

**Manchester City Council
Report for Information**

Report To: Licensing Committee – 17 July 2017
Subject: Licensing Update
Report of: Head of Planning, Building Control & Licensing

Summary

The report provides the Licensing Committee with a brief overview of topical information relevant to premises licensing functions of the licensing authority.

Recommendations

That Members note the report.

Wards Affected:

All

Manchester Strategy Outcomes	Summary of the contribution to the strategy
A thriving and sustainable City: supporting a diverse and distinctive economy that creates jobs and opportunities	Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications as well as effective decision making in respect of them, plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the region and sub-region.
A highly skilled city: world class and home grown talent sustaining the city's economic success	An effective Licensing Policy and implementation will enable growth in our City by supporting businesses who promote the Licensing Objectives.
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	The Licensing process provides for local residents and other interested parties to make representations in relation to licensing applications. Representations have to be directly related to the licensing objectives; in relation to the Licensing Act these are the prevention of crime and disorder, the prevention of public nuisance, public safety,

	and the protection of children from harm.
A liveable and low carbon city: a destination of choice to live, visit and work.	An effective licensing system supports and enables growth and employment in our City with neighbourhoods that provide amenities suitable to the surrounding communities.
A connected city: world class infrastructure and connectivity to drive growth	Licensed premises play an important role in ensuring an economically successful City, and the Licensing Policy seeks to achieve desirable and high quality premises to help drive that growth.

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.

Licensing Act 2003
Immigration Act 2016
Policing and Crime Act 2017
The Secretary of State's Guidance issued under s182 of the Licensing Act 2003, April 2017

Guidance for Licensing Authorities to prevent illegal working in licensed premises in England and Wales, 4 May 2017
House of Lords Select Committee on the Licensing Act 2003, Report of Session 2016–17, The Licensing Act 2003: post-legislative scrutiny, 4 April 2017

1.0 Introduction

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

2.0 Immigration Act 2016 amendments to Licensing Act 2003

- 2.1 With effect from 6 April, changes to the Licensing Act 2003 have been brought about by the Immigration Act 2016.
- 2.2 The Immigration Act 2016 introduces a requirement that persons applying as an individual or partnership for a premises licence that will authorise the sale of alcohol and/or late night refreshment; must have the right to work in the UK. Applicants for personal licences must also now be eligible to work in the UK.
- 2.3 These checks are carried out by the Licensing Unit at the point of application, and applicants are now required to provide documentary proof of their eligibility with their application. There have been some minor changes to the applications, which Members may have noticed, mainly relating to the declaration and guidance notes at the end of the forms.
- 2.4 Checks are not required in respect of the DPS either as part of an application for a premises licence or for any variation to the DPS; this is the responsibility of the employer, who declares that they have checked that the proposed DPS is entitled to work within the application form.
- 2.5 If the holder of a premises licence or personal licence loses the right to work in the UK, their licence lapses.
- 2.6 The Secretary of State is now a responsible authority and consulted on relevant premises licence applications. Specifically, the Secretary of State will be able to object to an application where they are 'satisfied that exceptional circumstances of the case are such that granting the application would be prejudicial to the prevention of illegal working in licensed premises'. This function is carried out by a central Alcohol Licensing Team (alcohol@homeoffice.gsi.gov.uk) although enforcement activity will be carried out locally by regional officers. Equally, Immigration Enforcement may seek a review of a licence.
- 2.7 Immigration officers now have the same powers as licensing enforcement officers and the police to enter a premises being used to sell alcohol or late night refreshment, in order to investigate immigration offences. This will enable joint enforcement operations with licensing enforcement officers, and allow immigration officers to enter licensed premises without a warrant where there is intelligence of illegal working taking place.
- 2.8 Immigration officers have powers to issue an Immigration Notice which can require premises to close for up to 48 hours. Following this, unless the notice is cancelled a court must hear an illegal working compliance order within 48 hours of the notice being issued. The magistrates can issue a Compliance

Order which, if done, would trigger a licence review. The review hearing must be held within 10 working days, starting from the day after when the licensing authority receives notice from the Magistrates' court that it has issued a compliance order. Notice of the hearing must be given no later than 5 working days before the first hearing day and the licensing authority has 28 days to determine the licence review.

