

**Manchester City Council  
Report for Information**

**Report To:** Licensing Committee – 10 November 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 and Gambling 2005 Licensing Objectives.

**Recommendations**

That Members note the report.

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**Wards Affected:**

All

Community Strategy Spine	Summary of the contribution to the strategy
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

### **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 Licensing Conditions) (Amendment) Order 2014

The Licensing Act 2003 (Permitted Temporary Activities) (Notices) (Amendment)  
Regulations 2014

Revised Guidance issued under s182 of the Licensing Act 2003 (13 October 2014)

Proposed amendments to the social responsibility provisions in the licence conditions  
and codes of practice for all operators (the LCCP)

## **1.0 Introduction**

- 1.1 The report provides the Licensing Committee with topical information relevant to premises licensing functions of the licensing authority.

## **2.0 Licensing Act 2003**

### **2.1 Revised Mandatory Licence Conditions relevant to the Sale of Alcohol**

- 2.2 The “Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014” came into force on 1 October 2014.

- 2.3 The Order replaces the existing mandatory licence conditions aimed at preventing irresponsible promotions of alcohol. The effect is that the conditions are now more straightforward.

- 2.4 Previously, a drinks promotion is only irresponsible if it is carried on in a manner which carries a “significant risk” of undermining the licensing objectives. This qualification has been either removed or revised for certain activities. Therefore, the following activities will be illegal in all circumstances:

- games which require or encourage a person to drink a quantity of alcohol within a time limit
- games which require or encourage a person to drink as much as possible
- selling alcohol in association with any flyers/posters either on or in the vicinity of the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour
- selling alcohol in association with any flyers/posters either on or in the vicinity of the premises which refer to the effects of drunkenness in any favourable manner
- dispensing alcohol directly into the mouth of another

- 2.5 Additionally, the following activities will be illegal where they carry a significant risk of undermining a licensing objective:

- provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic
- provision of free or discounted alcohol as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less

- 2.6 Previously, the condition only required the responsible person to take “all reasonable steps” to ensure that staff do not carry out, arrange or participate in an irresponsible promotional activity. However, it is now a blunt requirement that they “must ensure” that staff do not carry out, arrange or participate in an irresponsible promotional activity. Note - “responsible person” means the person who will ensure that the conditions are adhered to within the licensed premises. This may be the holder of the Premises Licence, the Designated Premises Supervisor or anybody over the age of 18 who has been authorised for the purposes of either the sale or the supply of alcohol.
- 2.7 The requirement that free tap water shall be made available to customers upon request has been amended in that where it is reasonably available, the free water must be “potable” i.e. drinkable, rather than necessarily just be tap water.
- 2.8 The requirement that an age verification policy must be applied at premises has been changed so that such a policy must now be “adopted”. This represents a requirement on the Premises Licence Holder or Designated Premises Supervisor to have an actual policy in place. Further, the Designated Premises Supervisor is required to ensure that the sale of alcohol at the premises is carried out in line with the policy.
- 2.9 The requirement remains that where sold at the premises, alcohol must be made available in the following quantities:
- (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- 2.10 However, whereas previously customers only had to be made aware that such measures were available, the requirements will be increased so that (A) those measures must be displayed in a menu, price list or other printed material which is available to customers on the premises, and (B) where a customer doesn’t specify any quantity of alcohol when ordering, they must be made aware that those measures are available.
- 2.11 As stated, all of these changes are expected to come into effect on 1 October 2014. Operators of licensed premises are advised to ensure that the necessary measures are in place to be compliant with the new requirements when effective.
- 2.12 The new conditions are set out in full in Appendix 1.
- 2.13 New ‘relevant entertainment’ question on TEN form**
- 2.14 On 1 October, the Licensing Act 2003 (Permitted Temporary Activities) (Notices) (Amendment) Regulations 2014) amended the prescribed Temporary Event Notices form so that the premises user must provide information about any intended use of the premises for the provision of ‘relevant entertainment’ within the meaning of the Local Government Miscellaneous Provisions) Act 1982 Schedule 3 paragraph 2A

2.15 'Relevant entertainment' is defined as any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means). Relevant entertainment therefore includes, but is not limited to, lap dancing and pole dancing.

2.16 On the new form, premises users are required to confirm whether relevant entertainment is to be provided and, if so, the times that it will be provided.

## **2.17 New Section 182 Guidance**

2.18 The Home Office has issued the latest version of its statutory guidance under section 182 of the Licensing Act 2003.

2.19 The amended guidance reflects the coming into force of the changes to the mandatory conditions; and to Temporary Event Notices as detailed in this report. It also clarifies aspects of the process by which licensing authorities introduce an EMRO (for example, by adding a flow chart at the end of Chapter 16).

