

MANCHESTER CITY COUNCIL
REPORT FOR INFORMATION

COMMITTEE: Citizenship and Inclusion Overview and Scrutiny
DATE: 14 November 2007
SUBJECT: Progress on the implementation of the Licensing Act 2003.
REPORT OF: Head of Environmental Services

PURPOSE OF REPORT

To provide Members with a progress report on the implementation of the Licensing Act 2003 since its introduction in November 2005.

RECOMMENDATIONS

That Members note the report.

FINANCIAL CONSEQUENCES FOR THE REVENUE BUDGET

None arising directly from this report.

FINANCIAL CONSEQUENCES FOR THE CAPITAL BUDGET

None arising directly from this report.

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BACKGROUND DOCUMENTS

Reports to Social Strategy Overview and Scrutiny Committee 8 March 2006 and 15 November 2006.

WARDS AFFECTED

All

IMPLICATIONS FOR KEY COUNCIL POLICIES

Anti Poverty	Equal Opportunities	Environment	Employment
No	No	No	No

1.0 Background

1.1 The Licensing Act 2003 came into effect on 24 November 2005. The four objectives of the Licensing Act are:

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

There are two key strands involved in managing the licensing regime:

- 1) **Administration and policy development** which includes processing licensing applications, arranging Licensing Committee Hearing Panels, issuing hearing decision letters and licences and reviewing and developing licensing policy.
- 2) **Enforcement** to ensure compliance with the licensing regime.

1.2 The success of the implementation of the Licensing Act 2003 in Manchester has been a result of two key factors. Firstly, our determination to get licences right from the start and, secondly, ensuring that the four objectives are met. Unlike many other local authorities, in Manchester the responsible authorities scrutinise every application and make representations where there are concerns that premises may cause disturbance to residents. Disturbance doesn't mean just noise, but also other issues such as litter, traffic, parking, etc. The Responsible Authorities are Environmental Health, Trading Standards, Greater Manchester Police, The Safeguarding Children Board and Greater Manchester Fire and Rescue Service.

1.3 In the early days of the new regime this led to many applications being heard by Licensing Committee Panel, but as relationships have developed with the licensed trade, particularly the specialist licensing solicitors, we are often able to negotiate conditions agreeable to all parties. The trade's understanding of Manchester's licensing policy requirements has grown and the quality of applications and operating schedules has significantly improved over the last 2 years.

1.4 Close working between Responsible Authorities, particularly Environmental Health, Trading Standards and GMP, and working with the licensed trade has been the second key factor in the successful implementation of the Act. As the key issues of concern are usually related to noise and other public nuisances, crime and disorder and harm to children getting hold of alcohol, it has been particularly important that these Responsible Authorities carefully consider and make representation on relevant applications. Work has recently been done through the CDRP with the other Responsible Authorities to examine ways in which they can more effectively contribute to supporting the Licensing Act objectives. Licensing Officers, Environmental Health,

Trading Standards and GMP regularly work together to achieve a balance between protecting citizens and allowing responsibly managed premises to extend their opening hours. Most applicants have been happy to negotiate conditions, and relatively few premises apply for hours that are unreasonable. The original fear that 24-hour drinking would become the norm was unfounded and only 13 premises have 24-hour sales. Of these three are supermarkets (Tesco Didsbury, Asda Eastlands and Spar Manchester Airport), two are city centre clubs/bars, (The Circle Media Club and the Corner House) two are hotel bars (Travelodge, Great Ancoats Street and Travelodge, Manchester Airport) and six are other outlets at Manchester Airport.

- 1.5 It is now two years since the introduction of the Licensing Act 2003 and the widely predicted rise in trouble and binge drinking has not materialised in Manchester. Proactive monitoring and enforcement action has played an important part in minimising problems, in particular the cooperative approach between agencies such as the police, Environmental Health, Trading Standards, the Licensing Unit, and the industry through forums like Pub & Club Watch.

2.0 Administering the Licensing Regime

- 2.1 Over the past 12 months the focus of the administrative workload associated with the Licensing Act has changed. During the initial 12 months of implementation, the administrative task was largely focused around issuing initial licences both in terms of premises and personal licences (ie licenses required by people who manage premises selling alcohol).
- 2.2 From the beginning of this year there has been the expected change in focus as premises have applied to vary their initial licences. These variations usually relate to changing opening hours or changing the licensable activities carried on at the premises. Over 40% of applications now relate to variations.
- 2.3 When premises change ownership or management there is a requirement for the new management to apply to the Council to have the premises licence amended accordingly. Over 400 such applications have been processed since January 2007. This represents almost 20% of the total number of premises. It is envisaged that this figure will remain fairly constant.
- 2.4 There have also been a number of premises which have had their licences reviewed. Various agencies including Trading Standards, Environmental Health and Greater Manchester Police have instigated reviews of licences. A total of 20 premises licences have been reviewed. The outcomes of these reviews are as follows:
- 5 licences were revoked;

