



## Report to Licensing Committee

**Date:** 17<sup>th</sup> August 2020

**Title:** Impact of Covid-19 on Licensing Services – further update report

**Relevant councillor(s):** Licensing Committee, Cllr Fred Wilson, Cabinet Member for Regulatory Services.

**Author and/or contact officer:** Lindsey Vallis, Transition Head of Licensing, Cemeteries & Crematoria

**Ward(s) affected:** none specific

**Recommendations:** To note and comment on the content of the report.

**Reason for decision:** None required

### Executive summary

In response to the Covid-19 situation Licensing Services have had to make a number of changes to the level of service received by businesses and individuals, including how the services are delivered and the fee level charged. A report on the impact of Covid -19 on Licensing services was provided to the Committee on the 1st July 2020. At the request of the Committee this report provides a further update on the return to business as usual within the Licensing Service following the easing of lockdown restrictions, and also summarises the financial impacts of Covid-19 at this point in time.

### Content of report

1. Buckinghamshire Council provides a range of licensing services to businesses and individuals including premises licensed for the sale of alcohol and entertainment and gambling, late night sale of hot food and drink and street traders, scrap metal operators, caravan sites, the taxi trade and people operating businesses involving animals. Many of these businesses and individuals have been, and continue to be, subject to business closure regulations as a result of the Covid 19 situation. Those

that continue to operate are suffering significant business impacts and have had to make changes to the way that they operate.

1.1 Government have encouraged Councils to take a pragmatic approach to the delivery of licensing services during this period where there is the discretion to do so (Ministerial letter from Kit Malthouse MP, Minister of State for Crime and Policing, to Chairs of Licensing Committees dated 8 April 2020), whilst also recognising that licensing services are critical to supporting and facilitating key business sectors such as the food and drink industry.

## 2. Licensing fees

2.1 As previously advised government will not be directing councils to refund licence fees as this is a local decision. The different statutory licensing regimes impact whether the Council is legally able to make a local decision to refund, waive or defer a fee. For example where fees are set centrally such as by the Licensing Act 2003 the Council has little flexibility and there is no clear mechanism to provide refunds or part refunds (neither the Home Office or Gambling Commission are expecting councils to issue refunds for licence fees). LGA advice is that it is not clear that there are legislative provisions in place that enable councils to provide refunds to licensees that wish to retain their licences.

2.2 Where fees are set locally the Council has more discretion with regard to deferred payments and discounts, for example in relation to animal licensing fees or taxi licensing. However the level of uncertainty regarding the length of time that businesses may be impacted and how they may operate in the future makes it difficult to determine an appropriate level of discount or to make a decision to defer a payment either partially or entirely. Licence durations can range from 6 months - 5 years, dependent on the regime, and the fee charged at the point of application may have covered the cost of the administration and issue of the licence and nothing more. However within some of the regimes the licence fee may also cover the cost of ongoing activity associated with that licence, such as inspections and enforcement.

2.3 The LGA have advised that an appropriate way to manage the level of uncertainty in this area is to consider this at the point that the fees are reviewed when an income surplus could reflect a reduction in ongoing activity or enforcement. If this was the case then fees could then be adjusted downwards for future years. The majority of the service costs associated with the Licensing Service are staff resourcing costs which the Council continues to incur.

2.4 Invoices for annual fee payments for licensed and gambling premises have now been processed and sent out to all businesses that are due to pay a fee up to the current date. Ordinarily non-payment of an annual fee would result in the suspension or revocation of a licence. This approach had been paused during the lockdown period but now that businesses are trading again it will recommence. The Licensing Service

will continue to deal with each non-payment on a case by case basis discussing the implications of non-payment with the business and agreeing a payment approach for those affected.

### 3. Interventions by regime (Part A statutory functions)

3.1 Decisions on interventions implemented to date were made via the Crisis Response Management Team during the early stages of CV19 in view of the wider pressures on business. There are currently no pending decisions to be made.

#### 3.2 Licensing Act 2003 (alcohol entertainment and late night refreshment licences)

Licensing Act Fees are set nationally and the fee forms part of a valid new application. The Council has little flexibility or discretion in this area and there is no clear mechanism to provide refunds or part refunds of fees. The cost of administering and issuing licences needs to be covered by the licensing fee (Note: the current nationally set fee levels are not sufficient to cover this process and review has been proposed for some years).

| Adjustments to service provided during lockdown  | Current position   |
|--|--|
| Deferred recovery for non-payment of annual fee  | All invoices owing have now been issued, licence suspension for persistent non-payment to recommence |
| Deferred suspension of licence for non-payment of annual fee                                   | All invoices owing have now been issued, licence suspension for persistent non-payment to recommence |
| Remote licensing hearings for contested applications, deferment only when absolutely necessary | Remote hearings to continue  |