3.0 Policing and Crime Act 2017 amendments to Licensing Act 2003

3.1 With effect from 6 April, changes to the Licensing Act 2003 have been brought about the Policing and Crime Act 2017.

3.2 The main changes are:

- a. The inclusion of alcohol in any state within the definition of alcohol (this is to ensure the inclusion of vaporised alcohol, whereby alcohol could be consumed by essentially 'breathing it in'. This feature is not something that had been introduced at any licensed premises in Manchester.
- b. Changes to the summary review process to:
 - i. require the licensing authority to make a decision following the review on what is to happen to any interim steps that are in force at that time
 - ii. prevent repeated attempts at making representations against any interim steps that are in force by requiring there to have been a material change in circumstances since they were imposed
- c. Introduce powers to the licensing authority to suspend or revoke personal licences in relation to convictions arising following the grant of the licence
- d. The addition of further relevant offences in relation to personal licences, in particular related to firearms offences and conspiracy.
- e. To remove the requirement for any revisions to the s182 Guidance to go before parliament for approval prior to publication

3.3 Further changes to introduce greater flexibility in how late night levies can be structured, as well as to put cumulative impact policies on a statutory footing, have been put on hold pending the outcome of the House of Lords review of the Licensing Act 2003.

4.0 House of Lords Select Committee review of the Licensing Act 2003

4.1 The House of Lords Select Committee report on its review of the Licensing Act 2003 was published on 4th April 2017.

- 4.2 In reviewing the implementation of Licensing Act 10 years on, the Committee issued a 'call for evidence' on 30 June 2016 to which Manchester responded as part of a joint response submitted on behalf of the Greater Manchester Combined Authority. The Committee received 175 written submissions and heard oral evidence by 65 invited witnesses at a series of hearings on various aspect of the licensing system. The Committee also visited Southwark to observe a Licensing Sub-Committee hearing.
- 4.3 The original legislation was regarded by the Committee as "inadequate" and in need of a "comprehensive overhaul", in line with the recommendations of the report, and the overall view was that the licensing function should have been originally given as a function to planning committee from the outset.
- 4.4 The main recommendation is that the licensing functions of licensing committees should be transferred to the planning committees and that there should be a trial merger of licensing committees with planning committees, which should be piloted as soon as possible. It is proposed that 'planning system' i.e. with the ability of the planning officer, who is professionally qualified, to consider and analyse consultation responses/objections, seek further responses, make decisions under delegated powers, prepare reports and recommendations to the committee; should be adopted for licensing with licensing becoming a function of planning and the Licensing Policy could form part of a Local Plan, focusing specifically upon licensing as a land use.
- 4.5 A summary of notable recommendations and observations made by the Committee are set out below. A full list is attached at Appendix 1.

Integration between Planning and Licensing

- a. Licensing Committees should take into account any relevant decision taken by a planning committee and where appropriate follow it; and vice versa. This should be made clear in the s182 Guidance.
- b. Licensing appeals should follow the Planning system using trained and knowledgeable Inspectors, similar to the Planning Inspectorate, rather than magistrates, with a range of options to determine matters i.e. written representations, less formal hearings, full enquiries

Licensing Committees

- c. All councillors on Licensing Committees should undergo comprehensive training
- d. The Home Office with other stakeholders should discuss the length and form of the minimum training a councillors should receive and the length, form and frequency of refresher training
- e. A requirement that a councillor who is a member of the licensing committee must not take part in any proceedings until they have received training to the standard set out in the guidance

- f. Where a sub-committee decides to hold a hearing where there are no longer matters in dispute, they should provide the parties with reasons in writing.
- g. Quorum for licensing sub-committees should be 3 (already is in Manchester)
- h. Additional Guidance should be produced on the format of hearings i.e. the degree of formality, structure, and order in which the parties should normally speak. Parties must be allowed sufficient time to make their representations (thereby avoiding setting of restrictive time limit as done by some licensing authorities)

Advertisement of applications

- i. Notices of applications should be predominately by online notification systems run by the local authority and notice should not need to be given by publishing in local newspapers.

Measures in respect of the off-trade

- j. Minimum Unit Pricing should be introduced in England and Wales if it is done so in Scotland.
- k. Licensing measures of Off Trade in Scotland should be introduced to England and Wales i.e.
 - i. restrictions on multi-pack pricing, which prevent any form of multi- buy offer relating to alcohol;
 - ii. a ban on 'buy one, get one free' offers, or any other offer including free alcohol;
 - iii. restrictions on the advertising of drinks promotions, restricting them to specific designated alcohol display areas in off-licence premises;
 - iv. a requirement that all premises introduce a 'Challenge 25' policy as standard.

