

## Manchester City Council Report for Resolution

**Report to:** Licensing Committee – 13 November 2023

**Subject:** Statement of Licensing Policy 2023-2028

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

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### Summary

The Report presents proposed revisions of the Statement of Licensing Policy under the Licensing Act 2003. This follows consideration of the matter at the meeting on 23 October 2023 and the Licensing Policy Committee on 31 October 2023.

### Recommendations

- i. To review the options presented in the report and to make any recommendations to the Policy Committee on final preferred policy approach.
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### Wards Affected: All

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

This policy seeks to support related strategies to help businesses recognise the need for sustainability and carbon reduction within in their operations; the policy raises awareness and encourages responsible and socially conscious practices.

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	Licensable activity provides a key role in supporting the city's economy. A successful licensing regime integrates fully with place making strategies to ensure sustainable growth, safe and well-run businesses, good employment opportunities and a diverse and vibrant social offer that in turn attracts further investment and visitors to the city. The Licensing Policy plays an essential role in establishing the relevant considerations and standards by which licensable activity will be permitted and operated in the City. The policy aims to support effective decision making to ensure that only premises that are well-run and appropriate to the nature of the surrounding neighbourhood are

	licensed; thereby positively contributing 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	The Policy outlines the expectations of licensed businesses and encourages these to operate safely and successfully, for both patrons and employees; thereby supporting the city's Work and Skills Strategy.
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	The Policy provides a framework by which operators and decision makers should consider the contribution each licensed business can make to the local community whilst promoting the licensing objectives. The Policy also outlines the expectation that licensed businesses will have due regard for equality and inclusivity in its policies, procedures and staff training.
A liveable and low carbon city: a destination of choice to live, visit and work.	The Policy is cognisant of the varying needs and profiles of the city's neighbourhoods and provides a framework by which operators and decision makers should consider the contribution each licensed business can make to the local community whilst promoting the licensing objectives to prevent crime, disorder and public nuisance and ensure public safety and the protection of children from harm. The Policy encourages operators to be socially conscious and operate sustainably.
A connected city: world class infrastructure and connectivity to drive growth	Licensable activity plays an important role in ensuring an economically successful City. 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

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**Financial Consequences – Revenue**

None

**Financial Consequences – Capital**

None

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**Contact Officers:**

Name: Fraser Swift  
Position: Principal Licensing Officer  
Email: [fraser.swift@manchester.gov.uk](mailto:fraser.swift@manchester.gov.uk)

Name: Danielle Doyle  
Position: Licensing Unit Manager  
Email: [danielle.doyle@manchester.gov.uk](mailto:danielle.doyle@manchester.gov.uk)

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**Background documents**

The following documents include or disclose important facts on which this report relies or refers to. Copies of the background documents are available up to 4 years after the date of the meeting. Copies can be obtained via contact with one of the officers above.

Minutes from Licensing Policy Committee meeting, 31 October 2023  
Manchester City Council Licensing Policy 2021-2025  
Licensing Act 2003  
Guidance issued under section 182 of the Licensing Act 2003

## 1. Introduction

1.1 As Members are aware the Licensing Act 2003 (which came into effect on 24 November 2005) covers the following licensable activities:

- Sale or supply of alcohol
- Provision of regulated entertainment
- Provision of late night refreshment

1.2 The Act requires each Licensing Authority to publish a statement of licensing policy to show how it intends to achieve the four licensing objectives. As members are aware, these are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm.

1.3 Members will also be aware that our licensing policy is a statutory consideration in determination of all licensing applications where relevant representations are received.

1.4 On 10 March 2023, the Licensing Policy Committee received a report presenting the draft revised Statement of Licensing Policy and requested officers to consult upon it.

1.5 Officers consulted with statutory consultees and arranged for an 8-week public consultation which took place from 31 May to 26 July.

1.6 On 23 October 2023, the Licensing Committee received a report presenting the findings of the public consultation and the changes proposed as a result. On 31 October 2023, the Licensing Policy Committee considered the recommendation of the Licensing Committee and has referred the matter back to this Committee.

1.7 The draft policy is updated to include the proposed area plans and copies of these are provided at Appendix 1.

1.8 Subject to any further required amendments and subsequent approval of the Licensing Policy Committee at the scheduled meeting on 20 November 2023, it is intended to present the policy to the Council on 29 November 2023 to approve the publication of this policy.

1.9 Members will be aware that the policy is published for a five-year period although the licensing authority must keep its policy under review and may make revisions to it, at such times, as it considers appropriate.