#### 3.3 Gambling Act 2005

Gambling Act Fees are set locally (with upper limits) and differ considerably across the Council areas. The fee forms part of a valid new application and covers the administration and issue of the licence and ongoing associated activity and enforcement.

| Adjustments to service provided during lockdown              | Current position   |
|--|--|
| Deferred recovery for non-payment of annual fee              | All invoices owing have now been issued, licence revocation for persistent non-payment to recommence |
| Deferred revocation of licence for non-payment of annual fee | All invoices owing have now been issued, licence revocation for persistent non-payment to recommence |

#### 4. Interventions by regime (Part B other licensing functions)

##### 4.1 Taxi Licensing

Taxi licensing fees are set locally and differ across the Buckinghamshire Council areas. Where a fee is locally set councils have more discretion to operate with flexibility. The fee covers the administration and issue of the licence and ongoing enforcement activity. Driver licences are valid for 3 years, operators for 1 or 5 years and vehicles for 6 months or 1 year.

| Adjustments to service provided during lockdown   | Current position  |
|---|---|
| New driver applications are not being processed as we are unable to undertake necessary verification and safeguarding checks required   | New driver applications have been processed since the 13 <sup>th</sup> July 2020 with all face to face verification appointments and safeguarding checks being carried out in accordance with office and service risk assessments                               |
| Renewal applicants are being issued with electronic licences only to be used in conjunction with their existing out of date driver badges and vehicle plates. Physical driver badges and vehicle plates have not been issued since lockdown restrictions were imposed (some have been processed in the Wycombe area). | All backlog vehicle livery plates and door signs have now been issued. Most backlog driver badges have been issued with a small number remaining outstanding in the Aylesbury area. These should all be issued by 1 <sup>st</sup> September 2020 at the latest. |
| New vehicle licence applications are not being processed in the Aylesbury area, a   | The in-house MOT testing centre in Aylesbury is now fully operational and   |

|   |   |
|---|---|
| <p>small number are being accepted in the Wycombe and Chiltern and South Buckinghamshire areas.</p>   | <p>testing both new and renewal vehicles. Licensing staff are working alongside mechanics at the testing centre to undertake new and renewal enhanced vehicle tests (taxi test). The service is facing some disruption as a result of the handover of the new vehicle maintenance workshop (not Covid-19 related) which is due to take place imminently. This is being managed between the Services to reduce any impacts on customers.</p>   |
| <p>Renewal vehicle MOT tests in the Aylesbury area are being carried out by private MOT test centres. Vehicles are not receiving the enhanced vehicle test (taxi test) carried out by licensing staff.</p>  | <p>All vehicles (over 300) that were issued with a renewal licence during the lockdown period have now had an enhanced vehicle test carried out by Licensing staff operating in accordance with office and service risk assessments.</p> <p>Any vehicle that was issued a licence during the lockdown period and has failed to return for the mandatory Council inspection (and to collect the new style licence plates/window cards/door stickers) has been suspended until the vehicle has been satisfactorily inspected.</p> |
| <p>Voluntary vehicle suspensions are being issued where requested to reduce insurance costs for the vehicle proprietor</p>  | <p>This offer remains available to the vehicle proprietor</p>   |
| <p>Renewal driver applicants who are not currently working are able to delay the renewal of their current licence by up to 3 months after the date of expiry without the need to undertake a new driver assessment, English language assessment or provide a medical from their GP (this will need to be provided within 3 months of the licence being granted). NOTE: a new enhanced DBS</p> | <p>From 31 August 2020 the 3 month grace period will stop and any driver who fails to renew before their expiry date will be treated as a new driver from 1 September 2020. Communications on this were provided to the trade in mid-July.</p>  |



|  |  |
|--|--|
| certificate must be provided at the point of application. Drivers with limited duration licences due to immigration status must continue to apply to extend their licences in the normal manner. |  |
| Mandatory safeguarding training courses for drivers has been delivered online rather than face-to-face   | At the current time we consider it appropriate to retain an online training offering. This should be kept under review as returning to an exclusively face-to-face training model may or may not be appropriate in the future. |
| Renewal driver applicant appointments have been held remotely online   | In order to reduce the level of risk to staff and applicants renewal driver application appointments continue to be held remotely. New applicants are all verified face to face.   |

#### 4.2 Street Trading

Street trading consents are issued under schemes that were established under adoptive legislative controls in each Buckinghamshire Council area. The schemes are very different in nature and the number of consented street trading pitches differs considerably (market traders are managed outside of this regime). Fees are also set locally and range considerably. Chiltern and South Buckinghamshire areas do not have any consented street trading pitches. In the Aylesbury area consents were due for renewal on the 1<sup>st</sup> April and traders on consent pitches pay in installments via a monthly direct debit. In the Wycombe area they pay an annual fee on renewal which was due in April.