EMROs and Late Night Levies

- l. The power to introduce Early Morning Restriction Orders should be repealed. None have been adopted and they are seen as complex and draconian.
- m. Late Night Levies should be repealed unless proposed changes (i.e. ability to specify area; inclusion of late night takeaways) are shown they could be effective.

- n. Business Improvement District (BIDs) are seen as a better approach than Late Night Levies and are encouraged along with other voluntary initiatives (e.g. Purple Flag, Best Bar None etc.).

Temporary Event Notices

- a. Licensing authorities should be able to object to Temporary Event Notices, similar to Environmental Health and Police Officers
- b. Councils should have a system of notifying local residents and councillors of Temporary Event Notices
- c. The s182 Guidance should be clear that it would be expected for the licensing authority to issue a counter notice (and for the police or environmental health officers to object) where TENs are being given simultaneously for adjacent plots of land to effectively exceed the 499 person limit

Scrapping Community and Ancillary Sellers Notices

- d. Community and Ancillary Sellers Notices (being brought about by s67 of the Deregulation Act 2015) should not be brought into force and should be repealed in due course. Seen as an unnecessarily complex procedure, which would be at odds of the intention to reduce burdens, and no real need for them.

Police Licensing Officers

- e. Licensing is recognised as a sufficiently specialist and technical area of policing, requiring a distinct and professional body of police licensing specialists. It is important that the role of police licensing officers should not be diluted or amalgamated. They do not need to be sworn police officers and in many cases it may indeed be preferable that this role be performed by civilian police staff (to avoid police licensing officers being burdened by other policing tasks).
- f. A comprehensive police licensing officer training programme, designed by the College of Policing, should be developed and implemented.

Cumulative Impact Policies

- g. Cumulative Impact Policies should be placed on a statutory footing as currently proposed by the Government, to introduce transparency and consistency in this area. However, the drafting of the new provisions being introduced by s5(5A) of the LA2003 being introduced by the Policing and Crime Act 2017 needs revising as it threatens to remove discretion from local authorities on how they may interpret their own cumulative impact policies.

Summary Reviews

- h. The decision of the Licensing Sub-Committee should be able to be implemented with immediate effect for summary reviews, rather than 'revised' interim steps being imposed, to simplify the system.

Health not appropriate as a licensing objective

- i. 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

Consideration of disabled access and facilities

- j. The law should be amended to required licence applications to be accompanied by a disabled access and facilities statement, as in Scotland although this power is yet to be enacted. It was recognised that it would not be appropriate to use licensing legislation to require compliance with the Equality Act 2010, as it should not be a mechanism for general enforcement of legislation which applies to licensed premises.

Group Review Intervention Powers

- k. Group Review Intervention Powers, as proposed in the Government's Modern Crime Prevention Strategy of March 2016, which would "enable licensing authorities to consider the licensing conditions of a group of premises to address problems in a specific location" should not be introduced because it is considered that the existing review mechanism is more appropriate if there problems with individual premises and if the condition were not appropriate for one, how would it become appropriate as part of a group.

Night Time Economy (NTE)

- l. The appointment of the Night Czar and other champions of the night time economy (NTE) has the potential to help develop London's NTE and ease the inevitable tensions that arise between licensees, local authorities and local residents. We believe that greater transparency should be expected of these roles if they are to secure the co-operation and trust of key parties in London's NTE. In time, Night Mayors may also offer a model to other cities in the UK.
- m. Although acknowledging the concerns of local residents (that it will encourage people to stay later and so extend noise and ASB later into the morning), the Committee believe that overall the Night Tube is likely to have a positive impact for London's late night licensed premises, their staff, and local residents. Not only will it provide a welcome boost to London's night-time economy, which must be allowed to grow if London is to continue to prosper as a global city in the 21st century, but

it may well also bring advantages for residents by dispersing crowds more effectively and efficiently.

Locally-set licence fees

- n. The power to set licence fees should be devolved to licensing authorities

Airports

- o. Licensing powers should be extended to include airside at airports.