## 2. Concerns of the Licensing Committee

2.1 At the Licensing Committee on 23 October 2023, Members raised some concerns related to specific area policies. The Committee then made the following recommendation to the Licensing Policy Committee:

***“Remove the current area-based policies in place for Fallowfield and Withington and apply these to all areas of the city, outside of the City Centre.”***

- 2.2 This report seeks to address the concerns highlighted by the Licensing Committee and outline the options for moving forward.
- 2.3 Response to specific points raised:
- 2.4 A concern was raised that the final draft Policy was too diluted in its ability to restrict licensable activity in key areas in the same way they could with a previous CIP, Members didn't feel it was clear as to the difference between assessing any application on its individual merit and the new approach.
- 2.5 **Response:** All applications should be assessed on their individual merit, but the new policy approach seeks to provide clear guidelines (to applicants, Responsible Authorities and decision makers) for what types of operation/activity is desired/encouraged and where there might be a presumption against a particular type of operation/activity. It has been widely recognised that blanket CIPs have not provided authorities with enough flexibility when assessing applications, and in some circumstances have had a negative impact on the local economy.
- 2.6 A concern was raised that the Policy was weak on the issue of venues managing their ingress and egress effectively, queueing arrangements and the extent to which some venues encroach on the highway and the impact this has on accessibility, particularly in the city centre. In addition, it was raised that the policy did not indicate what should happen when changes to the external environment impacted on a venues operation.
- 2.7 **Response:** Section 5 of the Policy sets out how when assessing applications, the operator must demonstrate they will manage these issues outside of the venue, and the Council and other RAs need to ensure they are satisfied with those arrangements and venue policies before granting the licence. There is also a significant role for compliance teams to ensure that where concerns do arise, these are addressed with the venue and solutions sought. The operator's responsibility to have due regard for the Equality Act has been made clearer in the draft Policy through revisions to Section 4 in relation to accessibility and inclusivity. Section 1 already makes the point that the policy applies to existing licensed premises.
- 2.8 A concern was raised that it wasn't clear as to what 'increasing the scope of applications subject to limitations' meant. That it wasn't clear why one area might have some limitations, when another area a short distance away may not have the same limitations recommended in the policy.
- 2.9 **Response:** Different areas, even within fairly proximity can have hugely different demographics and local considerations. Whilst one area may have a busy and vibrant licensed economy, it may not be advised to limit applications in the same way because there is no or little evidence of negative impact within the neighbourhood. The nature of the operation, demographics of patron, and price point of services on offer are key factors in whether the

licensed activity also leads to crime and anti-social behaviour issues. Historical sensitivities will also be a relevant factor; where an area required a CIP (because the evidence supported that approach previously and there was a documented significant and negative local impact) it stands to reason that the authority should more carefully consider and manage what types of activity it wants to licence going forward.

- 2.10 A concern was raised that with the removal of the CIPs, why did only certain areas of the city require additional focus – what made them more ‘special’ than other areas of the city and was the approach legal, given that we are saying we do not need CIPs in these areas anymore.
- 2.11 **Response:** the Policy approach is different to the CIP as it is not as restrictive; there is no longer a presumption against. The approach seeks to find the best way forward in areas where additional risk has been identified by local Members, officers and residents which is supported by local intelligence and crime data analysis. In Fallowfield for example, the evidence does support what we already know about the problems encountered in the area linked to the type of venue, hours of operation and target market. There is also a likelihood of significant expansion of the licensed economy due to potential market in the neighbourhood and this should be managed carefully in line with the place plans for the area. It is on this basis that the immediate neighbourhood to the district centre is more at risk of negative impacts of certain types of licensable activity than other areas in the city.

Without bespoke guidance for areas where specific concerns and risks are well established and documented through crime data analysis, the Council may find it more challenging to effectively manage and control the way the licensed economy develops in those areas. The clear intention is to support all parties, including Members, to make informed decisions cognisant of specific local issues.

Whilst the policy cannot predict where negative impacts may or may not develop and occur in other areas of the City, the general policy should suffice in those areas. Officers and counsel believe the Policy is sufficiently detailed to enable robust decisions to be made should the policy be invoked by relevant representations being made. The only purpose of additional guidance in some areas, is to provide all parties with relevant information about what will and will not be tolerated or welcomed in those areas, and to safeguard against unmanaged expansion and unintended consequences.

Members should further note that the Licensing Authority is under a duty to keep its policy under review and make such revisions to it as it considers appropriate during the term of the policy so future specific guidance and considerations can be added to the policy for any area or neighbourhood as warrant.

The draft policy has been reviewed by external counsel, who did not raise any concerns and conversely commended the approach set out in the policy.