| Adjustments to service provided during lockdown   | Current position  |
|---|---|
| Street trading consents have been renewed (on application) in the Aylesbury and Wycombe areas but payment has been deferred at this time. | Review of fees owed currently underway with recovery pending. |

### 4.3 Animal Licensing

Animal licensing fees are set locally and differ across the Buckinghamshire Council areas. Where a fee is locally set councils have more discretion to operate with flexibility. The fee covers the administration and issue of the licence and ongoing activity and inspections. Animal licences are issued for up to 3 years dependent on the type of activity undertaken and the level of compliance at inspection.

| Adjustments to service provided during lockdown  | Current position   |
|--|--|
| <p>The regime requires that an inspection is carried out prior to the issue of a licence and at the mid-term point of the licence.</p> <p>New licences are not being issued as inspections cannot be carried out by Officers</p> <p>DEFRA have advised that existing licences due for renewal can be extended for 3 months, where it is deemed necessary, to reduce the need for inspection.</p> | <p>Officers are now able to carry out site visits and inspections in accordance with Service risk assessments. Inspections and site visits recommenced on the 3<sup>rd</sup> August 2020 and Officers are carrying out new and renewal inspections in accordance with priority.</p> <p>Mid-term licence inspections have not yet recommenced</p> |

## 5. Financial Impact

5.1 At the time of the last report to the Committee the projected loss of income for Licensing Services during the CV19 period was £105k per month which reflected the significant reduction in the number of applications that were being received by the Council during the enforced lockdown restrictions.

5.2 As lockdown restrictions have eased Licensing Services have seen an upturn in applications and associated income. Whether income returns to pre-CV19 levels will be dependent on the longer term impact on businesses and individual licensees.

5.3 The projected income loss by Licensing area and the actual income loss April to July is detailed below:

| Licensing regime                       | Forecast loss of income (April to July) | Actual loss of income (April to July) |
|--|---|---------------------------------------|
| Licensing Act 2003 & Gambling Act 2005 | -£40,000                                | -£23,386                              |
| Taxi Licensing                         | -£348,000                               | -£71,120                              |
| Street Trading                         | -£20,000                                | -£20,000                              |

|                  |           |           |
|------------------|-----------|-----------|
| Animal Licensing | -£12,000  | -£10,470  |
| TOTAL            | -£420,000 | -£124,976 |

5.4 The actual loss of income into the Service is lower than anticipated in the early stages of the CV19 pandemic. This can be seen most significantly in the area of taxi licensing where income levels have increased as lockdown restrictions have eased. The reopening of retail and hospitality businesses and the formation of return to school plans will have had a positive impact on the taxi trade. It is likely that taxi operators and drivers will have applied for new or renewal licences to enable them to be in a position to respond to this increase in demand. The longer term impacts of CV19 on retail and hospitality businesses are not yet known and it is likely that there will be a reduction in income associated with these types of businesses this year and into the next financial year.

5.5 The shortfall of income in the Licensing Service is reported monthly and recorded as an impact on the Council as a result of the CV19 pandemic.

## 6. Return to Business as Usual

6.1 Throughout the CV19 pandemic consideration has been given to the use of digital technology as an alternative to face to face interaction and this has been implemented wherever possible. Digital technology will continue to play a role in the way that licensing services are provided where this can be appropriately balanced against risk.

6.2 Licensing Services play a key role in promoting town centre and business recovery as CV19 restrictions are eased and the Service is actively contributing to the cross-council partnership approach on supporting town centre and business recovery. The new pavement licence regime under the Business & Planning Act 2020 is an example of this.

### Legal and financial implications

(Information provided above).

### Corporate implications

- Property – Reinstatement of affected Licensing Services has been undertaken in conjunction with the planning for building a safe workplace environment for staff returning to the workplace.
- HR - Reinstatement of affected Licensing Services has and continues to be undertaken in consideration of HR policies relating to staff returning to the workplace



- Equality (does this decision require an equality impact assessment) – N/A
- Data (does this decision require a data protection impact assessment) – N/A

## Consultation and communication

Information for applicants and licensees on changes to Services is available on the website. Regular updates are also provided to some licensees by email where appropriate to do so.

## Next steps and review

Committee may wish to request a further future update on the impact of CV19 on Licensing Services

## Background papers

- [LGA Note on approaches to managing licensing during the COVID-19 pandemic](#)  
(updated 17 April 2020)
- [Ministerial letter from Kit Malthouse MP, Minister of State for Crime and Policing, to Chairs of Licensing Committees dated 8 April 2020.](#)

