

AGENDA FOR

LICENSING AND SAFETY PANEL

Contact: Andrea Tomlinson
Direct Line: 0161 253 5133
E-mail: a.j.tomlinson@bury.gov.uk
Web Site: www.bury.gov.uk

To: All Members of Licensing and Safety Panel

Councillors : S Walmsley (Chair), J Grimshaw, T Holt, S Hurst, G Keeley, K Leach, C Morris, I Schofield, M Smith, Sarah Southworth, C Walsh, S Wright and Y Wright

Dear Member/Colleague

Licensing and Safety Panel

You are invited to attend a meeting of the Licensing and Safety Panel which will be held as follows:-

Date:	Thursday, 7 January 2021
Place:	Microsoft Teams
Time:	7.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Licensing and Safety Panel are asked to consider whether they have an interest in any of the matters on the agenda, and if so, to formally declare that interest.

3 MINUTES OF THE LAST MEETING *(Pages 5 - 14)*

The Minutes of the Last Meeting held on 26 November 2020 are attached.

4 PUBLIC QUESTION TIME

Questions are invited from members of the public present at the meeting on any matters for which this Panel is responsible.

Approximately 30 minutes will be set aside for Public Question Time if required.

5 OPERATIONAL REPORT *(Pages 15 - 20)*

A report from the Executive Director (Operations) is attached.

6 REVIEW OF THE DECISION TO SUSPEND LICENCES UNDER THE LICENSING ACT 2003 FOR NON-PAYMENT OF ANNUAL FEES DURING THE COVID 19 PANDEMIC *(Pages 21 - 26)*

A report from the Executive Director (Operations) is attached.

7 URGENT BUSINESS

Any other business, which by reason of special circumstances, the Chair agrees may be considered as a matter of urgency.

8 EXCLUSION OF PRESS AND PUBLIC

To consider passing the appropriate resolution under section 100 (A)(4) of the Local Government Act 1972 that the press and public be excluded from the meeting during consideration of the following item of business since it involves the likely disclosure of the exempt information stated.

9 AGENDA *(Pages 27 - 28)*

10 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCES *(Pages 29 - 50)*

Report from the Executive Director (Operations) is attached.

11 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVER LICENCES
(Pages 51 - 58)

Report from the Executive Director (Operations) is attached

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Minutes of: **LICENSING AND SAFETY PANEL**

Date of Meeting: 26 November 2020

Present: Councillor S Walmsley (in the Chair)
Councillors J Grimshaw, T Holt, G Keeley, K Leach, C Morris,
I Schofield, M Smith, Sarah Southworth, C Walsh, S Wright
and Y Wright

Also in attendance: Michael Bridge – Licensing Manager
Michael Caveney – Council Solicitor
Angela Lomax – Head of Trading Standards and Licensing

Public Attendance: No members of the public were present at the meeting.

Apologies for Absence:

LSP.1 DECLARATIONS OF INTEREST

Councillor S Wright declared a personal interest as his wife is employed at a local school.

Councillor J Grimshaw declared a personal interest as her daughter is employed by the Greater Manchester Combined Authority.

LSP.2 MINUTES OF PREVIOUS MEETING

Delegated decision:

That the Minutes of the last meeting held on 15 October 2020 be approved as a correct record and signed by the Chair.

LSP.3 PUBLIC QUESTION TIME

There were no public questions submitted to the Panel.

LSP.4 OPERATIONAL REPORT

The Executive Director (Operations) submitted a report advising Members on operational issues within the Licensing Service.

The report set out updates in respect of the following issues:

COMMON MINIMUM LICENSING STANDARDS/CLEAN AIR

The Licensing Service would like to inform the Members of the panel that the consultation relating to the common minimum licensing standards/clean air finishes on the 3rd December 2020.

The Licensing Service have been working with the Council's Communication team to promote the consultations with the Hackney Carriage and Private Hire trade to ensure that licence holders engage with the consultation. The Licensing Service

receive updates relating to how much engagement has been happening within Bury, unfortunately at the moment there has been little engagement from the Hackney Carriage and Private Hire trade in Bury.

