



Report to Licensing Committee

Date: 1st July 2020

Reference number: N/A

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

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

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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. This report summarises the approaches that have been taken to date and the operational and financial impacts of these changes.

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.

1.2 The Local Government Association have produced advice for licensing authorities on managing licensing and related issues during the Covid-19 pandemic and the overarching principles within this advice have been used to underpin decision making to date. These include:

- Ensuring that there is open and honest engagement with local businesses about the challenges facing both licensed businesses and councils during the COVID-19 response.
- Being as flexible as possible while remaining mindful of the requirements and objectives of relevant legislation.
- Where possible, prioritising requests, applications or hearings that are business critical in terms of the COVID-19 response and potentially deferring those which may not need an urgent response, if there are valid reasons why they cannot feasibly go ahead.
- Planning now for how licensing can quickly scale up work that for legitimate reasons has not been able to be progressed due to COVID-19 issues.

1.3 Licensing Services across the Buckinghamshire area have been approached by licensees seeking advice and support about how they should be operating their businesses and raising concerns about the payment and collection of licence fees. In dealing with these queries and requests the Services have had to consider how the licensing regime can continue to be delivered in a supportive, appropriate and consistent manner.

2. Licensing fees

2.1 The Council has received requests from businesses which cannot currently operate asking for dispensation on licence fees in the form of refund or waive of fee. Fee changes are generally a Licensing Committee and/or Cabinet Member decision, dependent on the particular legislative framework, and are often subject to consultation.

2.2 This matter has been raised by the LGA with the Home Office and Gambling Commission who have advised that government will not be directing councils to refund licence fees and that this is a local decision. To further complicate matters 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.

2.3 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.

2.4 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.

2.5 Licensing Services are following the current cross council approach that where a regular payment or fee is due but has not been paid this is not pursued at the current time. The recommencement of the collection of annual fees due will be carefully and sensitively implemented as businesses begin to reopen in line with any easing of restrictions. This approach is often not appropriate where licences are applied for or renewed on an annual basis when a fee is due at the point of application. This fee often forms part of the valid application, without which it is not valid.

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).

Current adjustments to service provided	Future considerations
Deferred recovery for non-payment of annual fee	At what point should recovery of fee be instigated
Deferred suspension of licence for non-payment of annual fee	At what point should suspension of licence for non-payment of fee come into effect
Remote licensing hearings for contested applications, deferment only when absolutely necessary	

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.

Current adjustments to service provided	Future considerations
Deferred recovery for non-payment of annual fee	At what point should recovery of fee be instigated
Deferred revocation of licence for non-payment of annual fee	At what point should revocation of licence for non-payment of fee come into effect

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 5 years and vehicles for 1 year.

Current adjustments to service provided	Future considerations
<p>New driver applications are not being processed as we are unable to undertake necessary verification and safeguarding checks required</p>	<p>Return to 'business as usual' must align with the Council's approach on maintaining social distancing within its buildings and on appropriately managing the health and safety risks associated with face to face contact for staff and applicants.</p>
<p>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 (a small number have been processed in the Wycombe area).</p>	<p>All backlog physical elements of driver and vehicle licences must be issued as a priority as soon as staff are able to safely return to the workplace. Some aspects of this service recommenced w/c 15th June and the remaining elements will be recommenced by the w/c 6th July 2020.</p>
<p>New vehicle licence applications are not being processed in the Aylesbury area, a small number are being accepted in the Wycombe and Chiltern and South Buckinghamshire areas.</p>	<p>The in-house MOT testing centre in Aylesbury must be fully operational in order to process new vehicle applications and licensing staff must be able to carry out enhanced vehicle tests (taxi test). Work is underway to reintroduce this service from 6th July 2020.</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 that have been issued with a renewal licence during the lockdown period will need to have an enhanced vehicle test carried out when staff are able to return to the workplace. Work is underway to carry out this backlog work from the 15th June 2020.</p> <p>Work is underway to reinstate a partial service at the in-house MOT testing centre in Aylesbury to start processing renewal vehicles from the 15th June 2020.</p>

	Return to 'business as usual' must align with the Council's approach on maintaining social distancing within its buildings and on appropriately managing the health and safety risks associated with face to face contact for staff and applicants.
Voluntary vehicle suspensions are being issued where requested to reduce insurance costs for the operator	
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 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.	At what point should the option of delayed renewal applications cease to be provided.
Mandatory safeguarding training courses for drivers has been delivered online rather than face-to-face	Would we like to retain an online offering for the future or return to an exclusively face-to-face training model
Renewal driver applicant appointments have been held remotely online	

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 1st 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.

Current adjustments to service provided	Future considerations
Street trading consents have been renewed (on application) in the Aylesbury and Wycombe areas but payment has been deferred at this time.	When should the deferred fee be pursued and what level of fee should be paid at this point.

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.

Current adjustments to service provided	Future considerations
<p>The regime requires that an inspection is carried out prior to the issue of a 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>Return to 'business as usual' must align with the Council's approach on maintaining social distancing within it's buildings and on appropriately managing the health and safety risks associated with face to face contact for staff and applicants.</p> <p>Work is underway to risk assess the varying inspection scenarios (e.g. external or home visit) with a view to returning to BAU where possible to do. Visits are undertaken with authorised vets and therefore there is also a dependency on their return to BAU.</p>

5. Financial Impact

5.1 Currently the projected loss of income for Licensing Services during the CV19 period is £105k per month. This reflects the significant reduction in the number of

applications being received by the Council during the enforced lockdown restrictions. The breakdown of monthly forecasted loss of income across all the Licensing areas by regime is detailed below:

Licensing regime	Forecast loss of income (monthly)
Licensing Act 2003	£6000
Gambling Act 2005	£4000
Taxi Licensing	£87,000
Street Trading	£5,000
Animal Licensing	£3000
TOTAL	£105,000

5.2 As lockdown restrictions are eased an upturn in applications and associated income is expected. Whether income returns to pre-CV19 levels will be dependent on the longer term impact on businesses and individual licensees. As lockdown restrictions are lifted and the Service begins to see an upturn in activity it will be possible to better forecast the longer term financial impacts of CV19.

5.3 The shortfall of income in to the Licensing Service is reported to Finance Services monthly and is recorded as an impact on the Council as a result of the CV19 pandemic. It is not yet known whether Government will compensate councils for loss of income or costs incurred as a result of CV19.

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. Planning is underway to reinstate affected Licensing Services as soon as possible and to process backlog accrued. This work is being undertaken alongside the wider corporate planning on building a safe workplace environment.

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. Wherever possible the we will continue to work flexibly with businesses to facilitate their return to operation, providing advice and guidance and ensuring that the licensing objectives are maintained and adherence to government restrictions is promoted.

Legal and financial implications

(Information provided above).

Corporate implications

- Property – Reinstatement of affected Licensing Services must be undertaken in conjunction with the planning for building a safe workplace environment for staff returning to the workplace.
- HR - Reinstatement of affected Licensing Services must 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

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. 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.](#)