4.6 The Government must now respond to the recommendations of the Select Committee, which is ordinarily expected to be done within 6 weeks of the publication of the report. However, this has been delayed by other parliamentary matters and there is currently no known date for the response.

4.7 During the course of the Select Committee's review, changes were proposed by the Government to late night levies and cumulative impact policies, which were to be introduced through the Policing and Crime Act 2017. However, the Government agreed not to implement these until having responded to the Select Committee's review.

5.0 Contributing to the Community Strategy

5.1 A thriving and sustainable City: supporting a diverse and distinctive economy that creates jobs and opportunities

5.1.1 Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications as well as effective decision making in respect of them, plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the region and sub-region.

5.2 A highly skilled city: world class and home grown talent sustaining the city's economic success

5.2.1 An effective Licensing Policy and implementation will enable growth in our City by supporting businesses who promote the Licensing Objectives

5.3 A progressive and equitable city: making a positive contribution by unlocking the potential of our communities

5.3.1 The Licensing process provides for local residents and other interested parties to make representations in relation to licensing applications. Representations have to be directly related to the licensing objectives; in relation to the Licensing Act these are the prevention of crime and disorder, the prevention of public nuisance, public safety, and the protection of children from harm.

5.4 A liveable and low carbon city: a destination of choice to live, visit and work.

5.4.1 An effective licensing system supports and enables growth and employment in our City with neighbourhoods that provide amenities suitable to the surrounding communities.

5.5 A connected city: world class infrastructure and connectivity to drive growth

5.5.1 Licensed premises play an important role in ensuring an economically successful City, and the Licensing Policy seeks to achieve desirable and high quality premises to help drive that growth.

6.0 Key Policies and Considerations

6.1 The report deals with matters that could impact on the Council's policy statements under the Licensing Act 2003.

7.0 Conclusion

7.1 The report provides information to the Committee on current issues relevant to premises licensing. It is envisaged that the availability of this information will assist decision making and local policy formation in respect of licensing issues.

7.2 The Committee is asked to note the report.

HOUSE OF LORDS SELECT COMMITTEE REPORT ON THE LICENSING ACT 2003

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

The Background to the Act

1. We think it unfortunate that in the 11 years since the full implementation of the Licensing Act there have been piecemeal amendments made by nine different Acts of Parliament, a large number of significant amendments made by other Acts and by secondary legislation, and further changes to licensing law and practice made by amendment of the section 182 Guidance. (Paragraph 54)
2. We regret that there will no longer be any opportunity for Parliament to scrutinise the Guidance in draft, nor even to ensure that there has been adequate consultation during its preparation. (Paragraph 55)
3. **Assuming that minimum unit pricing is brought into force in Scotland, we recommend that once Scottish ministers have published their statutory assessment of the working of MUP, if that assessment demonstrates that the policy is successful, MUP should be introduced in England and Wales. (Paragraph 86)**
4. We urge the Government to continue to look at other ways in which taxation and pricing can be used to control excessive consumption. (Paragraph 87)

The Licensing Process

5. We appreciate that we are perhaps more likely to receive evidence critical of the way the licensing process operates than evidence saying it operates well or better. We believe—we certainly hope—that most members of licensing committees take their responsibilities seriously, adopt a procedure which is fair and seen to be fair, are well advised, and reach sensible conclusions. But clearly reform of the system is essential. (Paragraph 116)
6. **Sections 6–10 of the Licensing Act 2003 should be amended to transfer the functions of local authority licensing committees and sub-committees to the planning committees. We recommend that this proposal should be trialled in a few pilot areas. (Paragraph 154)**
7. We believe that the debate and the consultation on transferring the functions of licensing committees and sub-committees to the planning committees must start now, and the pilots must follow as soon as possible. (Paragraph 155)

Appeals

8. Licensing authorities should publicise the reasons which have led them to settle an appeal, and should hesitate to compromise if they are effectively reversing an earlier decision which residents and others intervening may have thought they could rely on. (Paragraph 173)

9. We recommend that appeals from licensing authorities should no longer go to magistrates' courts, but should lie to the planning inspectorate, following the same course as appeals from planning committees. This change is not dependent on the outcome of our recommendations on the licensing function, and should be made as soon as possible. (Paragraph 206)