COVID 19 – TRACK AND TRACE

Officers of the Public Protection Service including licensing officers have undertaken training to assist Public Health England by contacting individuals who have tested positive for COVID 19 to ascertain who they have been in close contact with. This work will continue for the foreseeable future.

LICENSING HEARINGS PANEL -10th September 2020

Members will recall that the Licensing Service received an application to review the premises licence from an interested party in respect of the Goats Gate, Radcliffe New Road Whitefield. This application attracted five representations. Members considered the evidence with care and following the evidence of all parties, having understood the application and equally understanding the representations made, the Panel therefore unanimously decided it reasonable, balanced, appropriate and proportionate, based on all of the evidence and in accordance with its duties, that in order to promote the licensing objectives set out in the Licensing Act 2003, in particular the prevention of public nuisance, that the 21 conditions put forward by the respondents would be attached to the licence.

The Licence Holder has appealed the Licensing Hearings Panel, this is currently being dealt with by the Council's Legal Department

COVID 19

Following the announcement by Central Government regarding a second lockdown, licensing officers have been working additional hours to ensure that businesses are compliant.

They carried out the following between the 9th until 15th November 2020:

- 1 licensed restaurant/cafe open with breach (action to be taken this week)
- 2 pool halls closed
- 1 club closed
- 1 pub closed
- 8 restaurants closed
- 3 takeaways closed
- 7 takeaways open with issues – face coverings
- 3 takeaways given advice re QR codes, making front of premises appear closed for 10pm
- 16 restaurants open and in order
- 1 hotel open and in order
- 5 takeaways open and in order

TAXI MATTERS

The Licensing service have between the 9th and 15th November 2020 have undertaken the following actions in relation to Hackney Carriage and Private hire Vehicles:

- Suspended 8 vehicles due to vehicles missing interim tests
- Advised and warned a licence holder for signage missing on the vehicle
- One vehicle licence has been surrendered.

Delegated decisions:

1. That the contents of the report be noted.
2. That all of the Licensing Team and other staff that have supported them be thanked for their hard work and dedication during the ongoing difficult period in relation to COVID 19.

LSP.5 REVIEW OF DECISION TAKEN BY THE COUNCIL IN RESPECT OF ANNUAL FEES UNDER THE LICENSING ACT 2003 DUE DURING THE COVID 19 PANDEMIC URGENT BUSINESS

The Chair of the Licensing and Safety Panel explained that she had agreed that the following item could be considered under urgent business.

The Licensing Manager reported that on the 14th July 2020, the Emergency Powers Group considered a report in relation to the suspension of Annual fees payable under the Licensing Act 2003 in respect of Premises Licences and Club Premises Certificates.

The Greater Manchester Combined Authority had agreed a consistent approach which has been referred to the Wider Leadership Team as part of a number of measures to assist licensed premises as part of the lockdown easing as businesses reopen.

Members of the Emergency Powers Group agreed not to suspend any Licensing Act 2003 premises licences for non-payment of the annual fee until 1 December 2020. In addition it was agreed that a review of this urgent decision will be referred to the Licensing and Safety Panel for consideration in November 2020.

The Licensing Manager presented a report from the Executive Director (Operations) which explained that the second lockdown was implemented by Government on 5th November 2020 and ends on the 2nd December 2020. It is anticipated that the next Government restrictions that may be implemented on 2nd December will further increase financial pressures on licensed premises under the Licensing Act 2003.

The Licensing Service have reviewed the decision of the Emergency Powers Group and request Members to consider the impact of the previous decision on the holders of Premises Licences and Club Premises Certificates.

Members should be aware that the Licensing Act 2003 requires the Council to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

The Licensing Service can confirm that a number of annual fees have been paid, but due to the demands on the service as a result of the pandemic we are not able to provide the numbers in any detail at this time.

In light of this, it is proposed that the Licensing Service will review how many annual fees have been received during the pandemic and how many are still outstanding and prepare a report for Members to consider.

Delegated decision:

That the implementation of the decision of the Emergency Powers Group be deferred so that a further detailed report can be prepared for consideration at the next meeting of the Licensing & Safety Panel in January 2021.

