

**Manchester City Council
Report for Resolution**

Report to: Licensing Committee – 20 January 2020

Subject: Update of Model Conditions under the Licensing Act 2003 incorporating Martyn’s Law proposals

Report of: Director of Planning, Building Control & Licensing

Summary

The report provides the Licensing Committee with relevant considerations for how the principles of the proposed Martyn’s Law could be incorporated within the licensing regime.

Recommendations

The Committee is asked to note the contents of the report and approve the proposal to consult on the Council’s revised the Council’s suite of Model Conditions to incorporate conditions consistent with the requirements of Martyn’s Law.

Wards Affected: All

Environmental Impact Assessment - the impact of the decisions proposed in this report on achieving the zero-carbon target for the city

Not applicable to the contents of this report

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	

<p>A progressive and equitable city: making a positive contribution by unlocking the potential of our communities</p>	<p>An effective licensing regime works with Operators and other agencies to ensure as far as it is able, matters of equality and local issues.</p>
<p>A liveable and low carbon city: a destination of choice to live, visit and work.</p>	<p>The Licensing process provides for local residents and other interested parties to make representations in relation to licensing applications to safeguard local place based interests. 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.</p>
<p>A connected city: world class infrastructure and connectivity to drive growth</p>	<p>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.</p>

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):

None

1.0 Introduction

The report provides the Licensing Committee with relevant considerations for how the principles of the proposed Martyn's Law could be incorporated within the Licensing regime.

2.0 Overview of Martyn's Law

2.1 Named after Martyn Hett, one of the 22 victims of the Manchester Arena terror attack, and campaigned for by Survivors Against Terror - a network of family members who have lost a loved one to terror and survivors of terror that includes Martyn's mother, Figen Murray, and Brendan Cox, husband of murdered MP Jo Cox - Martyn's Law is a proposed piece of legislation that aims to increase and legally standardise security and counter-terror policies at public venues.

2.2 Martyn's Law consists of 5 requirements:

- 1. A requirement that spaces and places to which the public have access engage with freely available counter-terrorism advice and training**
- 2. A requirement for those places to conduct vulnerability assessments of their operating places and spaces**
- 3. A requirement for those places to mitigate the risks created by the vulnerabilities**
- 4. A requirement for those places to have a counter-terrorism plan**
- 5. A requirement for local authorities to plan for the threat of terrorism**

2.3 Further detail on the background to Martyn's Law is provided in the report attached at Appendix 1.

3.0 Ability to introduce the conditions on new and existing licences

3.1 Central government is exploring the implementation of Martyn's Law as national legislation for any place or space to which the public have access. Any changes will take some time; therefore, Manchester City Council is seeking to incorporate its principles within the existing licensing framework to enhance and promote public safety in places and spaces where licensable activities take place in Manchester.

3.2 A report to the Council's Executive on 15 January 2020 sets out our response to Martyn's Law and our commitment to build safer and stronger communities. As the Licensing Authority, there is an opportunity to assist this through updating the Council's suite of Model Conditions to incorporate prospective conditions that could be included on premises licences and club premises certificates to give effect to Martyn's Law in licensed places and spaces.

- 3.3 Members will be aware that Licence conditions may be attached to a new licence either:
- a) voluntarily where proposed by an applicant in their operating schedule;
 - OR
 - b) imposed by the licensing authority following a hearing where deemed appropriate for the promotion go the licensing objectives.
- 3.4 On existing licences conditions may be attached:
- a) through a minor variation or full variation either voluntarily where proposed by an applicant in their operating schedule or, where representations are received, imposed following a hearing;
 - OR
 - b) following a licence review where problems have arisen at a licensed premises
- 3.5 It should be noted that paragraph 10.8 of the s182 Guidance to the Licensing Act 2003 states:

“The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.”

- 3.6 Paragraph 10.10 goes on to state:

Proportionality

“The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.” (underlining my emphasis)

- 3.7 As the s182 Guidance states, conditions cannot be imposed on new or existing licences where it is disproportionate, or not appropriate, for the promotion of the licensing objectives, to do so. However, it is noted that Martyn's Law recognises that different requirements will apply to different venues: for small venues, it is suggested that this may simply require an addition to their already mandated fire plan, whereas for bigger, more complex venues it will require a more holistic approach.
- 3.8 Given there no definitive security vulnerability assessment for use by licensed premises, it is intended to explore the potential development of a template for use by venues, which can be scaled appropriately with regard to the nature and scale of the premises, in order to promote consistency and to aid adoption.

4.0 Proposed conditions

- 4.1 The elements of the proposed Martyn's Law that could be applied through the existing licensing regime have been considered and the following conditions have been drafted in response. It is proposed that these conditions be considered for inclusion where applicable on new licences, and to be applied where possible and relevant on existing licences (should a review of variation of an existing licence be applied for):
1. At all times that the premises are open to the public for licensable activities, a minimum of 25% of staff on-duty at the premises and all on-duty managers must have completed ACT : Awareness training. In addition, a minimum of 1 on-duty manager must also have completed the ACT : Operational or ACT : Strategic training.
 2. The Designated Premises Supervisor must complete the ACT : Awareness training and ACT : Operational or ACT : Strategic training course within 28 days of the grant or variation of the licence. Should the Designated Premises Supervisor named on the licence change, the new Designated Premises Supervisor must complete those courses within 28 days of being named on the licence.
 3. Within 28 days of the grant or variation of the licence, a documented security vulnerability assessment, which must incorporate counter terrorism measures, must be undertaken for the premises to include all areas in which licensable activities takes place and which the public will have access and/or transit through. The assessment shall be routinely reviewed and must be reviewed following the elevation of the change of the national threat level. All reviews shall be documented.
 4. Within 28 days of the grant or variation of the licence, the premises licence holder shall evaluate any risks identified through the security vulnerability assessment and take promptly such steps to eliminate them or to reduce the risk as far as is reasonably practicable. A documented record must be maintained of any remedial action implemented and made available upon

request to any police officer or an authorised officer of Manchester City Council.

