

**Manchester City Council  
Report for Information**

**Report to:** Licensing Committee – 16 June 2014  
**Subject:** Licensing Update  
**Report of:** Head of Planning, Building Control & Licensing

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**Summary**

The report provides the Committee with information regarding national changes and consultations in respect of licensing legislation and policy related issues. The report also provides the Committee with information regarding local projects and initiatives that could contribute to the Licensing Act 2003 Licensing Objectives.

**Recommendations**

That Members note the report.

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**Wards Affected:**

All

<b>Community Strategy Spine</b>	<b>Summary of the contribution to the strategy</b>
Performance of the economy of the region and sub region	
Reaching full potential in education and employment	
Individual and collective self esteem – mutual respect	
Neighbourhoods of Choice	

**Full details are in the body of the report, along with any implications for:**

- Equal Opportunities Policy
  - Risk Management
  - Legal Considerations
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### **Financial Consequences – Revenue**

None

### **Financial Consequences – Capital**

None

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### **Background documents (available for public inspection):**

Copies of these documents are available up to 4 years after the date of the meeting.  
If you would like a copy please contact one of the contact officers above.

The Licensing Act 2003 (Mandatory Conditions) Order 2014

Community and Ancillary Sellers Notice (Home Office), May 2014

Personal Alcohol Licences: Enabling Targeted, Local Alternatives – Government response to the consultation (Home Office), March 2014

Consultation Document: Fees under the Licensing Act 2003 (Home Office), February 2014

Local Alcohol Action Areas (Home Office), February 2014

The ABB's Code for Responsible Gambling and Player Protection in Licensed Betting Offices in Great Britain (Association of British Bookmakers), September 2014

Gambling Protections and Controls (DCMS), April 2014

## 1.0 Introduction

- 1.1 This report is the first of what is envisaged as a regular report to the Committee. The report provides the Licensing Committee with topical information relevant to premises licensing functions of the licensing authority.

## 2.0 Below Cost Selling Order

- 2.1 On 28 May 2014, the Licensing Act 2003 (Mandatory Conditions) Order 2014 took effect, banning the sale of alcohol below the cost of VAT and duty.

- 2.2 The Order introduces a new mandatory condition on all Premises Licences and Club Premises Certificates. The condition is as follows:

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
  - (b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

2.3 In real terms, the condition means that (at current rates) a 330ml bottle of beer at 4.4% strength could not be sold cheaper than 38p, a 13.5% strength 750ml bottle of wine no cheaper than £2.41, and a 70ml 40% bottle of vodka no cheaper than £8.99.

2.4 As a mandatory condition, any breach would be enforced by the Council's Neighbourhood Delivery Teams, City Wide Support and Trading Standards teams as well as GMP, similar to any other condition on the Premises Licence or Club Premises Certificate as an offence under s136 of the Licensing Act 2003.

### 3.0 Community and Ancillary Sellers Notice (CAN)

3.1 Following the Government's review of its Alcohol Strategy, it has tabled a proposal as part of its Deregulation Bill to introduce a new licensing process – the CAN (Community and Ancillary sellers Notice) – to allow small-scale, “low” risk alcohol sales over 36 months by Ancillary Sellers and Community Groups, without the need for a premises licence or TEN providing there is no objection from the police, environmental health authority (EHA) or the LA. Such groups argue that the requirements of a premises licence (see below) are overly onerous and disproportionate to the level of licensable activity that they wish to engage in.

3.2 The CAN is therefore aimed at two eligible groups:

- **“Ancillary sellers”** (e.g. bed & breakfast providers) that would like to sell (or provide as part of a wider business contract) minimal amounts of alcohol to customers as a small or subsidiary part of a wider business contract. The provision of a “complimentary” gift of alcohol in a business context also constitutes a sale in law. At this stage, it is proposed to limit eligible ancillary sellers to accommodation providers who are otherwise unlicensed, for example bed and breakfast providers and guest houses wishing to offer a “complimentary” glass or bottle of wine to customers.
- **“Community groups”** (e.g. charities; church choirs; the Women's Institute) that may regularly hold small “one-off” events at which they wish to sell alcohol.

3.3 Much of the detail as to how this Notice would work in practice, including confirmation of the relevant definitions such as what constitutes an “Ancillary Seller” will be set out in secondary legislation. Although there is no further detail at this time, the Government has announced that it will consult on any proposals before it is introduced.

#### 4.0 Plans to abolish Personal Licences abandoned

4.1 The Government has announced that it will not be proceeding with its proposal to abolish the system of personal licences. The Personal Alcohol Licences: Enabling Targeted, Local Alternatives consultation ran from 12 September to 7 November 2013 and sought views on a proposal to replace the personal licence scheme and enable local alternatives, such as imposing training conditions on individual premises licences.

