

**Manchester City Council
Report for Information**

Report to: Licensing Committee – 19 October 2020

Subject: Licensing Update and Revision of Licensing Policy 2021

Report of: Director of Planning, Building Control & Licensing

Summary

The report provides the Licensing Committee with a topical update on licensing issues and information on the proposed revision of the Council's Statement of Licensing Policy under the Licensing Act 2003

Recommendations

That Members note the report.

Wards Affected: All

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

None

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

1.0 Introduction

- 1.1 The report provides the Licensing Committee with a topical update on matters relevant to licensed premises under the Licensing Act 2003.

2.0 Coronavirus

- 2.1 The Committee will be aware of the reactive and changing nature of localised the restrictions; at the time of publishing people are only able to visit a licensed premises in their household groups or support bubbles (where an adult who lives alone or with dependent children, can spend time with one other household indoors, and only allowed to operate until 10pm. Venues in Manchester were operating seated only well before this became mandatory. All indoor and outdoor hospitality including, cafes, bars, pubs, and restaurants, can open at this time with the exception of:
- Nightclubs, dance halls, and discotheques
 - Sexual entertainment venues and hostess bars
- 2.2 The Coronavirus pandemic is a public health issue. The s.182 Guidance advises that “Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation.”
- 2.3 Therefore, licensing powers are limited in respect of dealing with Coronavirus-related failings at licensed premises through the licensing process and action must be taken through Health and Safety powers. The Local Government Association has called on the government to extend licensing powers to take action where premises are not protecting the public during the pandemic.
- 2.4 All business premises are required to operate in a “COVID-secure” manner by carrying out an appropriate COVID-19 risk assessment, just as they would for other health and safety related hazards. Additional guidance (to that issued by the government) has been provided by the Licensing Unit to businesses to outline our expectations and how compliance officers will engage with them to support and guide them through their responsibilities, but also take action where necessary where there is non-compliance. Our approach has been to outline expectations with agreed action plans or warnings in the first instance. However, more immediate and escalated action has been required where the public health risk presented is either too high (i.e. the premises has lost control of its clientele and mass non-compliance is occurring) or advice and warnings have not been adhered to.
- 2.5 The Out of Hours compliance team have therefore worked closely with colleagues in Environmental Health to respond to complaints, proactively monitor premises, share evidence and utilise Health and Safety powers where necessary to ensure our licensed premises are operating according to requirements and in line with the guidance we have set out.

- 2.6 The key challenges since the reopening of the hospitality industry have centred around ensuring social distancing within venues, and ensuring recording and maintenance of customer and visitor details to support the NHS 'Test and Trace' system;
<https://www.gov.uk/guidance/maintaining-records-of-staff-customers-and-visitors-to-support-nhs-test-and-trace>
- 2.7 Compliance teams report there have been thousands of visits to licensed premises since re-opening on 4 July and of the 2200+ premises that we licence, formal enforcement action has only had to be taken against 16 premises, evidencing a widespread degree of compliance within the sector.
- 3.0 **Business and Planning Act 2020**
- 3.1 On 22 July 2020, the Government introduced new legislation to support the economic recovery of businesses selling food and drink as lockdown restrictions were lifted with social distancing guidelines remaining in place.
- 3.2 The legislation introduced two main changes relevant to licensed premises:
- i. Pavement Licences
 - ii. Deregulation of off-sales of alcohol

Pavement Licences

- 3.3 Designed to support businesses selling food and drink, such as cafes, pubs and restaurants, a temporary fast-track process was introduced for these businesses to obtain permission (Pavement Licence) from the local council for the placement of furniture such as tables and chairs on the highway outside their premises. This will enable them to maximise their capacity whilst adhering to social distancing guidelines. The current process for businesses to obtain these licences can be costly and time-consuming.
- 3.4 This Act includes temporary measures to place a cap on the application fee for businesses, enforcement and revocation powers so councils can protect public safety and amenity, and a new 14-day determination period (7 day public consultation and 7 days to determine thereafter), ensuring that businesses can obtain licences in a timely and cost effective manner aiding their financial recovery.
- 3.5 The Licensing Unit led on extensive engagement with premises and coordination of partners to support businesses seeking to utilise this legislation to aid their recovery. This was supported by teams in highways, GMP, neighbourhoods and compliance, city centre regeneration team and Cityco. To date we have received over 140 pavement licence applications, and have been able to grant over 120 (27 of which are not in city centre wards). We are currently working through how we can support businesses risk assessing the provision of heaters to facilitate the continued use of pavement licences throughout the winter months (subject to other restrictions). Guidance has been provided to licensed premises and can be found at:

