

# Leadership Advisory Panel

10.00am, Tuesday, 31 March 2020

## Licensing Contingency Measures

Executive/routine	
Wards	Citywide
Council Commitments	N/A

### 1. Recommendations

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- 1.1. It is recommended that the Leadership Advisory Panel approves the measures proposed in paragraph 4.5 in relation to decisions normally taken by the Licensing Sub-Committee and agrees to delegate authority to the Executive Director of Place to make decisions in consultation with the Convenor and or Vice Convenor of the Regulatory Committee.

**Paul Lawrence**  
Executive Director of Place

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## Licensing Contingency Measures

### 2. Executive Summary

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- 2.1 The situation with Coronavirus continues to develop by the day and the Council continues to follow the latest advice from the Scottish and UK Governments. This is an unprecedented time and services will be severely tested.
- 2.2 In the interim it is necessary to consider emergency measures to ensure that the Council is able to meet its statutory obligations in relation to the granting, renewing and issuing of licences. This report outlines the preferred approach to dealing with Licensing applications in the absence of Committee meetings.

### 3. Background

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#### Licensing Sub-Committee

- 3.1 The Council acts as Licensing Authority for a range of legislation including the Civic Government (Scotland) Act 1982 ('the 1982 Act') and the Housing (Scotland) Act 2006 ('the 2006 Act').
- 3.2 Under the Council's Scheme of Delegation, Council officers currently have the ability to deal with non-contentious applications, including some which would otherwise be required to be made at committee level - where the application has attracted no objection or unresolved representation from a member of the public or the Chief Constable.
- 3.3 Where it is not practicable for an application to be considered at a scheduled meeting of the Licensing Sub-Committee, there is a limited Scheme of Delegation afforded to Council officers subject to consultation with the Convener or Vice-Convener. This allows officers to grant, refuse or add conditions to applications in respect of temporary licences
- 3.4 The majority of civic licence applications under the Civic Government (Scotland) Act 1982 have a nine month determination period. House in Multiple Occupation ('HMO') licences have a one year determination period under the Housing Scotland (Act) 2006. Scope for continuation of applications is therefore limited. If a determination date is passed, the outcome is that a licence is granted by

operation of law. It is not recommended that these situations arise as to do so would cause further uncertainty to businesses.

- 3.5 City of Edinburgh Council has ceased all committee meetings until, at least, the end of April 2020. Additionally the staffing resource available to maintain normal services is expected to be limited as the Council will be focusing on maintaining critical services to vulnerable communities as a priority,

## **4. Main report**

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- 4.1 In the coming weeks and possibly months, a number of measures will be required to ensure that the Council and the Licensing Service are able to maintain some level of normal operation.
- 4.2 It is proposed that Council officers will take a risk-based approach to dealing with applications, and where possible all will be granted and renewed under delegated authority and the urgency provision within Standing Orders.

### **Licensing Sub Committee**

- 4.3 The Licensing Service will continue to deal with and process renewal and variation applications from existing licence holders. New and temporary licence applications will continue to be accepted but, in the short term, will be held for processing at a future date. Applicants for new and temporary licences will be advised of this on receipt of their application. Applicants for temporary licences for events in the next two or three months will be given an opportunity to withdraw applications.
- 4.4 The vast majority of applications are for renewal, which are typically non-contentious. In the absence of objections or negative comments from consultees, under the current Scheme of Delegation, renewal applications can be granted by Council officers.
- 4.5 Applications which receive adverse comments or attract objections would normally be required to be heard by a committee. In these circumstances it is proposed to temporarily change the Scheme of Delegation to allow the following:
- 4.5.1 "During the period of time for which the Council's Leadership Advisory Panel is in operation, the requirement for decisions to be made by the Licensing Sub Committee shall not apply. Instead, such decisions shall be made by the Executive Director of Place or appointed deputy, in consultation with the Convener or Vice-Convener and subject to any such decision having regard to the public interest. Such decisions will be reported to the next meeting of the Licensing Sub Committee".
- 4.6 Consultees may be unable to respond to applications due to an inability to inspect or staffing shortages. As an interim measure it is proposed that a risk-based approach should be adopted. This approach would mean that, where it is not

possible to find resolution to identified issues, applications would be considered under the Scheme of Delegation proposed at paragraph 4.5 and either refused, or granted for a limited period of time, e.g. six months. This does not require an additional delegation.

## **5. Next Steps**

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- 5.1 Applications will continue to be dealt with as set out above at paragraphs 4.1 – 4.4.
- 5.2 Subject to approval of the proposed temporary change to the Scheme of Delegation, Council officers will begin to process applications as set out in paragraph 4.5. A record of these decisions will be retained and reported to the next Committee meeting.
- 5.3 In assessing all applications a number of risk and mitigation factors will need to be addressed whilst implementing the decision.

## **6. Financial impact**

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- 6.1 The Council acts as Licensing Authority for a range of legislation including the Housing (Scotland) Act 2006 and the Civic Government (Scotland) Act 1982. The Council's activities as a Licensing Authority are funded directly by income raised from licence application fees. The fees currently charged are approved by full Council as part of the budget process, albeit there a small number of the fees which are not set by the Council as these are fixed or capped by legislation. The fees are designed to fully cost recover the costs of the service. The provision of licensing services is not directly funded from the general revenue fund of the Council. Income in relation to taxi and Private Hire Car licences and separately HMOs is ringfenced, and any surplus is maintained separately. Income from all other types of licence is not ringfenced and any surplus which exists at the end of the financial year is included within the Council's end of year accounts.
- 6.2 Budget considerations for the coming year have already been agreed and built into the financial model for 2020. Any costs from implementing policy changes would have to be contained within the current ring-fenced income generated from licensing fees.

## **7. Stakeholder/Community Impact**

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- 7.1 The contents and recommendations in this report neither contribute to, nor detract from, the delivery of the three Public Sector Equality Duties.
- 7.2 The contents and recommendations described in this report do not deliver any outcomes relating to the ten areas of rights, nor do they enhance or infringe them.

7.3 There is no environmental impact arising from the contents of this report.

## **8. Background reading/external references**

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8.1 None.

## **9. Appendices**

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9.1 None.