LSP.6 EXCLUSION OF PRESS AND PUBLIC

Delegated decision:

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items of business since it involved the likely disclosure of information relating to individuals who hold Licences granted by the Authority or Applicants for Licences provided by the Authority.

LSP.7 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCES

Licence Holder 20/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 20/2020 who attended the meeting. The Chair made introductions. The Legal Officer outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the Licence Holder set out the reasons for the Licence Holder being before the Panel.

On 16th October 2020, a compliant was made to the Deputy Licensing Officer that this client had returned from Pakistan on 13th October 2020 and had returned to work as a private hire driver when he should be self-isolating for 14 days due to Covid 19 travel restrictions.

The Deputy Licensing Officer telephoned this client and asked him whether he was working, he replied "no", she asked if he was aware that he should be self-isolating for 14 days, he replied that he was aware.

The Deputy Licensing Officer then contacted this client's operator, Elton Bullitt who confirmed that this client had worked on the 15th October and provided booking

records to show that he completed 12 jobs between 5pm and 10.30pm, see Appendix 1.

The Deputy Licensing Officer telephoned this client again. She asked him why he had just lied when asked whether he had been working. He replied that he had a negative test so he could go back to work. The Deputy Licensing Officer advised him that a negative test made no difference to the fact that he must be self-isolating and that as well as obstructing an officer of the Council's Licensing Service, he had also put members of the public at risk.

The Deputy Licensing Officer then went on to inform him that the matter would be passed to Greater Manchester Police for consideration.

The matter was passed to Bolton Covid unit as the driver does not reside within Bury. A borders checks carried out by them confirmed he had returned from Pakistan, see Appendix 2. An officer from Greater Manchester Police informed the client, on 20th October 2020, that he would be served with a fixed penalty. The client received the fixed penalty in the post on 4th November 2020.

In informing the Deputy Licensing Officer that he had not worked the client committed an offence under s73 of the Local Government (Miscellaneous Provisions) Act 1976 which states;

73 Obstruction of authorised officers.

(1) Any person who—

(c) without reasonable cause fails to give such an officer or constable so acting any other assistance or information which he may reasonably require of such person for the purpose of the performance of his functions under this Part of this Act or the Act of 1847;

shall be guilty of an offence.

The driver stated at the meeting that it was a misunderstanding on his part when he had told the Deputy Licensing Officer that he was not working as he had thought she had meant at that point in time therefore he had answered no. He also explained that he was a father to 5 children, one of which was disabled and his children and wife relied on him to provide for them and pay the mortgage.

The driver stated that he had checked when he was in Pakistan and had been told that he would need a COVID test which he had done and this had come back negative. He wasn't aware that he also had to self-isolate upon his return.

Delegated decision:

The Panel carefully considered the report, and oral representations by the Licence Holder 20/2020 and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, as amended by the Road Safety Act 2006, **resolved, on a majority basis, to invoke Section 52 and to suspend the Licence Holder for a period of 6 months with immediate effect.**

The Panel found as follows:

- That the Licence holder had travelled to Pakistan during a worldwide pandemic when it was well known that travel restrictions were in place and self-isolation required upon return.
- That the Licence holder had lied to the Deputy Licence Officer by stating that he wasn't working when in fact he was.
- That the Licence Holder had stated that he was not aware of the rules concerning self-isolation. He also stated that he was not made aware of any rules when he arrived back in the country even though these rules have been in place since March 2020 and have been widely publicised.
- That the Licence Holder did not realise the seriousness of the public health implications relating to him returning to work straight after his return from abroad.
- That the licence holder was not a fit and proper person to hold a licence in Bury.

Licence Holder 21/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 21/2020. The Licence holder did not attend the meeting and was represented at the meeting by Mr Charles Oakes. The Chair made introductions. The Legal Officer outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the Licence Holder's representative set out the reasons for the Licence Holder being before the Panel.

This client has continuously held a Private Hire Drivers licence since 17th January 2013. His current licence was granted for a period of three years and is due to expire on the 16th January 2021.

On the 22nd October 2020; the Licensing Service received an email from the Private Hire Driver's Association claiming to be acting on behalf of this client. In the email they disclose the offence of speeding. The email and attachment can be viewed at Appendix 1.