2.12 A concern was raised that it was not clear as to what 'more of a mix' meant in practical terms when applying the policy and that Members would need something more to help justify a decision.

2.13 **Response:** Section 3 of the Policy ('Our vision for the city'), states:

*We aim to promote growth and ensure that licensed venue density reflects an appropriate mix of venue types, including non-alcohol-related entertainment options.*

*We aim to strategically encourage positive cluster development in line with the following range of characteristics, which we consider define a night-life cluster contributing to night-time cultural vibrancy without unduly impacting the surrounding areas:*

- *A mix of different venue types and sizes*
- *One or more destination venues*
- *A mix of licensed and unlicensed venues*
- *Managed impacts on surrounding residents in terms of sound and antisocial behaviour*
- *A point of difference and a sense of place*
- *Transport connectivity*
- *Walkability within the cluster and between neighbouring clusters*
- *Good opportunities for people watching*
- *Resilience to change in venue mix.*

*Supporting the growth of diverse options will provide greater accessibility to the city at night and increase the overall level of participation.*

*The authority considers that licensed premises being located next to one another in a 'cluster' have the propensity to lead to greater risks of behavioural issues (including antisocial behaviour), an oversupply and overconsumption of alcohol, property damage, violence, traffic issues and other noise disturbances due to (but not limited to) the potential flow-on effects of patrons moving from one licensed premises to another.*

*A cluster of homogenous venues can facilitate a dominant culture that is limited and exclusive. In contrast, a diverse mix of venue styles and types will attract a diverse range of participants, in turn contributing to better perceptions of safety.*

*A diversity of venues is understood to be a key contributor to a sense of vibrancy. It is also important for the development of cultural spaces and broader social diversity, which are important preconditions for an inclusive society accepting gender, ethnic and subcultural differences.*

In needing to move away from blanket CIPs, Members have the ability and authority to judge and consider whether an application is suitable in the area it is being applied for. Officers can provide additional support and training on how to apply the policy. Members need to consider if the Applicant has

provided enough information to enable them to understand the nature of the activity to be licensed and could refuse an application on that basis alone. In considering the Application, Section 4 of the policy clearly outlines the various considerations for the Sub-Committee:

- **What** is being proposed and how it impacts on what exists in the area **where** it is proposed – Members will in turn refer to Section 6 of the policy for guidance on the specific area issues, and rely on responsible authorities and interested parties to raise any specific concerns about the type of operation/activity being proposed
- **When** is it proposed to operate
- **How** it is proposing to operate – again do Members have enough information from the applicant to enable them to sufficiently understand the nature of the activity on offer, and how the venue fits in with what is already on offer in the location?

It is envisaged that by taking all of the above into account, Members would be sufficiently informed to determine whether the application would not undermine the licensing objectives.

- 2.14 A concern was raised that Members do not have enough information about local impact and the location of neighbouring residential properties to support them in their decision making.
- 2.15 **Reponse:** An amendment to the policy is not required to address this concern as this is more about process. Licensing Officers have taken this away and will address this to ensure Members are provided with more information at hearings to support determination of applications.

### 3. **Considerations of the Licensing Policy Committee**

- 3.1 At Licensing Policy Committee on 31 October 2023, the recommendation of the Licensing Committee was discussed. A draft document was circulated to Members as a proposal to address the concerns raised by the Licensing Committee. The document explained how the Policy could be applied to areas in the city centre and areas outside the city centre.
- 3.2 It was also clarified that the changes requested by the Licensing Committee constituted substantial changes to the Policy that had already been out to public consultation, and therefore a further public consultation would need to be repeated.
- 3.3 After much discussion, the Policy Committee in turn recommended that:  
***A meeting of the Licensing Committee should be convened at the earliest opportunity, followed by a meeting of the Licensing Policy Committee to reconsider the Statement of Licensing Policy 2023 – 2028 and to provide officers with the opportunity to clarify with location maps of the areas incorporated in the proposed Fallowfield and Withington area-based special policies.***