Immediate Changes

10. The section 182 Guidance should be amended to make clear the responsibility of the chair of a licensing committee for enforcing standards of conduct of members of sub-committees, including deciding where necessary whether individual councillors should be disqualified from sitting, either in particular cases or at all. (Paragraph 213)
11. We recommend that the Home Office discuss with the Local Government Association, licensing solicitors and other stakeholders the length and form of the minimum training a councillor should receive before first being allowed to sit as a member of a sub-committee, and the length, form and frequency of refresher training. (Paragraph 218)
12. The section 182 Guidance should be amended to introduce a requirement that a councillor who is a member of a licensing committee must not take part in any proceedings of the committee or a sub-committee until they have received training to the standard set out in the Guidance. (Paragraph 220)
13. We recommend that where there are no longer any matters in dispute between the parties, a sub-committee which believes that a hearing should nevertheless be held should provide the parties with reasons in writing. (Paragraph 222)
14. The Hearings Regulations must be amended to state that the quorum of a sub-committee is three. (Paragraph 229)
15. Regulations 21 and 23 of the Hearings Regulations leave everything to the discretion of the committee. They regulate nothing. They should be revoked. (Paragraph 230)
16. The section 182 Guidance should indicate the degree of formality required, the structure of hearings, and the order in which the parties should normally speak. It should make clear that parties must be allowed sufficient time to make their representations. (Paragraph 231)
17. We recommend that where on a summary review a licence is revoked and the livelihood of the licensee is at stake, magistrates' courts should list appeals for hearing as soon as they are ready. (Paragraph 236)
18. We recommend that notice of an application should not need to be given by an advertisement in a local paper. Notices should be given predominantly by online notification systems run by the local authority. (Paragraph 242)
19. Local authorities should ensure that blue licensing notices, as for planning applications, should continue to be placed in shop windows and on street lights in prominent positions near the venue which is the subject of the application. (Paragraph 243)

- 20. Coordination between the licensing and planning systems can and should begin immediately in all local authorities. The section 182 Guidance should be amended to make clear that a licensing committee, far from ignoring any relevant decision already taken by a planning committee, should take it into account and where appropriate follow it; and vice versa. (Paragraph 246)**

The Licensing Objectives

21. We have received submissions in both written and oral evidence that three further objectives should be added to the four already listed. Our consideration of them is based on our view that the objectives are not a list of matters which it would be desirable to achieve, but simply an exhaustive list of the grounds for refusing an application or imposing conditions. There is therefore no point in including as an objective something which cannot be related back to particular premises. (Paragraph 250)
- 22. Promotion of health and well-being is a necessary and desirable objective for an alcohol strategy, but we accept that it is not appropriate as a licensing objective. (Paragraph 261)**
23. We do not recommend that “enjoyment of licensable activities”, “the provision of social or cultural activities”, or anything similar, should be added as a licensing objective. (Paragraph 265)
24. We do not recommend adding as a licensing objective “compliance with the Equality Act 2010” or “securing accessibility for disabled persons”. (Paragraph 272)
25. We recommend that the law should be amended to require, as in Scotland, that an application for a premises licence should be accompanied by a disabled access and facilities statement. (Paragraph 277)

The Off-Trade

26. We do not recommend that powers to ban super-strength alcohol across many premises simultaneously be granted to local authorities. (Paragraph 309)
27. The Coalition Government’s Responsibility Deal on alcohol did not achieve its objectives, and appears to have been suspended. We believe much more still needs to be done to tackle the production of super-strength, low-cost alcoholic products. If and when any similar schemes are developed in the future, there must be greater provision for monitoring and maintaining them, and greater collaboration between all parties involved, including both public health experts and manufacturers. They should also account for the realities of super-strength alcohol, with particular focus on, for example, ABV rather than the specificities of packaging. (Paragraph 310)
28. We believe that proposed Group Review Intervention Powers, which would give local authorities the power to introduce mandatory blanket conditions on all premises in a particular area, should not be introduced. As a blanket approach to problems which can normally be traced back to particular premises, they are likely to suffer from the same problems as Early Morning Restriction Orders, and the same results can be achieved through existing means. (Paragraph 316)

29. While there appears to be some merit to a few voluntary schemes, the majority, and in particular the Government's Responsibility Deal, are not working as intended. We believe there are limits to what can be achieved in this way, and many of the worst operators will probably never comply with voluntary agreements. We strongly believe that the Alcohol etc. (Scotland) Act 2010 offers a proportionate and practical basis for measures specifically regulating the off-trade. (Paragraph 321)
30. We recommend that legislation based on Part 1 of the Alcohol etc. (Scotland) Act 2010 should be introduced in England and Wales at the first available opportunity. In the meantime, the section 182 Guidance should be amended to encourage the adoption of these measures by the off-trade. (Paragraph 322)

