

**Manchester City Council  
Report for Information**

**Report to:** Licensing Committee – 19 October 2020

**Subject:** Update of Model Conditions under the Licensing Act 2003 including incorporation of Martyn's Law proposals

**Report of:** Director of Planning, Building Control & Licensing

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**Summary**

The report provides the Licensing Committee with the results of the public consultation and proposes the final model conditions.

**Recommendations**

That Members approve the model conditions.

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**Wards Affected:** All

<b>Environmental Impact Assessment</b> - the impact of the decisions proposed in this report on achieving the zero-carbon target for the city
None

<b>Manchester Strategy Outcomes</b>	<b>Summary of the contribution to the strategy</b>
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):**

Report to Licensing Committee - 20 January 2020 “Update of Model Conditions under the Licensing Act 2003 including incorporation of Martyn’s Law proposals”

## 1.0 Introduction

- 1.1 The report provides the Licensing Committee with the results of the public consultation on the revised model licence conditions for premises under the Licensing Act 2003, which incorporated the proposed new conditions in line with adopting the principles of Martyn's Law in Manchester.
- 1.2 The consultation was published on the Council's website for 6 weeks from 4 March to 17 April, but was extended for a further 4 weeks until 17 May in light of the Coronavirus lockdown.
- 1.3 Fourteen responses were received in the consultation period and a further written response received after the deadline. Clearly, there has been no prejudice in this being received late, given the passage of time and so has been included in the results.
- 1.4 Responses were received from the following -
  - 6 x industry operator
  - 1 x member of public
  - 1 x private security
  - 1 x licensing solicitor
  - 5 x unknown

## 2.0 Response to Martyn's Law Conditions

- 2.1 All responses bar one, supported the introduction of the Martyn's Law principles, with some caveats:
  - Requirements should be targeted to defined premise as some licensed premises might not be as relevant e.g. office spaces;
  - Too onerous for all staff to complete training and to the timescales proposed;
  - Higher levels of training should be mandatory for the designated premises supervisor but optional for other duty managers based on risk assessment;
  - Security personnel should complete ACT Awareness and supervisors/managers complete higher level training.
- 2.2 Only one response (Response 4, Industry Operator) was completely against the ML proposals
- 2.3 The responses are considered below:

### **Response 4 (Industry Operator)**

*"Should be moitored (sic) by public sector, NOT pushed on to the private sector to police".*

### **Response 5 (Security Officer)**

*"All security personal (sic) must complete ACT Awareness Training.*

*All security supervisors / Managers must complete ACT Strategic and Operation Training.”*

**Response 6 (Industry Operator)**

*“I entirely agree with training members of our team on Act Awareness and the benefits of this excellent package. We already do this for our London Duty Managers via the eLearning scorm package. I do have concerns on the requirement for all staff to be trained before they can work in our premises. This will place significant strain on premises who may have a high turnover of staff/seasonal workers. New staff also have to go through a great deal of induction training already to meet other various legislation and I fear the training may therefore lose some of its value. Regarding the requirements for DPS and Duty Managers to complete the additional operational or strategic levels of training, this will be dependent on the availability of these face to face courses. I think the 28 day requirement is also onerous. This could also prove difficult for a new DPS/Duty Manager to complete in this timescale.*

*I believe the ACT awareness training should be mandatory for Duty Manager level but optional for general team members. The enhanced levels of training for Duty Managers should also be optional based on risk assessment and management level, but agree mandatory for the DPS; however the 28 day deadline should be extended.”*

**Response 12 (Licensing Solicitor)**

*As drafted, (Condition 1) applies to every licensed premises, regardless of size or location, or type of activities permitted.*

*It would cover small corner shops, supermarkets, late night takeaways, pubs, bars, restaurants, nightclubs, cinemas, theatres large scale music venues and football clubs. Other, less obvious licensed premises include office blocks, co-working spaces and public squares either in private ownership such as Spinningfields, or Council owned such as Albert Square and others.*

*Some smaller venues might find it relatively easy to ensure that all staff had undertaken the necessary training but others would find it simply impossible. For example, a manager employed by a national pub chain drafted in at short notice and for a short period of time would not be able to comply with this condition nor would those who relied on agency staff. Equally, every member of staff employed at the Etihad for example, could not be expected to undertake the training.*

*We would suggest that the condition be amended so that it only applies to a defined list of premises, and perhaps whilst the training might be mandatory for the manager (and/or DPS if the licence allows for the sale of alcohol) that thereafter, a % be given for the number of staff to be trained.*

*We agree that (condition 2) is proportionate. However, compliance relies on the availability of the training. We would ask if assurances have been given by the training provider that sufficient training courses will be run, in appropriate locations, to ensure that individual Designated Premises Supervisors did not fall*