The DVLA's online portal was accessed to check this client's driving licence and the following conviction was found:

Offence	Offence Date	Expiry Date	Sentence
SP30 - Exceeding statutory speed limit on a public road	27 th December 2018	27 th December 2021	Licence endorsed with 3 points Fixed Penalty Notice

The client has therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions.

Condition 13 of this clients Private Hire Drivers Licence states:

Convictions – If you are formally cautioned for an offence or convicted of an offence you must tell us in writing, within seven days. Write to the Licensing Unit Manager, 3 Knowsley Place, Duke Street, Bury, BL9 0EJ.

The client was contacted by the Licensing Enforcement Officer and he stated that he thought he had notified the service at the time of the offence. The applicant was aware of the condition to disclose the conviction but had failed to do so. He has not tried to mislead the licensing service but had made a mistake. He apologised for not notifying the licensing service.

This client was emailed a summary of what had been discussed over the telephone and asked whether he agreed with this or wanted to amend anything. He agreed with the summary which is attached at Appendix 2.

The client is before members for consideration to be given as to his suitability to be a private hire driver in Bury.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 21/2020s representative and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, **resolved, on a majority basis, grant the renewal application and to admonish the licence holder as to future conduct.**

LSP.8 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVER LICENCES

The Executive Director (Operations) submitted a report relating to Licence Holder 19/2020 who attended the meeting. The Chair made introductions. The Legal Officer outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the Licence Holder set out the reasons for the Licence Holder being before the Panel.

Members are asked to address themselves to the question as to whether the applicant is a "fit and proper" person to hold a public / private hire driver licence.

The applicant had previously held a private hire driver's licence continually since 4th August 2011 until its expiry on the 3rd August 2020. He submitted an online application for the grant of a new Private Hire drivers licence on the 11th October 2020.

When completing the licence application applicants should "include all convictions that you may have including motoring convictions"

When a licensing advisor used the DVLA's online portal to check this applicants driving licence the following conviction was found:

Offence	Offence Date	Expiry Date	Sentence
SP50 - Exceeding speed limit on a motorway	14 th July 2020	14 th July 2023	Licence endorsed with

			3 points Fixed Penalty Notice
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This applicant has therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions.

Condition 13 of this clients Private Hire Drivers Licence states:

Convictions – If you are formally cautioned for an offence or convicted of an offence you must tell us in writing, within seven days. Write to the Licensing Unit Manager, 3 Knowsley Place, Duke Street, Bury, BL9 0EJ.

This applicant was subsequently interviewed by a licensing enforcement officer. He explained that he received notification by post that he had been travelling on the M62 smart motorway at a speed greater than the average speed restriction. He responded to the initial letter but did not get a response. At the end of September he received a further letter indicating that he had been fined £100 and that his licence would be endorsed. He accepted and paid that fine. The applicant accepts he is wholly responsible for the speeding offence and stated that he has not tried to deliberately mislead the licensing service but had made a genuine mistake and failed to fully understand the conditions on his private hire driver's licence. He had intended to notify the service once his licence had been returned with the endorsements applied. He apologised for not notifying the licensing service. The applicant was emailed a summary of what had been discussed over the telephone and asked whether he agreed with this or wanted to amend anything. He agreed with the summary which is attached at Appendix 1.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 19/2020 and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, **resolved, on a majority basis, grant the Licence application and to admonish the licence holder as to future conduct.**

LSP.9 RECORD OF THANKS

Councillor Walmsley explained that this was the last full meeting of the Panel before the end of the year.

Councillor Walmsley thanked the officers present at the meeting and asked that her thanks and the thanks of the Panel as a whole be sent to all of the Licensing team for their hard work over the last year.

Mike Caveney, the solicitor in attendance at the meeting thanked that Panel and the officers for their support over the past year.

Delegated decision:

That the thanks of the Panel and Mike Caveney be recorded.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 7.00 pm and ended at 9.20 pm)

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Classification	Item No.
Open / Closed	

Meeting:	Licensing & Safety Panel
Meeting date:	7 th January 2021
Title of report:	Operational Report
Report by:	Executive Director (Operations)
Decision Type:	N/A Report for information only
Ward(s) to which report relates	N/A

Executive Summary: A report to advise members on operational issues within the Licensing service.

