



City of Westminster

# Licensing Committee Report

<b>Meeting:</b>	<i>Licensing Committee</i>
<b>Date:</b>	<i>Wednesday 5<sup>th</sup> July 2017</i>
<b>Classification:</b>	<i>For General Release</i>
<b>Title:</b>	<i>Licensing Act 2003 – Model Conditions</i>
<b>Wards Affected:</b>	<i>All</i>
<b>Financial Summary:</b>	<i>N/A</i>
<b>Report of:</b>	<i>Director of Policy, Performance and Communications</i>

## **1. Executive Summary**

- 1.1 This report advises of the intention to review Westminster's Basket of Model Conditions. These conditions may be used by applicants for a premises licence under the Licensing Act 2003 when completing their Operating Schedule for the premises, by other parties to a hearing, and for the use of Licensing Sub-Committees when considering applications for the grant, variation, or review of premises licenses.
- 1.2 Any revisions to the Model Conditions will take into account the views of statutory authorities and other interested stakeholders.

## **2. Recommendations**

- 2.1 The Committee is recommended to note the intention to review the Westminster City Council Model Conditions for Premises under the Licensing Act 2003, and comment as necessary.

## **3. Background**

- 3.1 Under the Licensing Act 2003, (the 2003 Act), the City Council has responsibility for the licensing of premises for the sale by retail of alcohol, the supply of alcohol in clubs, regulated entertainment, and the provision of late night refreshment.
- 3.2 The City Council must carry out its functions under the Act with a view to promoting the licensing objectives. The licensing objectives are: the

prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

- 3.3 Prior to the introduction of the 2003 Act the City Council had responsibility for licensing venues for public entertainment, which included night clubs, theatres, cinemas, and pubs offering karaoke, and for licensing night cafes, which included take-aways open between 00.00 and 05.00.
- 3.4 In order to maintain standards of public safety, limit the environmental impact of the operation of the venues, minimise nuisance, and reduce crime and disorder associated with the premises, the City Council adopted a nationally approved series of standard conditions, The Rules of Management for Places of Entertainment, and Standard Conditions relating to Night Cafes, which applied to all licences granted for public entertainment venues or Night Cafes. These standard conditions were then supplemented by Special Conditions which would be attached to individual licences as necessary, to address concerns relating to individual venues.
- 3.5 Since the Licensing Act 2003 came into effect in November 2005, the City Council, when granting a premises licence, may only attach conditions to the licence which are consistent with the operating schedule which accompanies the application, or, where a relevant representation has been made, to the extent it considers it appropriate for the promotion of the licensing objectives.
- 3.6 In determining an application for the Review of a premises licence the City Council, having regard to the application and any relevant representations, may modify licence conditions as it considers appropriate for the promotion of the licensing objectives.
- 3.7 In carrying out its licensing functions the City Council must also have regard to Guidance issued under the Act by the Secretary of State. Current Guidance provides pools of conditions (although not an exhaustive list), which relate to the four licensing objectives and which could be used where necessary and appropriate to the particular circumstances of an individual licensed premises. The Guidance states however, that it is important that conditions should not be applied universally and treated as standard conditions irrespective of circumstances. Under no circumstances should licensing authorities regard the pools of conditions as standard conditions to be automatically imposed in all cases.

#### **4. Detail**

- 4.1 Whilst the pools of conditions set out in the Guidance issued by the Secretary of State describe in general terms those circumstances when it may be valuable to impose conditions, and describes concerns which may be addressed, it does not include drafts of specific conditions in a form suitable to be imposed on a premises licence.

- 4.2 The City Council, licence holders, the police, and other Responsible authorities have overlapping responsibilities in promoting the licensing objectives. Guidance urges partnership working to promote the licensing objectives.
- 4.3 Conditions which are necessary to promote the licensing objectives should emerge initially from the prospective licence holders risk assessment and be translated to form part of the operating schedule for the premises. It would assist prospective licence holders if they had access to Model Conditions which they may consider would promote the licensing objectives in the circumstances of their application.
- 4.4 Once an application has been made, the police, Environmental Health service and other responsible authorities are encouraged to engage with the applicant if they are considering making a representation to the application. It would assist all parties and promote a consistent approach between agencies if reference could be made to an agreed basket of Model Conditions.
- 4.5 At a hearing to determine an application for the grant, variation or review of a licence, it would assist both the licensing sub-committee and parties to the hearing if reference could be made to agreed Model Conditions.
- 4.6 At its meeting on 9 July 2008 the Licensing sub-committee agreed that a basket of Model Conditions be produced, in conjunction with the police and other relevant responsible authorities, which set out the preferred wording of conditions which may be attached to licenses when it was appropriate to do so.
- 4.7 The basket of Model Conditions is not an exclusive or exhaustive list of conditions which may be included on a premises licence. The basket of Model Conditions would not restrict any applicant, responsible authority, or interested party from proposing any alternative conditions, nor would it restrict a licensing sub-committee from imposing any reasonable condition on a licence with a view to promoting the licensing objectives.
- 4.8 A final draft of the first basket of Model Conditions was discussed with trade representatives at a meeting of the Entertainment Forum on 7 October 2008. The concept of model conditions was welcomed by the group, and discussions with trade representatives have continued.
- 4.9 The first basket of Model Conditions was published in October 2008, and has been made available on the City Council web site. The Model Conditions are subject to constant review and updated as necessary, with appropriate dating and version control.
- 4.10 The current basket of Model Conditions, dated August 2015 is attached at Appendix A. This latest version of the Model Conditions includes an index for easy reference.

- 4.11 This review of the Model conditions looks to take account of changing market trends and issues which may be identified through licensing hearings, or by parties to hearings. These include the development of 3<sup>rd</sup> party delivery services from take-away food premises, the use of outside areas whether on the public highway or within the demise of the licensed premises, and clarification of existing model conditions where operational experience suggests improvement.
- 4.12 The Committee is asked to note this report and comment on any areas where amendment to the basket of model conditions would be useful.

## **5. Financial Implications**

- 5.1 There are no financial implications as a result of this report.

## **6. Legal Implications**

- 6.1 There are no legal implications as a result of this report.

**If you have any queries about this report please contact Chris Wroe on 020 7641 5903, or by email [cwroe@westminster.gov.uk](mailto:cwroe@westminster.gov.uk).**

## **Background Papers**

Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003 April 2017