*foul of the condition through unavailability of courses within the requisite timeframe.*

## **MCC Response -**

- 2.4 The suggestion in Response 4 that it is not a matter for the private sector is rejected as this is completely contrary to the principles of Martyn's Law, which requires that spaces and places to which the public have access engage with freely available counter-terrorism advice and training.
- 2.5 The Government was due to publicly consult in the Spring on new legislation, in line with Martyn's Law, which would require venue operators to consider the risk of a terrorist attack and take proportionate and reasonable measures to prepare for and protect the public from such an attack. However, consultation has been delayed by the Coronavirus pandemic.
- 2.6 The key issue raised in responses 6 and 12 concerns the proportionality of the training requirements, particularly:
- i. whether it should only apply to specific types of venues
  - ii. the timescales for training to be completed
  - iii. the feasibility and appropriateness of training all staff
- 2.7 The Government's brief on the scheduled consultation was that it would "ask for views from business and the public sector on the proportionality, scope of the duty, and how it should be enforced."
- 2.8 Security Minister James Brokenshire said:  
"Our first priority is keeping the public safe and preventing more families from suffering the heartbreak of losing a loved one.
- The devastating attacks in 2017, and more recently at Fishmongers' Hall and Streatham, are stark reminders of the current threat we face. We are in complete agreement with campaigners such as Figen Murray on the importance of venues and public spaces having effective and proportionate protective security and preparedness measures to keep people safe.
- Of course, it is important that this new law is proportionate. This public consultation will ensure we put in place a law that will help protect the public while not putting undue pressure on businesses."
- 2.9 Having regard to the comments in Response 4 (Security officer) It is proposed to amend the condition to clarify that all door supervisors on duty at the premises complete the ACT Awareness Training and that it is not limited to the employees of the licensed premises The proposal that security supervisors and managers complete a higher level of training, similar to the proposal for designated premises supervisors and duty managers at the licensed premises, is logical and so it is also proposed to include this amendment.

*1. At all times that the premises are open to the public for licensable activities, all staff on-duty, including all door supervisors, at the premises and all on-duty managers must have completed ACT: Awareness training. In addition, a minimum of 1 on-duty manager and any security supervisor/manager must also have completed the ACT: Operational or ACT: Strategic training.*

- 2.10 Whether the conditions should only apply to certain categories of premises can be complicated as venues may not simply fit into a defined category, or may transition between different styles of operations. The Martyn's Law principle are that "spaces and places to which the public have access":
- (a) engage with freely available counter-terrorism advice and training
  - (b) conduct vulnerability assessments of their operating places and spaces
  - (c) mitigate the risks created by the vulnerabilities
- 2.11 Therefore, it is not proposed to limit the types of venues that are expected to comply as the intention is that all public places and spaces are engaged. Although they may be licensed, premises such as office buildings that are not open to the public would not be captured by the condition and so would already be excluded.
- 2.12 Due to the Coronavirus pandemic, the capacity to conduct courses that require attendance in-person are naturally restricted and it is recognised that completing the ACT: Operational and Strategic courses within 28 days are not currently achievable.
- 2.13 In respect of which staff, and what proportion of them, must be trained, the responses in respect of the difficulty of ensuring this are noted.

### 3.0 Other Conditions - Individual Responses

- 3.1 The responses to other proposed model conditions are set out below:

#### Response 5 (Security Officer)

***"All front line security personal (sic) working in public domain must wear body worn camera's (sic)."***

- 3.2 It is proposed to amend Condition 24, which concerns the use of body cams by security personnel, to include an option to specify "all" personnel to wear them, rather than a specified number.

***"All security personal (sic) must have emergency first aid at work training. There should also be required to have at large venues a member(s) of staff that have FREC level 3 / level 4 with available equipment."***

- 3.3 FREC is the 'First Response Emergency Care' qualification. It is designed for those seeking a career in the emergency services, ambulance services, the event medical sector, but also those who work in high risk workplaces. It equips a person with the skills to deal with a wide range of prehospital care

emergencies, such as: managing a patient's airway; catastrophic bleeding; management of fractures; medical emergencies.