Recommendation(s)

That the report be noted.

Key considerations

Not applicable

Community impact / Contribution to the Bury 2030 Strategy

Equality Impact and considerations:

24. *Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

25. *The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
None	.

Consultation:

Legal Implications:

Not Applicable

Financial Implications:

Not Applicable

Report Author and Contact Details:

M Bridge
Licensing Unit Manager
3 Knowsley Place
Duke Street
Bury
BL9 0EJ Tel: 0161 253 5209 Email: m.bridge@bury.gov.uk

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
None	

1.0 BACKGROUND

- 1.1 The report advises Members on operational issues within the Licensing service.

2.0 COMMON MINIMUM LICENSING STANDARDS/CLEAN AIR

- 2.1 The Licensing Service would like to inform the Members of the panel that the consultation relating to the Common Minimum Licensing standards/Clean Air closed on the 3rd December 2020. Transport for Greater Manchester and the approved contractor are currently analysing the responses received.
- 2.2 A briefing session is being arranged early January for the Executive Member and Chair of Licensing Committee. This will be set up by Transport for Greater Manchester to brief members on the next steps regarding Clean Air and Common Minimum Licensing Standards.

3.0 COVID 19 – Covid Marshals

- 3.1 A team of Covid Marshals has been employed by Bury Council using funding from Central Government. The team commenced work on the 1st December and will be in place until the end of March 2021, it consists of 2 daytime marshals working 8am-4.30pm and 2 evening marshals working 4.30pm-11pm. We have also had extra marshals in place for the weekend 12/13 December and 19/20 December to assist with busy areas such as the market and Millgate shopping centre during the busy shopping period on the run up to Christmas. If Greater Manchester moves into Tier 2 extra marshals will be employed to help with checking of licensed premises in an evening.

Marshals working during the day have been handing out masks to students and high school children using public transport in the morning and afternoon at Bury, Prestwich and Radcliffe Metrolink stations. They have been assisting with queue management and giving advice to retail and close contact service staff regarding the wearing of face coverings. They have also been working in conjunction with markets management to assist with compliance of coronavirus restrictions on the market.

During the evening the marshals have been checking for compliance outside the park at the Lightopia event at Heaton Park as well as checking takeaways for staff and customers wearing face coverings and visiting licensed premises across the borough to ensure they remain closed except for takeaway. They have also assisted at various events taking place across the borough.

4.0 **LICENSING HEARINGS PANEL - 6th October 2020**

4.1 The Licensing service have received an application for the grant of a premises licence under the Licensing Act 2003 in respect of Eat New York, 24 Bury New Road, Prestwich, M25 0LD. This application attracted representations from Greater Manchester Police in their capacity as a Responsible Authority and 27 representations from interested parties. Members considered this application at a Licensing Hearings Panel on the 6th October 2020 and resolved that the premises licence be granted as set out in the updated operating schedule:

- a. Supply of alcohol – For consumption On/Off the Premises.
Monday to Sunday 12.00 until 01.00
- b. Provision of Late Night Refreshment (Indoors)
Monday to Sunday 23.00 until 01.30
- c. Opening Times.
Monday to Sunday 10.00 until 01.30

4.2 The Panel also attached 30 conditions to the premises licence.

5.0 **TAXI MATTERS**

5.1 On the 17th August 2020, the Licensing service received a referral from a Bury Council safeguarding practitioner. The referral detailed an incident wherein a licensed private hire driver had behaved inappropriately with 2 vulnerable females. This matter was investigated by the police and the Licensing Service.

The Licensing Unit Manager consulted with the Chair of the Licensing and Safety Panel about the matter and it was decided that this private hire drivers licence should be revoked with immediate effect pursuant to s61 (1)(b) – ‘any

other reasonable cause', on the grounds of public safety, pursuant to s61 (2B) of the Act.