4.2 In the Government's response to the Consultation, it states:

*"There were 352 responses received during the consultation period...An analysis of the overall responses revealed little overall support for the proposal:*

- 90% (284 respondents) thought that the proposal would undermine the licensing objectives (compared with 94% (117 respondents) of trade respondents).*
- 72% (225 respondents) did not think that the proposal would reduce burdens in terms of time and or money on business (compared with 90% (111 respondents) of the trade).*
- 78% (237 respondents) thought that 90% or more of all premises would require training conditions (compared with 77% (89 respondents) of the trade).*

*Respondents from the trade were broadly concerned that if the proposal was implemented it would cause inconsistency between licensing authority areas in terms of applying training conditions on premises. While it was acknowledged by many that the system of personal licences was not perfect, many thought it provided a level playing field for premises, ensured consistency between areas and set a benchmark of training.*

*There was some support among a number of licensing authorities for the premise of the proposal as it would provide greater localisation. However, more thought that there would be additional burdens through having to impose training conditions on premises. A proportion thought that the personal licence qualification provided some basic training.*

*Respondents from the police were generally opposed to the proposal and indicated their preference for the system of personal licences to be kept or even tightened up and made more rigorous. They had concerns about the lack of consistency in training which could arise under the proposal and felt that the current system at least ensured a minimum standard of training".*

4.3 Given that a key aim of abolishing personal licences was to assist the trade, it is notable that there was little support by the trade for the proposal.

4.4 Whilst the personal licence system will now remain in situ, the Government has stated its intention to continue with plans to abolish the requirement to renew a personal licence every ten years and is implementing this measure via the Deregulation Bill which is now before Parliament.

## 5.0 Consultation on Locally Set Licence Fees

5.1 Between February and April 2014, the Government consulted on proposals to introduce locally-set fees under the Licensing Act 2003. Currently under the Act, fees are prescribed centrally by the government and fee levels have not been reviewed since the Act came into effect in 2005.

5.2 The consultation sought views on :

- The future of the current variable fee “bands” based on the national non-domestic rateable value (NNDR) of the premises.
- Whether the basis on which fees are determined should include new discretionary mechanisms to apply different fee amounts depending on whether or not premises are:
  - authorised to provide licensable activities until a late terminal hour and/or
  - used exclusively or primarily for the sale of alcohol for consumption on the premises.
- If licensing authorities are able to apply different fee amounts, whether they should have further discretion to exclude certain classes of premises from liability for the higher amount.
- The proposed cap levels that will apply to each fee category.
- What guidance will be needed on setting fees and on efficiency and the avoidance of “gold-plating” (i.e. activities that go beyond the duties of the 2003 Act and are not justified by proportionality).
- Whether there should be a single annual fee date.
- The transition process to locally set fees.

5.3 Manchester City Council submitted a consultation response which was developed in consultation with the Chair and Exec Member. In general, the response was that the current fee structure (i.e. set centrally and by Nation Non-Domestic Rateable Value (NNDR)) should not be abolished in lieu of locally set fees, and that fees could be set on an NNDR basis with application costs considered a standard baseline supplemented by varying ‘maintenance’ costs by rateable value due to higher average costs associated with premises in higher bands.

5.4 The Government is currently analysing the responses to the consultation and its response is expected to be published in due course.

## **6.0 Local Alcohol Action Areas (LAAAs)**

- 6.1 The Government has announced that Greater Manchester will be one of 20 Local Alcohol Action Areas (LAAAs).
- 6.2 The LAAA scheme has been set up to tackle the harmful effects of irresponsible drinking, particularly alcohol-related crime and disorder, and health harms and is intended for local agencies, including licensing authorities, health bodies and the police to come together with businesses and other organisations to address problems being caused by alcohol in their area.
- 6.3 Each area is responsible for deciding their own priorities for action and will be provided support and advice by the Home Office and Public Health England.
- 6.4 Projects have to be focused on the key aims of the LAAA :
- (1) reducing alcohol related crime and anti-social behaviour
  - (2) reducing alcohol –related health harms; and
  - (3) promoting growth, including by establishing diverse, vibrant and safe night-time economies.
- 6.5 The Greater Manchester LAAA is being co-ordinated at AGMA level through the development of an alcohol strategy for the Greater Manchester region.
- 6.6 The strategy – thought to be the first of its kind for the UK – is to be overseen by an appointed leaders group comprising of: The Office of the Police and Crime Commissioner Greater Manchester; Jim Taylor, chief executive, Rochdale Council; Steven Pleasant, chief executive, Tameside Council; Greater Manchester Police; Greater Manchester Directors of Public Health, and the Association of Greater Manchester Clinical Commissioning Groups.
- 6.7 The overarching aim of the strategy is to reduce demand and complex dependency on alcohol by identifying routes for early intervention and prevention.
- 6.8 Consultation of the proposed strategy closed in March 2014 and it is pending publication. The policy is intended to be active for a 3 year period, following which it will be reviewed.

## **7.0 Reduce the Strength pilot – Northern Quarter and Piccadilly**

- 7.1 Following increasing concerns that street drinking was resulting in a number of alcohol-related problems in the Northern Quarter and Piccadilly area of Manchester city centre, officers from the Council's City Centre Neighbourhood Delivery Team, Greater Manchester Police Neighbourhood Policing Team and Public Health Manchester commenced a partnership project to pilot elements of the 'Reduce the Strength' initiative.