- 3.4 The Level 3 Certificate in First Response Emergency Care is one of the few first aid qualifications recognised by the Security Industry Authority (SIA) and typically involves attending a course over 5 days at a cost of approximately £500+. There is also an additional recommended 118 hrs of post course learning.
- 3.5 Upskilling door supervisors and increasing their capability to deal with vulnerability is an important aim. Therefore, it is proposed to include conditions as recommended in the response, although it is recognised that any imposition of a requirement for the Level 3 FREC qualification would generally only be appropriate for larger and/or higher risk venues.
- 3.6 The proposed additional conditions are:

*A member(s) of staff qualified to a minimum Level 3 Certificate in First Response Emergency Care must be on duty, with appropriate medical equipment, at the premises when licensable activities are carried out [or at specified days/times]*

*All door supervisors must have emergency first aid at work training.*

#### **Response 6 (Industry Operator)**

***"#25 on bodycams - review requirement for continuous recording loop as this goes against guidance from college of policing and ICO."***

- 3.7 *Response: Agreed - the condition has been modified to specify recordings should be incident-specific, and to address issues of failing to capture footage as well as specifying no images must be deleted before the expiry of the 28 day retention period.*

***"#34.(b) - training records should be permitted in electronic format, with records of completed tests etc., without the need for paper and signatures."***

- 3.8 *Agreed - reference to signature removed to facilitate electronic training.*

***#47 - where an electronic refusal system on the till issued, this does not allow for inputting description of the customer. This is also time consuming and not practical in a busy pub/bar. I also do not feel it adds value to the objective or achieves anything - the correct recording of the refusal is the key part.***

*Response: Accepted - reference to description of the customer removed. Recording refusals is an important exercise in demonstrating due diligence but whilst there may be some value in recording customer descriptions to identifying repeat instances,*

#### **Response 9 (Business Network):**

***(Condition 34) "Further information on what staff working in the NTE can do to alert authorities to street vulnerable people, trafficked people and victims of***

**modern slavery. Include some training from Manchester Homelessness Partnership and other specialists.”**

3.9 It is not proposed to include a model condition addressing this issue. The Manchester Homelessness Partnership (MHP) is a network of organisations which formed to work together towards the aims and values of the Manchester Homelessness Charter, and with the goal to end homelessness in all its forms in Manchester. Whilst we would encourage licensed premises to support such initiatives, this would not be relevant to the promotion of the licensing objectives. Modern slavery and trafficked people would be relevant to the crime prevention objective, and it is proposed to include a condition around understanding the signs of modern slavery and how to report it.

**Response 12 (Licensing Solicitor):**

**Condition 7 (ID scanning condition) - *In view of the advances in technology we would suggest the inclusion of any electronic or biometric verification technology approved by the Licensing Authority (in a manner similar to Condition 44).***

3.10 Response - agreed. Condition to be amended as follows:  
An ID scanning system, or electronic or biometric verification technology approved in writing by the licensing authority must be operated at the premises at all times it is open to the public. All persons entering the premises must provide verifiable ID and record their details on the system.

**Condition 8 (searches) - *We would suggest that this condition be amended to also allow for random searches to be permitted, or a separate condition included to guide operators who may consider that their premises may benefit from a discretionary search policy rather than a blanket one.***

3.11 Response: Replace condition as follows

8. Persons entering or re-entering the premises must be searched [at random] [on a discretionary basis] [in every case] by an SIA registered door supervisor [and all searches must be monitored by the premises CCTV system].

**Condition 28 (CCTV) - *We would suggest that “there are members of trained staff” be replaced by “at least one member of trained staff be”. This will ensure the objective of the condition is upheld, but does not require there to be more than one on site at anyone time who is capable of providing the copies.***

3.12 Response - Accepted

**Condition 33 (incident reporting) - *Viii duplicates vi.***

3.13 Response - duplicate deleted

**Condition 42 (bottle cages)- *This type of condition is more commonly associated with premises with a history of incidents of crime and disorder. If a condition were to be offered by an operator in their Operating Schedule for a new licence, we wonder whether this would be the sort of premises the City would be encouraging. However, we accept that the Pool of Model conditions is not just a tool for an applicant but can be used by any Responsible Authority***

***or interested party who may consider this condition as part of Review proceedings.***

3.14 Response - comments noted.

***Condition 51 (Restaurants and takeaways (alcohol) - We would suggest that conditions such as that above, which restrict a premises so that it must operate solely as a restaurant are outdated. More commonly seen in certain London boroughs (notably Westminster) we believe that they stifle innovation and increasingly lack relevance in the ever changing hospitality sector. Very few premises now fit neatly into a single definition of 'bar', 'pub' or 'restaurant' with far more operating as a hybrid of one or more of those styles.***

3.15 Response - this is accepted. As referenced earlier in the report, many venues operate a hybrid model and it is submitted that it is not whether the proposed business fits into a category of operation that will be important but whether its proposed operation will cause any harm to the licensing objectives. Therefore, it is proposed to remove this condition.

#### **4.0 Key Policies and Considerations**

4.1 The proposals will integrate with the Council's Statement of Licensing Policy 2016-21 under the Licensing Act 2003.

#### **5.0 Conclusion**

5.1 A schedule of the proposed final conditions is attached at Appendix 1.

5.2 The Committee is asked to consider the contents of the report and responses received to the consultation, and approve the proposed set of Model Conditions.