### 4. **Options for moving forward**



- 4.1 The Committee needs to consider whether outside of the City Centre, there are locations that necessitate a more restrictive approach (due to documented issues) and where additional guidance on the approach that should be taken would assist when determining applications. The alternative is that Members have a blanket approach outside the city centre, which by nature will have to be more generic to fit all areas.
- 4.2 Members have expressed a desire for clearer guidance to support sound and confident decision making, as well as detail that enables Members to ‘hang their hat’ on their decisions. Officers consider that the Policy, with bespoke guidance for areas with identified additional issues, will provide the support needed to enable Members in their decision making, alongside improvements to the way information is provided by responsible authorities, as well as training.
- 4.3 In taking into consideration comments made by the Licensing Policy Committee, the Policy has been updated with maps showing the defined areas within Fallowfield and Withington that policies would have effect for. These area boundaries are consistent with the pre-existing special policies in the former Statement of Licensing Policy. They represent areas with concentrations of licensed premises.
- 4.4 Officers consider there are 2 options for the Committee:
- I. Retain Section 6 as originally proposed with the addition of the area boundary maps for Fallowfield and Withington special policies.
  - II. Revise Section 6 to remove any ‘Special Policy’; currently included for Village, Peter Street and Great Northern Area, Deansgate Locks, Fallowfield, Withington, and to put the revised policy back out to public consultation.
- 4.5 Option I seeks to address the recommendation of the Policy Committee but retains localised policies on the basis that the additional guidance and direction these provide will assist Members in their decision making, and they are considered to be helpful safeguards and controls.
- 4.6 Option II would still enable local-area considerations having regard to the area’s stated objectives but provide less direction for applicants, decision-makers, and other considering the application. This option would require further public consultation before the licensing policy could be published – depending on how quickly we can work with the communications team and their resource capacity to get a second consultation out, a report may be able to come back to this Committee on 22 January 2024. Given that it then has to go to Licensing Policy Committee before going to full Council, it is therefore unlikely that the Policy would be able to meet the deadline for the Council meeting on 31 January 2024 and it would be more likely to go to the meeting on 1 March 2024.
- 4.7 In identifying the options above, officers consider that the clarity provided by the maps defining those areas to be subject to the localised policies may

assist Members in coming to a further recommendation. It is also acknowledged that retaining a localised policy and stricter approaches in respect of some uses is responding to residents who are continuing to raise concerns in these areas. It is envisaged that Section 6 will be revised during the lifetime of the policy as it is likely the nature and character of these areas evolve.

- 4.8 Working with the responsible authorities, we are developing our evidence bases and it is likely that other areas may be identified for similar approaches as the licensing landscapes evolve. However, these localised policies provide the ability to promote an equitable approach to licensing premises based on the data we have available and the responses to the consultation.

## **5 Officer recommendation**

- 5.1 Officers understand the concerns raised by the Licensing Committee on 23 October 2023. It is considered that these concerns can largely be addressed via improvements to process.
- 5.2 Outside the city centre, established night-life clusters exist in several of Manchester's larger district centres such as Rusholme, Didsbury Village, and Chorlton; several areas support minor night-life clusters, which also play a key role in the wider city dynamics of the city at night, such as Fallowfield, Withington, and Burton Road in West Didsbury.
- 5.2 New areas continue to emerge within the city centre, in neighbouring wards such as Ardwick and Hulme and other district centres as places regenerate and grow. This policy aims to take a proactive approach to the development of the licensed economy within the place making of such areas, and therefore identifies specific approaches in areas that warrant it. Officers will continue to monitor the development of emerging cluster areas and respond accordingly with proposed amendments to the policy as required.
- 5.3 The Government's recommendations at paragraph 14.51 of the statutory guidance states that the Government acknowledges different licensing approaches may be appropriate for promoting the licensing objectives in different areas within the authority's area, and so licensing authorities – in consultation with others – are best placed to make those decisions subject to the overriding principle that opening hours must not be pre-determined without giving individual consideration to the merits of each application. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.
- 5.4 Given the above statutory guidance, and with the removal of CIPs, officers presented a Policy that sought to provide all relevant parties, including Members in their determination of applications, with sufficient direction to understand when and where a more restrictive approach could be taken.
- 5.5 It is hoped that this report has provided Members with the clarification they requested around why some areas *currently* have additional direction within

the policy. It is hoped that Members will find this useful should the Policy come into effect. It is recognised that work outside of the Policy is also required to better support Members in their decision making, including additional information provided with application reports relating to the residential makeup of the area, and training/workshops on the new policy and its implementation.

- 5.6 It is recommended that the Policy at Appendix 2 be put forward to Licensing Policy Committee. This is the version that was presented to this Committee on 23 October with the addition of the area boundary maps for Fallowfield and Withington. This amendment would not have to go back to public consultation, and if also accepted by Licensing Policy Committee, could then be put forward to full Council on 29 November 2023.

## **6. Key Policies and Considerations**

### **a) Equal Opportunities**

No further considerations for this report.

### **b) Risk Management**

No further considerations for this report.

### **c) Legal Considerations**

There are no legal considerations other than those already highlighted within the report.

## **7. Conclusion and Recommendations**

- 7.1. The Committee is asked:

- i. To review the options presented in the report and to make any recommendations to the Policy Committee on final preferred policy approach.