

**REPORT TO:** **LICENSING COMMITTEE**

**DATE:** **7 MARCH 2023**

**TITLE:** **STREET DRINKING AND LICENSING CONTROLS  
– UPDATE 6**

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**RECOMMENDED that:**

- A** The Licensing Committee note the content of the report.
- B** A report be brought to the next Licensing Committee meeting to consider recommendations in paragraph 28 of the report.

**BACKGROUND**

1. Street drinking may cause an adverse effect on the sense of security and wellbeing of users of public spaces which may in turn impact the viability of business seeking to trade in such spaces.
2. Harlow Council is a licensing authority for the purposes of the Licensing Act 2003 (the Act) which regulates the supply of alcoholic beverages, and in this capacity may have an influence on the availability of alcohol to people engaging in street drinking.
3. The Local Government Association (LGA) have provided support to licensing authorities in the form of their “Reduce the Strength” guidance, aimed at ensuring that certain types of low-cost high alcohol content beverages associated with alcohol misuse are not available in areas where issues have been identified.

It is important for local authorities to look to target any specific issues and problems identified arising from consumption of alcohol, rather than taking a universal approach that affects those who are drinking responsibly.

4. The LGA in its guidance makes clear that schemes that are likely to be successful when developed:
  - a) After fact finding
  - b) In collaboration with agencies having a range of insights
  - c) With the cooperation of the majority of businesses affected

5. The LGA Guidance and case studies suggest that for the successful implementation of a “Reduce the Strength” scheme to tackle Street Drinking, that the police and local authority enforcement teams are involved.
6. The Council has a Public Space Protection Order (PSPO) for alcohol that currently runs until 5 August 2025. This restricts, at any time, for the person(s) consuming alcohol, in the restricted area from continuing to do so, and commits an offence unless:
  - a) In the designated area, the person without reasonable excuse continues drinking intoxicating liquor when asked to stop by an authorised officer.
  - b) Or fails to surrender any intoxicating liquor in their possession when asked to do so by an authorised officer.
7. Five premises have been identified to encourage to be involved in the project. On 25 May 2022, visits were conducted at the premises to discuss basic licensing principles about their conditions, Challenge Policy and the display of the licence. The Town Centre Public Space Protection Order (PSPO) to prevent consumption of alcohol, the issues of street drinking and how it can be a detriment to the town centre as well as the long-term implications for their business formed part of these discussions. Current levels of anti-social behaviour were explained by officers and how street drinking has a negative impact on people’s behaviour.
8. During the visits, an introduction was made regarding a scheme in Harlow that aims to reduce street drinking. The two main proposals were discussed around:
  - i) Ceasing “single cans” sales
  - ii) Marking containers to show where they were bought
9. There was a general reluctance from premises owners to engage.
10. On 13 July 2022, officers from Licensing, Community Safety and Essex Police revisited each of the premises. Targeted discussions took place regarding the methods to assist in the reduction of street drinking. Positive talks were held with all five premises, whereby each premises agreed to use the coloured labels for their single can products provided by the officers.
11. However, the ceasing of single can sales was not something that premises were willing to engage in currently. The main reason provided was the impact on sales.
12. The Community Safety Team and Essex Police will be checking for the coloured label when carrying out enforcement on the Town Centre and where necessary shall feedback to premises selling the alcohol that the person purchasing from them is consuming the alcohol on the town and provide intervention techniques to avoid their customers behaviour having a detrimental effect on the town.

13. Since September 2022, the Town Centre Policing Team, with support of Harlow Council's Community Safety team (CST), have been raising the profile of Operation Shopper. The operation aims at tackling problems in the town centre, with a particular emphasis on enforcement for the Council's PSPO's.
14. In total, Operation Shopper has seen over 50 containers of alcohol seized for breaching the PSPO (to November 2022).

## **ISSUES**

### **Town Centre articles for sale**

15. It was agreed at the previous meeting of this committee to further explore whether a voluntary scheme could assist in lowering or preventing the sales of high strength alcoholic drinks, the primary aim of a "reduce the strength" scheme.
16. Officer visits to off-sale premises in the town centre were conducted on 4 January 2023. The data collected can be viewed in Appendix 1, Officers noted details of high strength beers and ciders.
17. The data in Appendix 1 shows that the alcoholic drinks are mostly consistent in price, it also demonstrates that cider is the slightly cheaper option for high strength alcoholic beverages.
18. Appendix 1 also provides the minimum price for the sale of each product, being alcohol product duty plus VAT. The calculation for beer v cider is different, the duty of beer will change in line with its ABV% strength, whereas cider is grouped into only three ABV% ranges, being:
  - a) more than 1.2% but less than up to 6.9%
  - b) At least 6.9%, up to 7.5%
  - c) More than 7.5% but less than 8.5%

From most cider cans on display, it appears apparent that manufacturers produce the ABV% strength of their cider at the upper limit of the range, which is likely to explain why there are so many ciders available with an ABV% of 7.5%.

