

Regulatory Committee

9.30am, Monday, 2 November 2020

Coronavirus (COVID-19) Contingency Measures: Update Report

Executive/routine	Executive
Wards	All
Council Commitments	N/A

1. Recommendations

- 1.1 It is recommended that the Committee
 - 1.1.1 notes the content of this report;
 - 1.1.2 agrees to extend the current temporary modification to the Age and Emissions policy for taxis and Private Hire Vehicles in respect of Euro 5 vehicles as set out in paragraph 4.39;
 - 1.1.3 Notes that roll-out of refresher training for existing licensed drivers will be postponed due to the current public health emergency until April 2021 as detailed in paragraph 4.42; and
 - 1.1.4 Agrees to the revised training programme to be delivered online for new taxi or Private Hire Car (PHC) drivers as set out in paragraphs 4.42 to 4.48.

Paul Lawrence

Executive Director of Place

Contact: Andrew Mitchell, Regulatory Services Manager
E-mail: andrew.mitchell@edinburgh.gov.uk | Tel: 0131 529 4042

Contact: Gordon Hunter, Regulatory Officer
E-mail: gordon.hunter@edinburgh.gov.uk | Tel: 0131 469 5774

Coronavirus (COVID-19) Contingency Measures: Update Report

2. Executive Summary

- 2.1 This report sets out the decisions made and actions taken as a result of the COVID-19 pandemic during the period since the Committee last met, and sets out the decisions which the Committee may need to take going forward.

3. Background

- 3.1 In line with official guidance from the UK and Scottish Governments, all Council services implemented changes as a result of the lockdown measures introduced on 23 March 2020. At the same time all Regulatory and Licensing Sub Committee and Licensing Board meetings were suspended until further notice.
- 3.2 Placing customers at the heart of the Licensing Service has remained a key priority, and a number of measures and systems were immediately put in place to enable the Licensing Service to continue to operate.
- 3.3 Whilst balancing a duty of care to staff, businesses and customers proved challenging, the majority of staff were able to work from home. This meant that throughout the lockdown period the City of Edinburgh Council was one of the few Local Authorities that managed to maintain and operate a Licensing Service, with the team continuing to process renewal applications and issue licences.
- 3.4 However, the temporary measures that were introduced to allow service to be maintained have presented some challenges, as is highlighted below.
- 3.5 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. In a small number of cases fees are set by legislation, but the majority of fees charged are approved by the City of Edinburgh Council as part of the budget process. These fees are designed to fully recover the costs of the service, as the provision of licensing services is not directly funded from the general revenue fund of the Council.

4. Main report

Licensing Income and Fees

- 4.1 As a result of COVID-19 there has been a downturn in trade for businesses which has created some financial hardship and some licence holders indicated that they were struggling to pay fees.
- 4.2 In recognition of the financial pressure on certain parts of the licensed trade resulting from the pandemic, the Chief Executive made an urgent decision to defer the payment of certain licence application fees. This payment deferral scheme was reported to the Leadership Advisory Panel on [31 March 2020](#) and ran until the end of June 2020.
- 4.3 The wider licensed trade has been and is still experiencing significant financial hardship. Trade members have expressed a view that they would welcome further short-term measures to support their transition into new working practices and procedures. However, while recognising the difficult circumstances for businesses, this had to be balanced against the cost of delivering the Licensing Service. The Council's main costs are based on staffing and premises, which have not reduced as a result of the lockdown.
- 4.4 The costs of deferral of fees from April to June 2020 were:

Licence Type	Cost of deferral of income (to 16 June 2020)
Civic	£311,000
Taxi and Private Hire Car	£429,000
Total	£740,000

- 4.5 Applications received without payment in July and at the start of August were not processed, and applications were either returned as incomplete or applicants contacted and asked to make payment. Applicants who have previously benefitted from the deferred payment scheme or have submitted renewal applications without payment are continuing to operate at this time. On [20 August 2020](#) the Policy and Sustainability Committee agreed not to further extend the deferral period.
- 4.6 The decision made by the Leadership Advisory Panel on 31 March 2020 was to defer the payment of certain licence application fees, not to remove the requirement to make a payment. The Licensing Service has started to attempt to recover this revenue and applicants have been contacted by phone, by email and have been sent a letter requesting payment. In addition to accepting BACS payments, and to assist the trade, it is now possible to make payment by cash, or by credit card over the phone. In addition, a number of applicants have decided not to renew their licences or have surrendered them.
- 4.7 The Taxi Licence reserve currently stands at £1.1m. The possible loss in income from the deferral would reduce this to £671,000, and as previously reported the replacement of the ICT system would also be required to be contained against the

reserve. There is no civic licensing reserve, and any shortfall in income is an unfunded budget pressure on the Council's general fund budget.