6.0 **Compliance and Enforcement**

6.1 The Licensing service have since the last panel on the 6th October until the 16th December 2020 dealt with business premises in relation to Covid issues:

- 10 business premises advice given
- 22 complaints
- 278 compliance checks
- 40 enforcement actions taken including 3 improvement notices and 1 prohibition notice
- 18 intelligence checks recorded

7.0 **Outcome of appeal against Licensing and Safety Panel decision.**

7.1 On the 15th December 2020, an appeal against the decision of the Licensing and Safety panel on the 23 July 2020 at Manchester Magistrates Court was considered. The applicant was previously a private hire driver for 10 years but had let his licence lapse so had submitted a new application for a private hire driver's licence but failed to declare a number of convictions to the Licensing Authority. The appeal was dismissed by the District Judge, the council made a costs application but unfortunately this was rejected on the basis that he had lost his income.

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Classification	Item No.
Open	

Meeting:	LICENSING AND SAFETY PANEL
Meeting date:	7 th January 2021
Title of report:	Review of the Decision to Suspend Licences under the Licensing Act 2003 for non-payment of Annual Fees During the Covid 19 Pandemic
Report by:	Donna Ball EXECUTIVE DIRECTOR (OPERATIONS)
Decision Type:	Council
Ward(s) to which report relates	All

Executive Summary:

This report relates to the review of a decision taken by the Council in respect of annual fees under the Licensing Act 2003 during the Covid 19 Pandemic.

Recommendations

That;

1. The Licensing Service will take steps to suspend any licence for non-payment of the annual licence fee.
2. It is noted that any unpaid annual licence fee will be recovered using the Council's debt recovery process.

Key considerations

This is a Council Function that is delegated to the Licensing and Safety Panel by the Council's Constitution.

This paper is in the Public Domain.

Community impact / Contribution to the Bury 2030 Strategy

Not Applicable

Equality Impact and considerations:

24. *Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*
25. *The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

The Licensing Service have considered the Equality Act 2010 and there is no positive or negative on any of the protected characteristics.

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
The recommendation will commence the recovery of outstanding debt from license holders who may be under increased financial pressures following the recent government lockdown and the implementation of the additional restrictions under the Tier system.	<p>This option will implement the decision taken by the Emergency Powers Group on the 14th July 2020.</p> <p>Approximately 70% of fees have already been paid by licence holders and this would commence the recovery process for outstanding fees and ensure everyone is treated equally.</p> <p>The Council has a debt management process in place that would be followed along with ensuing businesses are aware of any additional funding opportunities that may be available to them.</p>

Consultation:

Not applicable.

Legal Implications:

The Legal Implications are set out in the report. The Council is a local licensing authority for the purposes of the Licensing Act 2003. It is entitled to charge fees for the renewal of licences under that Act and regulations made under it and to suspend the licence for non-payment. The proposals are in line with both national and local actions in supporting businesses through the pandemic.

Financial Implications:

The proposed approach brings licencing in line with the rest of the council where recovery of debt has recommenced and is in line with the Council's debt management policy.

Report Author and Contact Details:

Mr M Bridge
Licensing Office
3 Knowsley Place
Duke Street
Bury

Telephone No: 0161 253 5208

Email: m.bridge@bury.gov.uk

Background papers:

Emergency Powers Group report (The Council gives consideration not to suspend any Licensing Act 2003 premises licences for non-payment of the annual fee until 1 December 2020 – 14 July 2020)

Licensing and Safety Panel report and minutes – 26 November 2020

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
None	

1.0 BACKGROUND

- 1.1 On the 14 July 2020, the Emergency Powers Group was consulted about an urgent decision that was required in relation to the suspension of annual fees payable under the Licensing Act 2003 in respect of Premises Licences and Club Premises Certificates.
- 1.2 The Greater Manchester Combined Authority had agreed a consistent approach which has been referred to the Wider Leadership Team as part of a number of measures to assist licensed premises as part of the lockdown easing as businesses reopen.
- 1.3 Members of the Emergency Powers Group (EPG) agreed to the proposed decision not to suspend any Licensing Act 2003 premises licences for non-payment of the annual fee until 1 December 2020. In addition it was noted that a review of this urgent decision would be referred to the Council's Licensing and Safety Panel for consideration in November 2020.