- 2 had the DPS removed and additional conditions added to their licence;
- 3 had their licence suspended for 3 months plus additional conditions attached to the licence;
- 4 had reduced operating hours plus additional conditions attached to their licence;
- 2 received formal warnings from the committee plus additional conditions attached to their licence;
- 3 had additional conditions attached; and
- 1 was withdrawn as the applicant applied to vary their licence to add the additional conditions requested by GMP who had requested the licence review.

Seven appeals have been lodged against the Committee's decisions. Of these:

- 3 subsequently withdrew;
- 1 had further conditions attached to their licence by the magistrates court;
- 1 revocation was reduced to additional conditions be attached to the licence; and
- 2 cases are yet to be heard.

2.5 On 1 November 2007 the Council completed its consultation process on its statutory review of Manchester City Council's Licensing Policy. The initial policy was adopted on 22 December 2004, and must be reviewed after each 3-year period. A key part of the consultation is to learn from the operation of the licensing policy since its inception in 2005, as future policy will be determined on the evidence of what works. As such, the consultation exercise has sought to give the broadest range of people the opportunity to give their views.

2.6 The Licensing Act 2003 requires us to consult with the following statutory consultees:

- The Chief Officer of Police for Manchester;
- The Fire and Rescue Authority;
- Persons/bodies representative of local holders of premises licences;
- Persons/bodies representative of local holders of club premises certificates;
- Persons/bodies representative of local holders of personal licences; and
- Persons/bodies representative of local holders of businesses and residents in the Licensing Authority area.

But beyond this we sought the views of interested parties throughout the City, including all ward members and ward coordinators, all Responsible Authorities as named in the Licensing Act 2003, other experts in the promotion of the licensing objectives such as those working with under 18s, all premises providing licensable activities, Trade Associations, Residents Associations and community groups.

2.7 A total of 34 responses to the consultation exercise have been received.

2.8 This committee has specifically asked for information on how the cumulative impact of a large number of licensed premises on city centre and district centres can be addressed by licensing policy. A Cumulative Impact Special Policy would allow us to address expansion of the number of on-licensed premises, eg pubs and clubs, in problem areas where we cannot say that any one particular premises is responsible for problems, but rather it is the sheer numbers of premises in the area and therefore the volume of people they attract to the area that leads to these problems. Such a policy could only be used when the Licensing Committee is considering a new application or a variation to an existing license. A Cumulative Impact Special Policy cannot reduce the existing number of premises in a particular area and would not be an appropriate way to address problems in an area that can be associated with a particular premises, as there are existing enforcement powers available to deal with these problems.

2.9 The imposition of a Cumulative Impact Special Policy does not mean that all new licences would be refused. If an applicant can demonstrate that the new premises would have a positive impact on the area a licence could be issued. The introduction of a Cumulative Impact Special Policy in a particular area should therefore not be seen as a means to stifle the development of an area, as it does not prevent new licensed premises from opening but only ensures that the nature of these premises will be such that they will add positively to the area. Special Policy Areas are being considered as part of a wider strategic response to issues arising from high concentrations of licensed premises.

2.10 Before deciding whether an area needs a Cumulative Impact Special Policy there are a number of steps the Licensing Authority is required to take. It must firstly identify concerns about crime and disorder or public nuisance, consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, identify the boundaries of the area where problems are occurring, and consult with the following groups:

- Representatives of businesses and residents in the area
- The Chief constable of Greater Manchester Police
- Greater Manchester Fire & Rescue Authority

- Representatives of premises licence-holders and club premises certificate holders
- Representatives of personal licence-holder
- Any others considered appropriate

If it is established that a Cumulative Impact Special Policy is appropriate for a specific area the Licensing Authority will then include and publish details of the special policy in its licensing policy statement.

- 2.11 The original policy statement 2005-2008 provided clear advice to applicants on the type of steps needed to promote the licensing objectives. The revised policy statement 2008-2011 reiterates many of these steps, focussing on the key measures that many premises should ensure are in place in relation to the provision of alcohol, entertainment and late night refreshment respectively. The original policy was drafted before premises converted their existing licences for new permissions under the Licensing Act. As such, the original policy focuses on guiding applicants through the application process. The revised policy focuses on the ongoing responsibilities of licensed premises to proactively uphold the 4 licensing objectives, and emphasises the important roles of residents, businesses and other interested parties to have their say on operation of licensed premises in their area and how they can express their concerns. The revised policy also includes more detailed plans on the development of licensing forums.