19. Whilst visiting the premises, from discussions with owners or workers, it was mostly felt, that a significant portion of sales to potential street drinkers would be from the best value for high strength / low price products.

### **Support Services**

20. The Licensing Team have also attempted to find data relating to the number of street drinkers that are referred to alcohol or other support services, and whether such referrals have been successful. Success could be measured by a person who previously drank alcohol on public streets, whose change in lifestyle means they no longer take part in street drinking activities.

21. Essex Police and the Council's Community Safety Team and Public Health Practitioner all suggest that any specific statistics will be very difficult to come by, and that this information is not available as recorded data.
22. The Licensing Team have also contacted Open Road and Essex ARC (Alcohol Recovery Community), two organisations who deal with alcohol and drug support. These organisations have also said they are unlikely to be able to provide data specific to street drinking referrals but may be able to provide more general data around the success of their work regarding successful completion of their support provided. Enquiries have been sent to Open Road and Essex ARC Head Offices requesting any data they may be able to provide as well as any other experience in similar projects they may have to assist with the Harlow project.

### **Prosecutions**

23. Members requested whether data is available, into whether there have been any prosecutions against persons working in licensed premises who have sold alcohol to a person who is drunk.
24. Although data availability is low, there is data available on prosecutions under s141 Licensing Act 2003 for the selling of alcohol to a person who is drunk. An FOI request to the Ministry of Justice in 2016, that went to every Police Authority in the Country, showed that over a 5-year period, between 2011 – 2015, a total of 50 defendants were proceeded against at the magistrates' court, and that only 22 of those were successful prosecutions. There were no cases in Essex.

### **Street Drinking Working Group**

25. The Working Group for Street Drinking has not met since the last Licensing Committee so there are no updates from the group.
26. Visits on 4 January 2023 concluded that all the premises had used their colour dots to label their single can sales and will require another batch.
27. A new off-licence has also opened near to Market Square. An initial engagement in the reduce the strength project was taken with interest by the business and will require a further visit.

### **PROPOSALS**

28. It is proposed that to increase the likelihood of participation in a reduce the strength scheme by individual businesses, more locally focussed evidence should be acquired, in support of this it is proposed:
  - a) Where available, data is provided by Essex Police on crimes and incidents with an 'alcohol marker' for the Town Centre.
  - b) Where available, data is provided by alcohol support services for the Harlow area (or over a wider area if not available) regarding the

success of their programmes and any other information that may relate or be helpful to street drinking.

- c) To use current enforcement interventions on the town centre to develop an evidence base on the scale and number of street drinking participants and what their favoured products are to drink, as well as where they are purchased from.
  - d) To find out from the Community Safety Team and Essex Police whether changes being made to the Market Square is having any impact on the prevalence of street drinkers in the area.
  - e) To consider whether a maximum ABV% for single can sales would reduce street drinking on the town centre and aid persons who engage in street drinking activities. Consider the best approach method to encourage each premises to implement the scheme.
29. It is hoped that with the proposed data collection, and continuation to do so, we may better understand how it can impact on the specific issue of street drinking and the problems that arise from the consumption of alcohol in the town centre.

## **IMPLICATIONS**

### **Strategic Growth and Regeneration**

As set out in the report.

**Author: Tanusha Waters, Assistant Director Planning and Building Control / James Gardner, Assistant Director Regeneration**

### **Finance**

None specific.

**Author: Simon Freeman, Deputy Chief Executive and Director of Finance**

### **Housing**

None specific.

**Author: Andrew Murray, Director of Housing**

### **Communities and Environment**

As set out in the report.

**Author: Jane Greer, Director of Communities and Environment**

### **Governance and Corporate Support**

The Public Spaces Protection Order made by the Council under Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 in August 2019 was extended in August 2022 for a further three years.

Restrictions apply, at any time, on the consumption of alcohol or having an alcohol container, in the restricted town centre area unless subject to exemptions to premises or the curtilage of premises.

Any person who, without reasonable excuse, continues drinking intoxicating liquor in the restricted area or fails to surrender any intoxicating liquor in their possession when asked to stop by an authorised officer, commits an offence. The scheme seeks to lessen the likelihood of transgressing the order.

**Author: Simon Hill, Director of Governance and Corporate Support**

## **Appendices**

Appendix 1 – Beers and Ciders High Strength

## **Background Papers**

[Reducing the Strength Guidance for Councils](#)

[FOI releases for November 2016 - GOV.UK \(www.gov.uk\)](#)

## **Glossary of terms/abbreviations used**

CST – Community Safety Team

LGA – Local Government Association

PSPO – Public Space Protection Order