- 4.8 The taxi reserve will also have to pay for the capital costs of moving the Taxi Examination Centre (TEC) from Murrayburn. These costs are being reassessed, as it is expected that construction costs will increase as a result of the changes necessary to keep workplaces safe. It is likely that a move as part of the Council's wider depot strategy is now unaffordable, and alternatives are being examined. Members are asked to note that if the reserve is exhausted this will limit the options for relocating the TEC from Murrayburn. It will also mean that there will be no available reserve, should a major piece of equipment fail.

Pressure on System

- 4.9 Continuing to provide and operate a Licensing Service throughout the COVID-19 restrictions has been no small feat and has not been without difficulties. Significant investment in mobile devices such as laptops, mobile phones and iPads has been necessary.
- 4.10 Whilst staff members have adapted well to working remotely, this has presented its own set of unique challenges due to:
- 4.10.1 the complexity of licensing in general, and issues with individual complex applications;
 - 4.10.2 the significant number of different licence types;
 - 4.10.3 the volume of applications; and
 - 4.10.4 the inability to communicate with necessary consultees, many of whom were not working or unable to work during the lockdown period.
- 4.11 Over the last six months these issues have created a backlog of applications to be processed, with approximately 2,150 applications outstanding.
- 4.12 Plans are continually being reviewed to address concerns arising from current circumstances and the backlog. New working practices have already been developed in a number of areas. Staff have been assigned to these new areas of work as part of the ongoing development of the Centre of Excellence model being introduced across the Licensing Service.
- 4.13 Staff vacancies arose both prior to and during the lockdown period, but it was not possible to recruit at that time. Recruitment is now being actively pursued to fill 10 vacancies.

Software Improvements – APP to CX

- 4.14 The Civica APP database system is used to record licensing applications. The system has a number of shortcomings which were known previously but have been highlighted in recent Internal Audits. As the system is manual based, with little or no interface with applicants, this has added to the backlog.

- 4.15 Throughout the period of lockdown work has been ongoing to identify a more effective document management and storage system. It is intended to upgrade the current system to the Civica CX system, which will:
- 4.15.1 Provide a digital platform enabling mobile working and channel shift to deliver an improved and more responsive service;
 - 4.15.2 Provide an integrated system that will enable customers to make, pay for and monitor progress of applications online;
 - 4.15.3 Give real-time access anywhere, anytime via a connected device;
 - 4.15.4 create channel shift to deliver time and cost savings; and
 - 4.19.5 support the introduction of a Short Term Lets Licensing system.
- 4.16 The cost to upgrade to the Civica CX system requires significant investment but will in the longer term will provide efficiencies in the service.

Scheme of Delegation

- 4.17 Licensing contingency measures were considered at the Leadership Panel on 31 March 2020, when it was agreed that a temporary scheme of delegation would be adopted.
- 4.18 In the absence of objections or negative comments from consultees, under the existing Scheme of Delegation renewal applications could be granted by Council officers. Applications which receive adverse comments or attract objections would normally be required to be heard by a committee.
- 4.19 In response to COVID-19 it was agreed to extend the Scheme of Delegation, to allow decisions usually made by the Licensing Sub Committee to be delegated to the Executive Director of Place or appointed deputy, in consultation with the Convener and Vice Convener of the Regulatory Committee. Subject to any such decision having regard to the public interest, these would be reported to the next meeting of the Licensing Sub Committee.
- 4.20 As an interim measure, where consultees might be unable to respond to applications due to an inability to inspect or staffing shortages, a risk-based approach was adopted. This meant that, where it was not possible to find resolution to identified issues, applications would be considered under the Scheme of Delegation, and either refused or granted for a limited period of time, e.g. six months.

Restart of Regulatory and Licensing Sub Committees

- 4.21 Prior to the COVID-19 changes, the Regulatory Committee last met in January 2020 and Licensing Sub Committee in March 2020. Licensing Sub Committee met for the first time since March on 28 September 2020 and a number of additional meetings have now been scheduled. It is intended that these meetings will be shorter and more frequent than in the past, to enable due process and allow meaningful participation in the meeting process.

4.22 The outstanding applications to be heard by the Licensing Sub Committee are summarised as follows:

Taxi/PHC	137
Broken down as follows:	
Police suspensions	38
Police objection/convictions	22
Emissions	75
Taxi plate	2
Civic	7
House in Multiple Occupation (HMO)	2
Total Outstanding Applications	146