Deregulation of off-sales of alcohol

- 3.6 The Act modifies provisions in the Licensing Act 2003 to provide automatic extensions to premises licences that only permit sales of alcohol for consumption on the premises (“on-sales”) to allow sales of alcohol for consumption off the premises (“off sales”). It will be a temporary measure to boost the economy, with provisions lasting until the end of September 2021.
- 3.7 These measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption off the premises. This will allow businesses to trade whilst keeping social distancing measures in place inside.
- 3.8 The provisions remove the need for any application to be made, therefore no fee will need to be paid. This will deliver savings to businesses, as well as providing them with certainty about how they are able to trade. It will also reduce the burden on local authorities and the police, who will not need to scrutinize any applications for licence variations from the premises affected by these measures. Licensees who have had an application for an off-sales permission refused or had their off-sales permission excluded by variation or at review within the last three years, will be excluded from this licence extension. This is a safeguard to ensure that where it has recently been decided that the licensee should not have the permission, they do not receive it through this legislation.
- 3.9 The hours in which off-sales of alcohol may be made under the new permission are when the licensed premises are open for on-sales, subject to two limitations. Firstly, every off-sale must be made at a pre-cut off time. The pre-cut off time is any time between when the premises first open for the purposes of selling alcohol for consumption on the premises and 11pm. If on-sales terminate earlier than 11pm, that earlier time will also apply to off-sales. Secondly, there is also an exception where there is an outdoor area and the times in which the sale of alcohol is permitted differ from the times in which sales for consumption on the premises are permitted. In these circumstances, the new off-sales permission does not apply at the times when the premises licence does not allow sales of alcohol for consumption in the outdoor areas of the premises.
- 3.10 The provisions will also apply temporary conditions to licences where there is pre-existing permission for off-sales. The conditions will set the hours of off-sales in the same manner as described above to match those for on-sales, allow off-sales of alcohol in open containers and allow deliveries of alcohol to residential or work buildings. Those conditions will suspend existing conditions that are more restrictive. So, for example, an existing condition that allowed off-sales only in closed containers would be suspended to allow sales in open containers.

3.11 If there were problems of crime and disorder, public nuisance, public safety or the protection of children arising from how the premises operated using the new permission, any responsible authority, including the police or environmental health, could apply for a new off-sales review. The off-sales review process is modelled on the existing summary review process. In the event that an off-sales review is triggered, it will only relate to off-sales authorised by virtue of these provisions, or conditions which have effect by virtue of these provisions: it cannot be used to revoke the existing licence or modify pre-existing licence conditions.

4.0 Review of the Council's Statement of Licensing Policy

4.1 Like most councils, we are currently in the process of reviewing our Licensing Policy as the end of the statutory 5 year period as specified in Section 5 of the Licensing Act 2003 comes to an end in early January 2021.

4.2 However, the Covid-19 pandemic has significantly changed the licensing landscape, with many businesses unable to operate as before and a drastic reduction in customer numbers and footfall.

4.3 With this in mind, it is proposed to postpone a full review of the policy until later next year when we should have a better understanding of what the impact will have been on the longer-term operation of licensed businesses and our night time economies.

4.4 A review of the Council's Our Manchester Strategy is also currently being undertaken in light of the Coronavirus pandemic, with a revised strategy set to be published next May. It is anticipated that the revision of the Licensing Policy should be undertaken to complement that strategic vision.

4.5 We formally requested the Government to introduce legislative changes that would enable an extension of the requirement to review the policy by January 2021. However, we were notified by the Home Office on 1 October that would not be possible without primary legislation and there was no opportunity to make that provision any time soon. Therefore it is proposed to renew our current Policy for an 18 month period to enable a fuller review in due course.

5.0 Key Policies and Considerations

5.1 The above matters are relevant to the Council's Statement of Licensing Policy under the Licensing Act 2003

6.0 Conclusion and decisions

6.1 The Committee is asked to approve the renewal of the Licensing Policy for an 18 month period to be reviewed in full next year.

6.2 The Committee is asked to note the report.