



<b>Classification</b>	<b>Item No.</b>
<b>Open / Closed</b>	

<b>Meeting:</b>	LICENSING AND SAFETY PANEL
<b>Meeting date:</b>	26 <sup>th</sup> November 2020
<b>Title of report:</b>	<b>Review of decision taken by the Council in respect of annual fees under the Licensing Act 2003 due during the covid 19 Pandemic</b>
<b>Report by:</b>	Donna Ball EXECUTIVE DIRECTOR (OPERATIONS)
<b>Decision Type:</b>	Council
<b>Ward(s) to which report relates</b>	All

## **Executive Summary:**

## **Recommendation(s)**

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.

## **OPTIONS & RECOMMENDED OPTIONS**

Members are requested to consider the following:

- **Option 1:** To implement the decision of the Emergency Powers Group on the 14th July 2020 and commence the recovery of the annual fees that are payable under the Licensing Act 2003 from the 1st December 2020.
- **Option 2:** To consider adjourning the implementation of the decision of the Emergency Powers Group so that a further detailed report can be prepared for consideration in the future. This is the preferred option.

## 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.

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## Community impact / Contribution to the Bury 2030 Strategy

Not Applicable

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## 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 due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics.

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## Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
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<p>Option 1 – This option will increase financial pressures on licence holders following the recent government lockdown and the implementation of the additional restrictions under the tier system.</p> <p>Option 2 – This option will cause a delay on the recovery of income in this financial year for the Alcohol and Entertainment budget.</p> <p>There is also a financial risk if a number of licensed premises close due to the pandemic then this will create a loss of income for the Alcohol and Entertainment budget for this financial year.</p>	<p>This option will implement the decision taken by the Emergency Powers Group on the 14<sup>th</sup> July 2020.</p> <p>This option will enable the Licensing service to prepare a further detailed report for the Licensing and Safety Panel to consider at the next full Licensing and Safety in the future and to assess the financial implications.</p>
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## Consultation:

Not applicable.

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## Legal Implications:

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 to take enforcement action for non-payment. There are no direct legal implications arising from this report. The legislation is outlined and the proposals are in line with both national and local actions in supporting businesses through the pandemic.

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## Financial Implications:

The proposed approach will result in a delay in the recovery of income the current financial year. The impact of Covid on income recovery is evident across the council and is recognised by the government. Additional grant funding has been made available to support Local Authorities manage the impact of income loss and therefore any shortfall in income will to some extent be offset by the grant. The service does however have mechanisms in place to ensure that as much income as possible is being recovered.

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## 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](mailto:m.bridge@bury.gov.uk)

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## 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<sup>th</sup> July 2020 – Appendix 1.

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

Term	Meaning
None	

### 1.0 BACKGROUND

- 1.1 On the 14<sup>th</sup> 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.
- 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 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.

### 2.0 ISSUES

- 2.1 The second lockdown was implemented by Government on 5<sup>th</sup> November 2020 and ends on the 2nd December 2020. It is anticipated that the next Government restrictions that may be implemented on 2<sup>nd</sup> December will further increase financial pressures on licensed premises under the Licensing Act 2003.
- 2.2 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.
- 2.3 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.
- 2.4 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.
- 2.5 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.

- 2.6 The Licensing Service would like to inform members that at the time of writing this report, 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 CONCLUSION

- 3.1 Members are requested to consider the options below:

- **Option 1:** To implement the decision of the Emergency Powers Group on the 14th July 2020 and commence the recovery of the annual fees that are payable under the Licensing Act 2003 from the 1st December 2020.
- **Option 2:** To consider adjourning the implementation of the decision of the Emergency Powers Group so that a further detailed report can be prepared for consideration in the future. This is the preferred option.

<b>URGENT DECISION FORM</b>
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**TO BE UPLOADED ON TO THE INTERNET BY DEMOCRATIC SERVICES**

<b>Date:</b> 13/7/20		<b>Ref No:</b>	
<b>Type of Decision:</b>			
<b>Cabinet Decision</b>	<input type="checkbox"/>	<b>Council Decision</b>	<input checked="" type="checkbox"/>
<b>Key</b>	<input type="checkbox"/>	<b>Non-Key</b>	<input type="checkbox"/>
<b>Subject matter:</b>			
<p>The Council gives consideration not suspend any Licensing Act 2003 premises licences for non-payment of the annual fee until 1 December 2020.</p>			

**Reason for Urgency:**

The Executive Director of Operations chooses to not to take action to suspend a premises licence issued under The Licensing Act 2003 for non-payment of fees for a period until 1<sup>st</sup> December 2020

The Combined Authority has 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.

Section 55a 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)).

A review of this urgent decision will be referred to the Licensing and Safety Panel for consideration in November 2020.

**Freedom of Information Status****Equality Impact Assessment**

[Does this decision change policy, procedure or working practice or negatively impact on a group of people? **If yes** – complete EIA and summarise issues identified and recommendations – forward EIA to Corporate HR]

NO

**Decision taken:**

The Council choose not to suspend any Licensing Act 2003 premises licences for non-payment of the annual fee until 1 December 2020.

<b>Decision taken by:</b>	<b>Signature:</b>	<b>Date:</b>
Chief/Senior Officer/Cabinet Chair		
<b><i>After consultation with:</i></b>		
Cabinet Member (if a Key Decision) or Chair or Lead Member (as appropriate)		
If it is a Key Decision, the Chair of Scrutiny Committee to agree that the decision cannot be deferred		
Opposition Leader or nominated spokesperson (Council Decision) or Leader or Majority Group Member on Overview and Scrutiny Committee (if a Key Decision) to agree that the decision cannot be deferred		
Leader of second largest Opposition Group (if a Key/Council Decision) to agree that the decision cannot be deferred		

Report Author Angela Lomax  
Job Title Acting Head of Public Protection  
Date 13/7/20