 15:55:42 Z



Author: firekc Subject: Sticky Note Date: 24/03/2017 15:57:09 Z

This area should fundamentally highlight the appropriate parts of the Human Rights Act first. There should also be a n intention to go above and beyond legislative red tape to promote a fully inclusive community and society environment.

 Author: firekc Subject: Highlight Date: 24/03/2017 15:59:30 Z

 Author: firekc Subject: Sticky Note Date: 24/03/2017 16:10:29 Z

Either have a separate section please or change to;

Fire Safety Duties including the requirement for;

- Written fire safety arrangements (the organisations policy)
- A fire risk assessment in writing
- An emergency plan that includes the evacuation procedure and management of capacity
- The provision of suitable fire warning and detection, fire fighting equipment, emergency lighting, escape signs and fire exits
- The maintenance of the premises and facilities
- The appointment of competent persons
- information and training to staff, the self employed and those from outside undertakings
- co-operation and co-ordination with other responsible persons where a premises is shared



Author: firekc Subject: Highlight Date: 24/03/2017 16:11:35 Z



Author: firekc Subject: Sticky Note Date: 24/03/2017 16:13:50 Z

FRS's should be advised of capacity and how this will be managed whilst the premises is occupied. This would be recorded primarily in the fire safety policy and emergency plan. The fire risk assessment would evaluate these to ensure that they remain appropriate. We do not recommend, we look to be advised and challenge if we do not agree.

SLP consultation response by the Director of Public Health (DPH), Portsmouth City Council, Dr. Jason Horsley

Please find below comments and suggested additions to the draft Statement of Licensing Policy:

13.3 - Can we add the following statement about Safe Space to the information/bullets that support the CIP?

Safe Space has been running for over 5 years in the CIP and was a recommendation of the Portsmouth Alcohol Strategy 2009-13. It is currently delivered by South Central Ambulance Service (SCAS). It was set up to provide a one stop shop in the City Centre to support vulnerable people and deflect any minor injuries away from the ambulance service, unnecessary attendances at the A&E department and subsequent admissions.

The service is open from 10pm to 3am Friday and Saturday nights and other key dates in the calendar year including New Year's Eve

In 2015 a total of 473 people were seen by Safe Space, this number grew to 494 in 2016 and In the first quarter of 2017 (Jan - Mar) Safe Space treated 106 people for a wide range of injuries or conditions.

During 2016, the most common recorded reason for attendance was 'in drink' (152), this usually means that the individual is heavily intoxicated by drink and requires the most attention and management. The second highest complaint was injury (108) which was an accumulative of all types of injuries.

We strongly support the continuation of the CIP in the City Centre.

22.30 - Can we adapt the statement about training to be more specific? At present it is open to interpretation

Applicants shall ensure all frontline staff undertakes training with regard to age restricted sales and the Licensing Act, and that this has been properly documented. It is also expected that licence holders will ensure that all frontline staff receive refresher training every six months or where there is an identified need to do so.

No member of staff should be permitted to sell alcohol until such time as they have successfully completed this training.

We recommend training should cover the below topics as a minimum

- Sale of alcohol to persons under 18 (penalties)
- Age verification policies and acceptable forms of Identification
- Signs of drunkenness and intoxication
- Recording refusals
- The Licensing Objectives

22.39 - Can we add a caveat to the following statement around 'Health' as a Licensing objective, stating that if legislation were to change and health becomes an objective, then the DPH would

seek to limit the amount of new licenses granted to Off Sales and seek CIP's in the areas most affected by alcohol related health harm.

As stated in paragraph 22.32, the promotion of public health is not a licensing objective as set out in the Act. However, the Licensing Authority would seek to encourage and support where appropriate, any voluntary initiatives that premises may wish to adopt to help reduce alcohol harm within our communities, we strongly support this.

The DPH sees the value in well run and responsible Community Pubs and those with an offer other than alcohol: like food or entertainment. A shift in drinking patterns and consumption means most of the harm from alcohol is now driven by low cost 'off' sales, not necessarily by sales in pubs. Also, the more visible harms created by drunk and disorderly behaviour in the night-time economy are also increasingly driven by pre-loading cheap alcohol from shops and supermarkets

22.40 - In addition to the initiatives already mentioned, could we include the following?

Voluntary initiatives

- The use of breathalysers as a means of determining intoxication and supporting door staff decisions not to admit, or serve customers who are already intoxicated. This is one of many potential ways to challenge a culture of 'pre-drinking' in which a growing number of people consume excessive amounts of shop-bought alcohol at home before going out.
- The adoption of a realistic local minimum unit price. The DPH in Portsmouth would support minimum unit pricing (MUP) nationally as a means of tackling excessive alcohol consumption. Governments in the UK are still considering implementing a minimum unit price for the sale of alcohol, most likely 40-50p per unit. Scotland passed legislation to introduce a minimum unit price of 50p per unit, but the implementation of this has been held up by repeated legal delays from the alcohol industry.

The advantage of minimum pricing, and the reason some in the industry support it, as well as a vast array of health professionals, is that its impact is focused on high-risk drinkers and young people and has a very limited impact on 'responsible' drinkers. Virtually all pub drinks, and many shop-bought beers, wines and spirits would not be affected by a 50p threshold.

The Director of Public Health would look more favourably on license applications or businesses that pay cognisance to this potential development in responsible alcohol retailing, it is also understood that businesses must act on their own to make these decisions and not collude on pricing.

27.0 Can we amend the contact details for Public Health to:

Director of Public Health Tel: 023 9284 1779 Publichealth@portsmouthcc.gov.uk

Public Health: Floor 2 Core 4 Civic Offices, Guildhall Square, Portsmouth PO1 2AL

In addition to these points regarding Public Health, we would also like the licensing authority to include some or all of the previously provided Public Health Licensing Review Appendix - The maps of alcohol related harm and licensed premises and information about Portsmouth, these fit with 22.4 and 22.5 of the SLP.

The appendix created by Public Health and Community Safety researchers provides sufficient information to enable applicants to demonstrate the steps they propose to take to promote the licensing objectives.