3.0 Enforcement

3.1 General Approach to Enforcement

The approach that has been taken to enforcement of the Licensing Act 2003 has been a combination of enforcement and education. This has included:

- Ensuring managers of licensed premises are aware of their responsibilities to meet the four licensing objectives through a combination of:
 - Making representations at the application stage;
 - Negotiating robust conditions; and
 - Working with the Trade through forums such as Pub and Club Watch.
- Monitoring visits during night time hours
- Use of undercover surveillance
- Informal and formal warnings
- Formal enforcement action including notices, reviews and prosecution
- Test Purchase Operations

3.2 The key trends identified are as follows:

In the period immediately following the implementation of the Act, a large number of statutory noise abatement notices were served on licensed premises. Once premises had become accustomed to the level of compliance expected of them, and realised that enforcement action would be taken to ensure compliance, the level of formal enforcement needed decreased. However, there were a small number of premises that continued to cause problems despite having been warned both informally and formally, so the only option with these premises was to proceed to reviewing their licences or prosecuting them for breaches of the licensing legislation.

The following licence reviews and prosecutions have taken place since the new legislation took effect

- 4 Environmental Health instigated reviews
- 5 Trading standards instigated reviews
- 11 GMP instigated reviews

The overall picture is that there is a high level of compliance from the vast majority of licensed premises in Manchester.

- 3.3 Enforcement work has made a key contribution to achieving well-managed licensed premises, with relatively few problems being caused to surrounding communities from longer opening hours. As Members will be aware, Environmental Health officers have been providing a night time enforcement service since the implementation of the new licensing regime in November 2005.
- 3.4 The service is a combination of proactive monitoring visits providing a presence across the city to ensure that licensed premises are complying with their licence conditions, and a reactive service where members of the public who experience problems can contact Environmental Health 24 hours a day. Based on the experience of the service provided in 2006, proactive night cover is provided on Fridays and Saturdays from April to June; from Thursday to Sunday July, August and September; and on Friday and Saturday in October. Proactive monitoring will be increased to Thursday through to Sunday in December to cover the busier Christmas period, but then back to Friday and Saturday from January to March when licensed premises are much less busy.
- 3.5 In addition to the proactive night time monitoring service, members of the public who are experiencing problems with licensed premises are able to contact a 24-hour response service by calling 954 9000.

4.0 Joint working with GMP

- 4.1 The relationship developed with GMP during the year following the introduction of the Licensing Act 2003 has been further built upon and joint activity has continued to be undertaken. A key success factor in the

implementation of the Licensing Act has been the relationship developed with GMP across the 3 police divisions and the joint activity that is undertaken. This includes joint visits to licensed premises, joint training activity and shared intelligence. Regular weekly meetings are held with GMP to ensure that issues with problem premises are discussed at an early stage to enable coordinated enforcement action.

- 4.2 The implementation of the Licensing Act 2003 coincided with an Alcohol Misuse Enforcement Campaign (AMEC), which ran from 14 November until 23 December 2005. This helped enormously in establishing a joint approach to enforcing this new legislation. Three further AMECs firmly embedded joint working between police, Trading Standards and Environmental Health staff. A notable success arising from this work was the development of on-licence underage test purchase operations (previously underage sales work had been restricted to off-licences). This highlighted a significant problem of underage drinking within pubs across the city and also pioneered the use, by GMP, of fixed penalty notices, not just to the managers of the premises but also to the member of staff selling alcohol to young volunteers. This was well publicised and the percentage of underage sales in pubs fell throughout the rest of the year.
- 4.3 In 2007, AMECs have been replaced with a new campaign Tackling Underage Sales of Alcohol (TUSAC). The joint working between police and Trading Standards has been very similar but the approach was to take action for the new offence created by virtue of the Violent Crimes Reduction Act, 2006. If a premises failed a test purchase attempt 3 times in a 3 month period they could be prosecuted for persistently selling alcohol to children (up to £20,000 fine) or the Police or Trading Standards could issue a closure notice prohibiting the premises from selling alcohol for up to 48 hours. During TUSAC, consideration would also be given to reviewing the licence of any premises that failed a test purchase attempt on 2 or more occasions. No premises in Manchester failed 3 test purchase attempts so it was not necessary to take action under the new offences.