Taxi Examination Centre

- 4.23 This service was suspended at the beginning of the coronavirus lockdown and from 31 March 2020 the Driver and Vehicle Standards Agency (DVSA) granted a six month exemption from MOT testing. This was conditional on vehicles being kept in a roadworthy condition, with drivers potentially being charged by the police if found driving an unsafe vehicle.
- 4.24 Prior to lockdown the TEC was operated by Fleet Services on behalf of the Licensing Service. However, as part of the restructuring process and the creation of a Taxi and Private Hire Centre of Excellence, responsibility for the management and operation of the TEC has now transferred to the Licensing Service in its entirety.
- 4.25 The TEC reopened on 20 July 2020. However, there were challenges to ensure the safety of both staff members and customers.
- 4.26 The DVSA six month exemption provided a short term solution which allowed taxis and Private Hire cars to operate without a compliance certificate. However, this came at the cost of a doubling of the number of inspections that would normally be required between 1 August 2020 and January 2021.
- 4.27 Arrangements have been put in place to achieve this number, and whilst acknowledging that there have been a number of initial teething problems, the system is working well and the service is on track to deal with the inspections required.

- 4.28 The actions taken include introducing wayfinding signage, maintaining physical distancing standards, restricting access to toilet facilities and the public viewing area, and the development of new working practices including:
- 4.28.1 To ensure that physical distancing can be maintained, the working pattern of staff has been adjusted, examiners are now based full time within the garages, and additional staff have been redeployed as vehicle examiner assistants and administration staff; and
 - 4.28.2 The scheduling of the inspections has been altered to make the ramps more efficient, with the TEC currently operating four ramps carrying out initial inspections and one ramp dedicated to retests.

The introduction of new working practices is the first stage of relocating existing licensing staff to Murrayburn and creating a Taxi/PHC Centre of Excellence.

- 4.29 The fail rate for vehicles continues to create significant scheduling issues, as does the number of licence holders failing to present their vehicles for arranged inspection. Currently approximately 26% of licence holders are failing to present their vehicles for a scheduled test, without prior notification. This creates hours of lost testing capacity, and unnecessary and avoidable delays for other licence holders waiting to have their vehicle tested.
- 4.30 To improve TEC efficiency, and in an attempt to reduce lost testing capacity, a standby list for vehicle cancellations has been introduced. This requires licence holders with test-ready vehicles to commit to being flexible and to accept inspection appointments at short notice.
- 4.31 In addition to routine renewal inspections, there are approximately 300 new vehicles waiting to be examined. It is intended that this number will be reduced over the coming months through the goodwill of staff working overtime and drivers at the end of the working day and at weekends. Irrespective of this, the Committee is asked to note that the TEC will continue to prioritise existing vehicles over new applications.
- 4.32 A small number of operators chose to SORN their vehicles at the beginning of lockdown, to minimize operating costs at a time when the opportunity to earn a living was significantly reduced for many drivers. To support those affected to return to operation, the Licensing Service has agreed to defer the testing of vehicles, strictly subject to the following:
- 4.32.1 Renewal application and fee must be submitted and paid for before the expiry of the vehicle Licence;
 - 4.32.2 Evidence that the vehicle has been registered as SORN with the Driver and Vehicle Licensing Agency (DVLA); and
 - 4.32.3 A written request to defer the test date for the vehicle is received.
- 4.33 Any operator who has sought to take advantage of this temporary measure has been advised that:
- 4.33.1 The Council must test the vehicle and determine the application within nine months of the date of application;

4.33.2 When the vehicle is scheduled for testing, it must be presented at that time.

Due to the volume of work the TEC is carrying out, it is unlikely that there will be a possibility to accommodate changes to scheduled test dates; and

4.33.3 The renewal application must be determined within this nine month period. If all the necessary checks have not been completed, the application may be refused and subsequently the vehicle licence (plate) will no longer have effect.

Age and Emissions

4.34 The Licensing Service has received approximately 480 applications to vary licence conditions of taxi or Private Hire Car Licences since the change in policy. These are referred to the Committee to determine whether in each case an exemption to the policy should be made, and the relevant licence should be granted with an exemption to the relevant conditions. The following table gives the number of applications for exemption considered and the decisions made by the Committee:

Total Considered	Granted	Withdrawn	Refused	Continued
480	279	48	143	10

4.35 Approximately 1,327 vehicles have already been upgraded to meet the new conditions. It is anticipated that approximately 270 vehicles will be required to be upgraded over the next 12 months, as a result of the change due to take effect.

4.36 The latest policy milestones were effective from 1 April 2020:

4.36.1 For existing vehicles, no application will be accepted for licensing a taxi or PHC or as a replacement vehicle for an existing taxi or PHC if it was more than 10 years old (from the date of first registration); and

4.36.2 For vehicles not currently licensed, no vehicle will be accepted for licensing as a taxi or PHC or as a replacement vehicle for an existing taxi or PHC unless it is a Euro 6.

4.37 COVID-19 has had a substantial impact on the financial stability of the trade, with many being unable to work and a significant reduction in their customer market. Many operators have taken steps to protect their businesses in the long term, by making short term sacrifices to reduce costs. The Licensing Service has been closely monitoring the impact of the outbreak on the trade and has introduced several temporary mitigating measures in order to support the trade.