Temporary Event Notices

31. Temporary Event Notices are used for a wide range of purposes, and the impact of a particular event on local residents cannot be reliably determined by whether they fall into broad 'community' and 'commercial' categories. We do not recommend the division of the current TENs system into 'community' and 'commercial'. (Paragraph 344)
32. We recommend that licensing authorities be given the power to object to Temporary Event Notices, alongside police and environmental health officers. A system for notifying local councillors and local residents of TENs in a timely fashion should also be implemented. (Paragraph 349)
33. We recommend that section 106(2) of the Licensing Act 2003 be amended, replacing the words "before a hearing" with "before or during a hearing", to enable TENs to be amended during a hearing if agreement is reached. (Paragraph 352)
34. Where it appears that notices are being given for TENs simultaneously on adjacent plots of land, resulting in effect in the maximum number attending exceeding the 500 person limit, we would expect the police or environmental health officers to object, and the licensing authority to issue a counter-notice. We recommend that the section 182 Guidance be amended to make this clear. (Paragraph 354)
35. Although it is difficult to know whether the inadequate recording of TENs is widespread among local councils, we recommend that the section 182 Guidance be strengthened and clarified with respect to the collection and retention of TENs. It should clarify what personal information should be retained and in which particular format. (Paragraph 357)
36. This information must be retained in a system allowing for its quick and easy retrieval, both by local authorities and by the public, and in such a way that local and national statistical data can be produced from them. The national GOV.UK platform should be used for receiving and processing TENs. (Paragraph 358)
37. We recommend that section 67 of the Deregulation Act 2015, relating to Community and Ancillary Sellers' Notices, should not be brought into force, and should be repealed in due course. (Paragraph 368)

Crime, Disorder and Public Safety

38. We are convinced that licensing is a sufficiently specialist and technical area of policing, requiring a distinct and professional body of police licensing specialists. Although we are aware of the many demands currently placed on police resources, the proper and attentive licensing of premises has a considerable if sometimes indirect impact on public reassurance and wider aspects of crime and disorder. It is therefore important that the role of police licensing officers should not be diluted or amalgamated, as evidence suggests is occurring in some constabularies. They do not need to be sworn police officers, and in many cases it may indeed be preferable that this role be performed by civilian police staff. (Paragraph 379)
39. We recommend the development and implementation of a comprehensive police licensing officer training programme, designed by the College of Policing. While we accept that such an undertaking will require additional funds, these costs will likely be more than offset if the quality of police licensing decisions is improved, thereby reducing the number of appeals and other corrective procedures. (Paragraph 388)
40. We believe it is highly likely that licensing committees will take police evidence seriously, especially if it is presented in a consistent and compelling fashion, regardless of whether they are required to by the section 182 Guidance. The risk that presently exists is that this additional emphasis could lead some licensing committees to partially or fully abdicate their responsibility to scrutinise police evidence to the same high standards as they would any other evidence. Our evidence suggests this is indeed occurring in some areas. It is entirely wrong that police evidence should be given more weight than it deserves solely because of its provenance. (Paragraph 400)
41. Given evidence that paragraph 9.12 of the section 182 Guidance is being misinterpreted by licensing committees, and the fact that similar sentiments, more clearly stated, are already expressed in paragraph 2.1 of the Guidance, we recommend that paragraph 9.12 be removed. (Paragraph 401)
42. We support the Government's current move to transfer Cumulative Impact Policies from the section 182 Guidance and to place them on a statutory footing, as this will introduce much needed transparency and consistency in this area. (Paragraph 409)
43. We agree with criticism of the drafting of the new section 5(5A) of the Act, as it threatens to remove discretion from local authorities on how they may interpret their own cumulative impact policies. (Paragraph 412)
44. We were surprised to learn that the Home Office have not collected centralised figures on the use of relatively serious police powers until now, and that figures relating to section 169A closure notices are presented in such a confusing and misleading way. (Paragraph 416)
45. We recommend that the section 182 Guidance be amended to make clear that the service of a Closure Notice pursuant to section 19 of the Criminal Justice and Police Act 2001 does not:
- *require the premises to close or cease selling alcohol immediately; or*
 - *entitle the police to require it to do so; or*