5. Within 28 days of the grant or variation of the licence, the premises must have a documented counter-terrorism plan, which sets out counter measures to be implemented in response to a terrorist attack, through the principles of 'Guide', 'Shelter' and 'Communicate' -
 - Guide – Direct people towards the most appropriate location (invacuation, evacuation, hide)
 - Shelter – Understand how your place or space might be able to lock-down and shelter people within it for several hours
 - Communicate – Have a means of communicating effectively and promptly with users of your place or space and have staff capable of giving clear instructions. Also have the capability of integrating with any response or rescue operation by providing things like building plans.

5.0 Counter-Terrorism Training Packages

- 5.1 Martyn's Law proposes that staff at venues have completed relevant counter terrorism training available and these courses are summarised below. The document at Appendix 2 provides an overview of the full range of training courses available from the Counter Terrorism Policing service.
- 5.2 **ACT : Awareness eLearning** is a new online counter-terrorism (CT) awareness product designed for all UK based companies and organisations and available to the public. Devised by CT officers and security experts, it provides nationally recognised corporate CT guidance to help people better understand, and mitigate against, current terrorist methodology. The following eLearning Modules are available:
 1. Introduction to Terrorism
 2. Identifying Security Vulnerabilities
 3. How to Identify and Respond to Suspicious Behaviour
 4. How to Identify and Deal with a Suspicious Item
 5. What to do in the Event of a Bomb Threat
 6. How to Respond to a Firearms or Weapons attack
 7. Summary and Supporting Materials
- 5.3 **ACT : Awareness** training can also be delivered through face-to-face delivery by Counter Terrorism Security and Awareness Advisors (CTSAs/CTAAs) upon arrangement with the local CTSA office.
- 5.4 **ACT : Operational** is a table-top, scenario based exercise designed to test the plans and policies of an organisation when responding to a terrorist attack. Recommended for operational management levels, audio and visual clips will be used to illustrate the different stages of an unfolding attack. Delegates are required to consider their response to the scenario in line with their

organisation's existing plans and policies, affording them an invaluable opportunity to enhance their knowledge and understanding of them, and the role they will play in their implementation. The input is delivered by Counter Terrorism Security Advisors (CTSA) and Counter Terrorism Awareness Advisors (CTAAs) who will facilitate group discussions as well as providing best-practice guidance and signposting to further advice. ACT : Operational inputs run for approximately three hours, allowing for a short break.

- 5.5 **ACT : Strategic** explores ways to aid businesses in preventing, managing, and recovering from a terrorist attack. The input features a discussion based exercise where delegates will be faced with a series of questions and dilemmas to resolve, benefitting from the sharing of the latest advice, guidance, and best-practice. ACT Strategic is aimed at those responsible for writing policies/procedures or strongly influencing them. Delegates are asked to have completed ACT: Awareness prior to attending and to have knowledge of their organisation's emergency response plans, as well as the authority to effect changes to or reviews of these plans.
- 5.6 In terms of the training set out above, the ACT: Awareness eLearning is publicly available online and so freely accessible. However, ACT : Operational and ACT : Strategic are delivered in face-to-face sessions by local Counter Terrorism officers. Therefore, the ability for venue managers to complete this training may be constrained by the availability of this training, particularly having regard to the number of licensed premises. This is a matter that will be discussed further with CT officers to reduce any barriers to access to training.

6.0 Next Steps

- 6.1 It is proposed to consult on the revision of the suite of Model Conditions. Following that consultation, a report will be brought back to the Licensing Committee for consideration of approval of the final model conditions.
- 6.2 We will seek to explore the viability of the training and assessment elements as part of the public consultation.
- 6.3 We will engage with prospective applicants and their representatives to encourage the inclusion of the Martyn's Law model conditions as proposed steps in their application operating schedule when making applications, which, in turn, would become conditions on any licence granted.
- 6.4 The successful, widespread adoption of Martyn's Law across licensed premises in Manchester goes much further than just applications for new premises licences. Therefore, we will also engage with existing licensed premises to encourage their voluntary adoption of the requirements in their current operating practices.
- 6.5 At this time we are in the early stages of developing a voluntary scheme to recognise good practice by licensed premises, which it is envisaged will support and help drive the adoption of Martyn's Law across city centre venues. The voluntary scheme is a multi-agency approach which reflects how

the city works collaboratively in responding to issues arising from the night time economy.

- 6.6 Finally, we will seek to incorporate Martyn's Law in the Council's revised Statement of Licensing Policy, which will come into effect in 2021.

7.0 Key Policies and Considerations

- 7.1 The proposals will integrate with the Council's Statement of Licensing Policy under the Licensing Act 2003.

8.0 Conclusion

- 8.1 The Committee is asked to note the contents of the report and approve the proposal to consult on the revised suite of Model Conditions to incorporate conditions consistent with the requirements of Martyn's Law.