2.20 Moreover, there are a number of minor revisions to clarify the advice to licensing authorities about some additional matters. These include:

- revisions relating to the use of health data to underpin decisions based on what is appropriate to promote the licensing objectives and to protect children from harm (Chapters 2 and 9);
- a reference to the Portman Group's Retailer Alert Bulletins (Chapter 9) - which licensing authorities should consider imposing as a condition on licence holders where there is specific evidence of irresponsible naming, packaging or promotion of alcoholic drinks which are linked to the undermining of one of the licensing objectives;
- that licensing authorities may wish to consider whether conditions are appropriate to prevent the sale of New Psychoactive Substances (NPS) commonly known as "legal highs" alongside the sale of alcohol at licensed premises (Chapter 10);
- clarification that it is an offence to store counterfeit alcohol on licensed premises (Chapter 11);
- clarification that cumulative impact policies can apply to any licensable activities including the sale of alcohol on or off the premises and the sale of late night refreshment - irrespective of whether that includes the sale of alcohol (Chapter 13); and
- the powers available to licensing authorities to consider the staggering and zoning of closing times (Chapter 13).

### **3.0 Gambling Act 2005**

#### **3.1 Gambling Commission Review of the Licence Conditions and Codes of Practice (LCCP)**

- 3.2 The Gambling Commission's Licence Conditions and Codes of Practice (the LCCP), together with the Gambling Act 2005 (the Act) itself and associated regulations, statutory guidance to licensing authorities, and our formal Statement of principles, form a central part of the framework for regulating commercial gambling.
- 3.3 The LCCP is based on the principle that the primary responsibility for delivering the licensing objectives – keeping crime out of gambling, ensuring it is fair and open and protecting children and vulnerable people – rests with gambling operators. It requires operators to put in place effective policies and procedures for managing a range of risks to the licensing objectives, and to assure themselves that what they are doing is actually working. It was first published in 2007, to coincide with the coming into force of the Act, itself the first major reform of gambling regulation since the 1960s.
- 3.4 The Gambling Commission has consulted on proposals that reflect developments in social responsibility practice and significantly improved understanding of risk since 2007.
- 3.5 The consultation addresses many matters likely to be significant for the council as the Licensing Authority in relation to social responsibility for operators, such as:
- preventing underage gambling;
  - information to players on responsible gambling;
  - customer interaction;
  - gambling management tools such as the setting of pre-play limits;
  - self exclusion;
  - local risk assessments; and
  - bingo and gaming machines in pubs.
- 3.6 Key proposals include:
- requiring that all customers of B2 machines known as fixed odd betting terminals (FOBTs) in betting shops must set financial and/or time limits before play; and whether such requirements should extend beyond the betting sector and to other types of category B gaming machines;
  - mandating third party testing for larger operators; and
  - expecting operators to participate in the development of cross-operator and cross-sector self-exclusion schemes and will bring into force a code provision that will require participation in such schemes once developed.
- 3.7 Relevant to the above, preliminary discussions have been held with Cityco in respect of exploring the potential to establish a cross-operator linked scheme, which would pre-empt the LCCP requirement. This issue will be further

explored with Cityco and the licensed trade with a view to hopefully setting up a trial scheme in the New Year.

3.8 The consultation also explores ideas for future development, several of which will likely be issues will be impacting on the review of our gambling policy next year, including:

- How responsible gambling information can be more effectively provided in premises, how customers can be given a better understanding of the gaming characteristics, such as RTP (return to player), volatility, odds of winning the jackpot
- Requirement to offer customers a 'time-out facility', enabling a defined period for self-exclusion, rather than it being indefinite.
- Offering the facility for players to exclude from particular product types
- Local risk assessments, whereby licensees applying for a new premises licence, or a variation of an existing premises licence, must assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises, taking into account local circumstances, and have plans for mitigating those risks.
- Bingo in pubs and clubs – the Commission is seeking views of leisure operators seeking to operate bingo-licensed premises, whilst maintaining the operation and appearance of the premises as a pub or club. Bingo – licensed premises benefit from greater machine entitlement than alcohol licensed premises or commercial clubs.

3.9 Officers attended a workshop hosted by the Gambling Commission on 6 October where the proposals were discussed in conjunction with representative from the trade, as well as two other invited local authorities. A response to the consultation has been submitted in conjunction with the Chair of the Licensing Committee.

### **3.10 Partnership with other Local Authorities**

3.11 Officers are exploring partnership approaches with other large-scale authorities including Leeds, Birmingham, Brighton and Westminster. It is envisaged that policy ideas will be shared, explored, and collaborated upon in future as well as assisting in benchmarking exercises.

3.12 A research project is being devised in conjunction with Westminster Council in order to explore area-based vulnerability to gambling-related harm in our respective cities. The project has been agreed in principle and the study will be commissioned shortly. A full update will be provided at a future committee.

## **4.0 Contributing to the Community Strategy**

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

**4.2 Reaching full potential in education and employment**

**4.3 Individual and collective self esteem – mutual respect**

**4.4 Neighbourhoods of Choice**

**5.0 Key Policies and Considerations**

**6.0 Conclusion**

6.1 Members are asked to note the report.



## **New Mandatory Licence Conditions**

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the

policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

4. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.