- *entitle the police to arrest a person on the sole ground of non-compliance with the notice.* (Paragraph 421)

46. We sympathise with the police, practitioners and businesses who cannot always fully comprehend the complex process surrounding interim steps. **We conclude that instead of conferring discretion upon the sub-committee to impose further interim steps upon a licensee pending appeal, a discretion to impose with immediate effect the determination that the sub-committee reached upon the full review would be preferable. This final decision must represent the sub-committee's more mature reflection upon the situation, based upon the most up to date evidence, and this ought to be the decision that binds the licensee, if immediacy is a requirement, rather than the superseded interim steps.** (Paragraph 431)
47. Within the Anti-Social Behaviour, Crime and Policing Act 2014, the power of the magistrates to "modify" the closure order is curious wording, which has already perplexed the magistrates' courts, given that the magistrates are just as likely to be invited to exercise their power to lift the revocation and re-open premises at a time when the original closure order has expired as they are during the currency of that closure order. We recommend a clarification of this wording. (Paragraph 436)

The Night-Time Economy

48. We believe that the appointment of the night Czar and other champions of the night time economy (NTE) has the potential to help develop London's NTE and ease the inevitable tensions that arise between licensees, local authorities and local residents. We believe that greater transparency should be expected of these roles if they are to secure the co-operation and trust of key parties in London's NTE. In time night Mayors may also offer a model to other cities in the UK. (Paragraph 450)
49. **We believe it is appropriate that no Early Morning Restriction Orders have been introduced and we recommend that, in due course, the provisions on EMROs should be repealed.** (Paragraph 466)
50. **While we acknowledge the concerns of local residents, we believe that overall the night Tube is likely to have a positive impact for London's late night licensed premises, their staff, and local residents. not only will it provide a welcome boost to London's night-time economy, which must be allowed to grow if London is to continue to prosper as a global city in the 21st century, but it may well also bring advantages for residents by dispersing crowds more effectively and efficiently.** (Paragraph 472)
51. The Late Night Levy was introduced in large part to require businesses which prosper from the night time economy to contribute towards the cost of policing it. yet the evidence we have heard suggests that in practice it can be very difficult to correlate the two with any degree of precision, which contributes to the impression, held by many businesses, that the levy is serving as a form of additional general taxation, and is not being put towards its intended purpose. (Paragraph 487)
52. We have received from ministers, verbally and in writing, categorical assurances that the provisions of the Policing and Crime Act 2017 regarding Late Night Levies will not

be implemented until the Government has considered and responded to the recommendations in this report. (Paragraph 501)

- 53. Given the weight of evidence criticising the Late Night Levy in its current form, we believe on balance that it has failed to achieve its objectives, and should be abolished. However, we recognise that the Government's amendments may stand some chance of successfully reforming the Levy. We recommend that legislation should be enacted to provide that sections 125 to 139 of the Police and Social Responsibility Act 2011 and related legislation should cease to have effect after two years unless the Government, after consulting local authorities, the police and others as appropriate, makes an order subject to affirmative resolution providing that the legislation should continue to have effect. (Paragraph 502)**
- 54. If the Government, contrary to our recommendation to abolish the Late Night Levy, decides to retain it, we further recommend that Regulations be made under section 131(5) of the Police Reform and Social Responsibility Act 2011 amending section 131(4) of the Act, abolishing the current 70/30 split, and requiring that Late Night Levy funds be divided equally between the police and local authorities. (Paragraph 503)**
- 55. The EU Services Directive is an additional consideration which could have implications for the legality of the Late Night Levy. If the Government, contrary to our recommendation, decides to retain the Late Night Levy, the Home Office should satisfy itself that any further action relating to the Late Night Levy complies with the EU Services Directive. (Paragraph 505)**
56. We welcome all the initiatives of which we heard evidence, including BIDs, Best Bar none, Purple Flag and others, and recognise the effort which goes into them and the potential they have to control impacts and improve conditions in the night time economy. We commend the flexibility which such schemes appear to offer, and the bespoke way in which they are developed to match the needs of their locality. (Paragraph 518)
- 57. We welcome the initiative of local authorities such as Cheltenham which have abandoned Late Night Levies in favour of Business Improvement Districts. While recognising that local authorities cannot impose Business Improvement Districts in the same way that they can Late Night Levies, we recommend that other local authorities give serious consideration to initiating and supporting Business Improvement Districts and other alternative initiatives. (Paragraph 520)**