- 7.2 A 'Neighbourhood' Code for participating operators to sign up to was established based on reinforcing existing obligations within the Licensing Act 2003 as well as encouraging additional 'best practice' voluntary agreement to:
- the adoption of a 'Challenge 25' policy to prevent underage sales;
  - training staff to prevent the sale of alcohol to any person already drunk
  - reinforcing at point of sale that the premises was situated in designated 'DPPO' area
  - the voluntary removal of beers, lagers, ciders at or above 6.5% abv.
- 7.3 There was direct engagement with operators including the provision of advice, training sessions and resources. Updates regarding the project are expected later in 2014 and this will be reported back to Members in due course. The Greater Manchester Police Licensing Lead is also currently exploring suitable areas across Greater Manchester for similar initiatives.

## **8.0 Research into the impact of B2 Gaming Machines and the ABB's revised Code for Betting Shops**

- 8.1 The Responsible Gambling Trust is currently undertaking a review into B2 machines i.e. Fixed Odds Betting Terminals (FOBTs), exploring patterns and behaviours linked to harmful gaming machine play, including the impact of machines in areas of high social deprivation. The findings of the research are expected to be published in Autumn 2014.
- 8.2 The review will also evaluate the Association of British Bookmakers new "Code for Responsible Gambling and Player Protection in Licensed Betting Offices in Great Britain" published in September 2013.
- 8.3 The Association of British Bookmakers (ABB) is the leading trade association for Licensed Betting Offices (LBOs) in Great Britain and represents the operators of around 80% of LBOs in Britain, including Gala Coral, Ladbrokes, Paddy Power, William Hill and about 100 independent bookmakers.
- 8.4 The Code includes a new "Harm Minimisation Strategy" that focuses on improving the performance of betting shop operators at four levels of harm minimisation:
- Issuing clearer and more accessible information on how to gamble responsibly and highlighting the sources of help available;
  - Providing customers with new tools such as mandatory time and money based reminders, the ability to set spend and time limits on gaming machines and to request machine session data;
  - Training staff to detect the signs of potential problem gambling more quickly and how to interact more effectively with those identified; and



- Undertaking more consistent central analysis of data to identify abnormal activity both in specific shops and, where possible, that relating to individual customers.

8.5 It is acknowledged that this is an area of concern to Members and the outcome of the review will be reported to the Committee.

## **9.0 Government Proposals for Betting Premises**

9.1 As part of a national response to issues relating to Betting, in a report titled 'Gambling Protections and Controls', the Government has proposed a range of measures to tackle the clustering of Betting shops, to ensure better player protection, implement more stringent advertising restrictions, and more effectively prevent underage access to gambling.

9.2 The measures include:

- The introduction of a new planning use class specifically for betting shops, which will mean such uses are likely to require a planning permission.
- Ensuring betting shop operators set out how they plan to comply with social responsibility codes when applying for a gambling premises licence
- Requiring those accessing higher stakes (over £50) to use account-based play or load cash over the counter. Requiring better interaction between customer and operator for those engaged in high stake play improves opportunities for more effective provision of information and interventions.
- The Gambling Commission is undertaking a review of its licence conditions and codes of practice with a view to:
  - Requiring all players of fixed odds betting terminals to be presented with a choice to set limits before play.
  - Ensuring regular warning messages and pauses in play on gaming machines in betting shops to prompt players to actively consider their behaviour, and help them to remain in control.
- Working with industry to oversee the introduction of an advanced system of voluntary self-exclusion. This will allow customers to make a single request to exclude themselves from betting shops on a wider basis than is currently possible.
- The Remote Gambling Association will make recommendations to Government on any changes needed to the industry voluntary code, including on the suitability of the 9pm watershed arrangements.
- The Committee of Advertising Practice and the Broadcast Committee of Advertising Practice will evaluate the latest evidence in relation to

gambling advertising and problem gambling to consider what regulatory implications arise as a result.

- The Advertising Standards Authority will report on the proportionality, robustness and consistency of its enforcement action on the gambling rules.
- The Gambling Commission will ensure that its current review of licence conditions and codes of practice (which includes a focus on free bets and bonuses) ensures that all gambling advertising continues to comply with the licensing objectives of the Gambling Act 2005.
- Establishing a £2 million programme funded by industry to promote responsible gambling, launching in the summer of 2014.
- Working with the industry to explore how a **Think 25** initiative could help prevent under age access to gambling products across the gambling landscape.

9.3 The detail on the proposal to change the Planning Use class for betting shops will be consulted upon as part of a wider consultation on change of use in Summer 2014. Changes to the Licence Conditions and Codes of Practice are expected to be implemented by October 2014, and changes to advertising standards are expected to be in place by the end of 2014.

## **10.0 Contributing to the Community Strategy**

### **10.1 Performance of the economy of the region and sub region**

### **10.2 Reaching full potential in education and employment**

### **10.3 Individual and collective self esteem – mutual respect**

### **10.4 Neighbourhoods of Choice**

## **11.0 Key Policies and Considerations**

## **12.0 Conclusion**

12.1 The report is the first of what is envisaged will be a regular report to the committee detailing current policy issues relevant to premises licences. It is envisaged that the availability of this information will assist decision making and local policy formation in respect of licensing issues.