



Classification	Item No.
Open	

<b>Meeting:</b>	LICENSING AND SAFETY PANEL
<b>Meeting date:</b>	7 <sup>th</sup> January 2021
<b>Title of report:</b>	<b>Review of the Decision to Suspend Licences under the Licensing Act 2003 for non-payment of Annual Fees 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:**

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 14<sup>th</sup> 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](mailto: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 14<sup>th</sup> 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:

<b>Band and rateable value</b>	<b>Annual Fee</b>
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.