Live Music

58. We believe that the Live Music Act 2012 is working broadly as intended, but that **there is not presently a case for further deregulation, let alone the complete removal of all live music-related regulation from the Licensing Act 2003.** (Paragraph 541)
59. We recommend that more be done to spread awareness of the provisions of the Live Music Act 2012 and its implications for licensed premises among local councils, licensed premises and local residents. (Paragraph 542)

60. **We recommend that a full ‘Agent of Change’ principle be adopted in both planning and licensing guidance to help protect both licensed premises and local residents from consequences arising from any new built development in their nearby vicinity.** (Paragraph 553)

Fees and Fee Multipliers

61. **We recommend that section 121 of the Police Reform and Social Responsibility Act 2011 be brought into force, and new Fees Regulations made requiring licensing authorities to set licensing fees.** (Paragraph 565)
62. The Opinion of the Advocate-General in the case of Hemming has cast doubt on the legality of any element of a licensing fee which goes beyond the cost to a licensing authority of processing an application. Accordingly we consider that it would not be sensible to recommend the extension of the fee multiplier to supermarkets at this time. (Paragraph 581)
63. We recommend that the Home Office should consider whether the Fees Regulations should be amended to make them compatible with the EU Services Directive and the Provision of Services Regulations 2009. (Paragraph 582)
64. If, as we recommend, the power to set licence fees is devolved to licensing authorities, then this power will inevitably have to be constrained by any conclusion which the Home Office draws on the compatibility of fees generally with the Directive and Regulations. (Paragraph 583)

Other Matters of Importance

65. We recommend further development of the GOV.UK platform for licensing applications, to ensure that it is working with local authority computer systems, and fully compatible with the provisions of the Licensing Act 2003. In due course, its uniform adoption by all local authorities in England and Wales should be encouraged by the Government and the section 182 Guidance updated accordingly. (Paragraph 590)
66. We believe the enforcement of section 128 and 132A of the Licensing Act 2003 would be facilitated by a national database of personal licence holders, against which to check those who are convicted of relevant offences. We recommend the creation of a national database of personal licence holders for use by courts and licensing authorities, linked to the Police National Database. (Paragraph 594)
67. We do not recommend that licensing committees be given the power to suspend or revoke a premises licence for non-payment of business rates. (Paragraph 599)
68. The evidence we received on the application of the Act specifically to clubs suggests that they have adapted to it well. (Paragraph 609)
69. Given the decline in most forms of members’ clubs, and the social value they hold in many communities, we believe that even minor adjustments which may help them should be made. We therefore recommend the removal of Conditions 1 and 2 by the repeal of section 62 (2) and (3) of the Licensing Act 2003, abolishing the two-day

waiting period required of new members. We acknowledge that at least some clubs will want to keep this waiting period in their club rules, and they will still be entitled to do so. (Paragraph 610)

70. The designations of airports as international airports for the purposes of section 173 of the Licensing Act 2003 should be revoked, so that the Act applies fully airside at airports, as it does in other parts of airports. (Paragraph 620)
71. The 1964 and 2003 Acts both refer to ports and hoverports as well as to airports, so that the same arrangements can be made portside. Our discussion has centred on airports. Any similar designations made for ports and hoverports should also be revoked. (Paragraph 621)
72. The sale of alcohol on a railway journey does not need to be licensed. We accept that the Act cannot sensibly apply to a moving train, and the railway companies have their own applicable bylaws. They also have the power where necessary to ban the sale and consumption of alcohol altogether, for example on train journeys to football matches. These powers seem to us adequate. (Paragraph 622)
73. We are concerned that section 141 of the Licensing Act (prohibition on sale of alcohol to a person who is drunk) is not being properly enforced, and the few concerted attempts by local authorities to date have been lacklustre at best. notwithstanding the difficulties of defining drunkenness, we believe that enforcement of section 141 needs to be taken far more seriously, and by doing so many of the problems currently associated with the night Time Economy, in particular pre-loading and the excessive drunkenness and anti-social behaviour often linked with it, would be reduced. (Paragraph 629)