4.38 During lockdown, the policy milestone detailed in 4.36 above was introduced and, because many operators were unable to work for long periods after the outbreak, there has been an increase in the number of 'exemption to policy' requests. Due to the absence of Licensing Sub Committee meetings, 75 exemption applications still await consideration.

4.39 In order to support the trade back into work, officers took an operational decision to allow operators who had already submitted an application for exemption to the Age

and Emissions conditions, to present their currently non-compliant vehicles for test and, provided the vehicle passed all other criteria and safety regulations, to allow the vehicle to operate. However, the testing of the vehicle does not automatically renew the licence and where this policy milestone remains effective from 1 April 2020, these vehicles will still be required to be upgraded or the renewal applications will be refused. This will result in affected vehicles being unlicensed and the vehicle licences (plates) being returned to the possession of the Council.

- 4.40 The current policy also prevents Euro 5 or lower vehicles which are not already part of the City of Edinburgh licensed fleet from being tested and licensed. It is proposed that consideration should be given to extending the previously agreed amendment to the policy, thereby allowing Euro 5 vehicles from outwith the Edinburgh fleet for a period of six months to 1 April 2021.

Taxi and PHC Training

- 4.41 Training was due to start in Spring 2020, but this has not been possible due to lockdown and the requirement to physically distance.
- 4.42 The current training programme supports a three day course, comprising six theoretical and two practical units. It is designed to be classroom based, combining instructor led theory, group discussions and group practical activities.
- 4.43 Due to current physical distancing restrictions, a face-to-face classroom training delivery method will not be possible in the short to medium term. It is proposed that the rollout of training for existing drivers should be postponed and reviewed in April 2021.
- 4.44 Given the constraints created by the current economic situation, the need for an online solution and, in recognition that training for new taxi and PHC drivers should be a priority, it is proposed to deliver a 'Foundation' training programme. The training will be aimed solely at new taxi and PHC drivers to provide an interim 'post coronavirus' online solution. It will cover the core skills and knowledge required to enter the trade, with a focus on safety, quality of service, compliance with conditions and communication skills.
- 4.45 The foundation course will comprise four online modules:
- 4.45.1 The regulatory framework of the taxi and private hire industry;
 - 4.45.2 Vehicle Compliance, Conditions and Best Practice;
 - 4.45.3 Driver Compliance and Operational Best Practice; and
 - 4.45.4 Delivering Service Excellence.
- 4.46 A student's workbook designed to aid remote learning and a final assessment prior to the grant of a licence will be included.
- 4.47 The course:
- 4.47.1 Will be pitched at the right level for new drivers recognising differing levels of ability, IT skills and equipment;

- 4.47.2 Will comprise modules delivered as a live web broadcast conducted by a training 'Facilitator' supported by an administrator utilising online slides and students' interactive workbooks;
 - 4.47.3 Will set a 'minimum standard' for entry to the industry while also allowing communication skills to be tested;
 - 4.47.4 Will provide a solid foundation before progressing to the full City and Guilds accredited course;
 - 4.47.5 the Foundation course will replace the Edinburgh College course; and
 - 4.47.6 will be highly focussed on new drivers in order not to compromise the integrity of the full three day course, which all drivers will still be required to attend.
- 4.48 The cost of the foundation course would be £83.50, which would be borne by the applicant. All new applicants will have to attend the online course and pass the final assessment prior to a licence being granted. All taxi drivers will also have to pass a topographical assessment prior to the grant of a licence. The first grant of a taxi or PHC driver's licence is for one year, and prior to the renewal of the licence the applicants will have to complete and pass the three day course.

5. Next Steps

- 5.1 The Licensing Service will continue:
- 5.1.1 to work closely with the licensed trade to ensure understanding of the challenges faced;
 - 5.1.2 to progress with the ongoing activities outlined in this report; and
 - 5.1.3 to comply with all COVID-19 guidance and Council arrangements for the delivery of services.

6. Financial impact

- 6.1 The forecast loss of income from taxi and PHC licences (£429,000) will have to be absorbed by ringfenced reserves. However, the forecast loss of income relating to civic licensing (£311,000) continues to be an unfunded general fund budget pressure.
- 6.2 The taxi and PHC ringfenced reserve had been earmarked to support the cost of future development of the TEC. However, there is a real risk that the reserve could be depleted to the point it where is no longer a viable option to deliver the required investment in the short to medium term and other investment will be required to achieve this.

7. Stakeholder/Community Impact

- 7.1 The contents and recommendations neither contribute to, nor detract from, the delivery of the three Public Sector Equality Duties.
- 7.2 The contents and recommendations described in the 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

- 8.1 None.

9. Appendices

- 9.1 None.