5.0 Impact on residents

- 5.1 A priority for Manchester City Council in the implementation of the new licensing regime has been to ensure that residents are not negatively impacted by extended opening hours.
- 5.2 A proactive approach has been taken to educate managers of licensed premises about their responsibilities under the new regime and to ensure that they are managing their premises responsibly and not causing disturbance to their neighbours. Involvement in Respect Action Weeks has been used as an opportunity for officers to target particular areas where local residents are concerned about licensed premises. In addition, measures have been put in place to actively monitor what is

happening across the city at night so that complaints can be addressed as they arise, offering public reassurance.

5.3 Complaints regarding licensed premises are set out in the table below.

Table 2

Reporting Period	Complaints to Environmental Health about Licensed Premises	Complaints to Trading Standards about Underage Sales
Nov 05 – Dec 05 (6 wk period from 14 November)	15	14
Jan 06 – March 06	75	25
April 06 – June 06	214	40
July 06 – Sep 06	153	30
Oct 06 – Dec 06	125	27
Jan 07 – March 07	48	21
April 07 – June 07	60	23
July 07 – Sep 07	69	29

5.4 The key points to note from this are:

- The level of complaints in the early months is low. A number of factors will have contributed to this eg licensed premises were being cautious in the early days. Environmental Health and Trading Standards were very proactive in taking swift enforcement action where premises did deviate from licence conditions, and there was not a high level of awareness among the public about the night time enforcement service. Also people tend to be much more tolerant of noise over the Christmas and New Year period.
- The level of complaints from October 2006 to December 2006 was higher than in the previous year. This was partly due to the increased awareness by the public of the night time enforcement service, and the initial cautiousness exhibited by licence holders in 2005 no longer being a factor. From January 2007 to September 2007 there have been far fewer complaints received compared with the same time period last year, which is an indication that the complaints that were dealt with in 2006 are not returning and the proactive work that is being undertaken by officers is being effective in dealing with problems prior to receiving complaints. The majority of the complaints received now tend to relate to a smaller number of premises where

informal action has been unsuccessful and we are having to proceed to licence reviews or prosecutions.

- January to March is probably more representative of the winter months' workload. This is a time of year when generally noise complaints are at least half the rate of those experienced in the summer period. So comparing January to March against July to September shows that licensing complaint levels follow the general noise complaints trend. April to June 2006 showed a higher level than expected which is mainly due to the World Cup taking place in June 2006.

6.0 Links to tackling crime & ASB / Respect Agenda

6.1 The links between excessive alcohol consumption and crime / anti-social behaviour are well documented. The approach to licensing enforcement in Manchester aims to reduce violent crime and anti-social behaviour by taking a joined-up approach to making best use of the powers available through enforcement of the Licensing Act 2003.

6.2 The approach also aims to provide public reassurance. As underage drinking and ASB tend to be major concerns for residents, it is a key goal to use powers under the Licensing Act to best effect to prevent young people obtaining alcohol – particularly as one of the four objectives of the act is to protect children from harm. As reported above, fixed penalty notices have been very effective in reducing underage sales in on-licence premises, and the recent successful reviews of off-licensed premises should make it harder for young people to get hold of alcohol.

6.3 Enforcement tactics used include:

- (i) Undercover surveillance / joint police operations to catch adults in the act of buying alcohol for children – these operations can also provide evidence for use in licence reviews.
- (ii) Test purchases of alcohol using underage volunteers.
- (iii) Looking at issues of safety / intimidation of shop owners – using H&S legislation to ensure employers are adequately protecting and training staff to prevent them being intimidated into making underage sales. Also looking at police support where there are 'hate' crimes involved.
- (iv) Working with businesses to encourage them to support each other.
 - (i) Targeting those off-licence owners failing to adhere to their licence conditions.
 - (vi) Working with all partners through the CDRP to raise awareness and help collate evidence.
 - (vii) Looking at the other powers available – e.g. ASBOs for youths, Control Orders for parents, etc.

7.0 Conclusion

- 7.1 The proactive approach taken in respect of licensed premises has enabled problems to be dealt with as they arise. The initial licence applications were dealt with thoroughly and judiciously, which has meant that enforcement action has not been as necessary as may have first been anticipated. Many licences were granted with robust conditions attached.
- 7.2 The enforcement carried out has included educating premises about their responsibilities, informal warnings and formal enforcement action. The majority of premises are compliant, and the small minority of persistent offenders are being dealt with through more serious enforcement action such as reviews of their licence and prosecutions.
- 7.3 The joint work undertaken has resulted in good working relationships being established between agencies. Significant progress has been made towards licensed premises across the city being managed responsibly and complying with licence conditions during extended opening hours.
- 7.4 The consultation process on the first review of the licensing policy has just ended and the new policy will be in place in January 2008.