2.0 ISSUES

- 2.1 The second lockdown was implemented by Government on 5 November 2020 and ended on the 2 December 2020.
- 2.2 On the 26 November 2020, a report was considered by the Licensing and Safety Panel to review the urgent decision taken on the 14th July 2020. Members resolved that the implementation of the decision, i.e. to commence the recovery of the annual fees that are payable under the Licensing Act 2003, be deferred so that a further detailed report could be prepared for consideration at the next meeting of the Licensing & Safety Panel in January 2021.
- 2.3 Since the meeting of the Licensing and Safety Panel on the 26 November 2020, the Government placed Greater Manchester in Tier 3 on the 2 December 2020.
- 2.4 The Licensing Service would like to inform members, no further guidance on a consistent approach has been issued by the Greater Manchester Combined Authority or the Wider Leadership Team on this matter.

3.0 FEES

- 3.1 The annual fees for Premises Licences and Club Premises Certificates are a statutory fee calculated via the rateable value of the property.
- 3.2 The table below shows the banding, rateable value and annual fees which are set by statute are as follows:

Band and rateable value	Annual Fee
A No rateable value to £4300	£70
B 4,300 to 33,000	£180
C 33,001 to 87,000	£295

D 87,001 to 125,000	£320
E 125,001 and Above	£350

- 3.3 The Licensing Service have liaised with the Council's finance department and the annual fees are set up as a subscription. The invoices are then sent when required via this automated system to the licence holders of premises licences and club premises certificates, to advise them that the annual fee is payable. During the pandemic this invoices have still been being issued, but the Licensing Service have not been suspending premises licences or club premise certificates when payment has not been made. This is as a result of the direction of the Wider Leadership Team, the Combined Authority and the urgent decision in July 2020.
- 3.4 In light of the decision of the Licensing and Safety Panel on the 26 November 2020, the licensing service have requested details of the payment information for the period 1 April 2020 until the 1 December 2020:
- 3.5 The total value of the fees payable from 1 April to 1 December 2020 was £101,855. Approximately two thirds of licensing invoices issued have been paid by businesses (£70,185) and a total of £31,670 remains outstanding.
- 3.6 Other businesses will be due to receive invoices between 1 December 2020 and 31 March 2021 which will have a value of £17,200. Based on the experience of the first three quarters payments (two thirds paid) then £11,352 is likely to be paid, which would leave £5,848 unpaid.
- 3.7 This totals a potential of £37,518 that would be outstanding for payment (based on outstanding fees to date and the projection for the rest of the year).
- 3.8 It should be noted that the outstanding payments include a variety of business types including Off Licences, pubs, restaurants, takeaways.
- 3.9 Members should be aware that the Licensing Act 2003 requires the Council to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

Section 55A of the Licensing Act 2003 requires that:

(1)A licensing authority **must** suspend a premises licence if the holder of the licence has failed to pay the authority an annual fee that has become due under section 55(2).

(2)Subsection (1) does not apply if—

(a)either—

(i)the holder's failure to pay the fee at the time it became due was because of an administrative error (whether made by the holder, the authority or anyone else), or
(ii)before or at the time the fee became due, the holder notified the authority in writing that the holder disputed liability for, or the amount of, the fee, and

(b)the grace period for payment of the fee has not expired (see subsection (8)).

- 3.10 Members should be aware that the outstanding income outlined above will represent a budget deficit if not recovered in this financial year.
- 3.11 Members need to be also aware that the annual fees for next year will still be payable on the anniversary of the issue of licences and certificates and this may require venues to pay two annual fees in a short period.
- 3.12 The Council has a debt management process in place that would be followed in recovering the outstanding payments. This process allows companies to contact the finance team if they are struggling to pay and discuss payment options. Finance staff will be briefed to check that anyone struggling has accessed all the support they are entitled to.

4.0 RECOMMENDATIONS

- 4.1 That;
 - 1. The Licensing Service will take steps to suspend any licence for non-payment of the annual licence fee.
 - 2. It is noted that any unpaid annual licence fee will be recovered using the Council's debt recovery process.

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