

Regulatory Committee

9.30am, Monday, 27 June 2022

Licensing Service Update and Draft Regulatory Committee Work Programme

Executive/routine
Wards
Council Commitments

1. Recommendations

- 1.1 Regulatory Committee is asked to:
 - 1.1.1 Note the update on the workload of the Licensing Service;
 - 1.1.2 Note the current issues and agree the proposed work programme for Committee, as outlined in Appendix 1;
 - 1.1.3 Confirm the format and frequency of updates on the Licensing Service workload; and
 - 1.1.4 Agree the proposed training programme for Committee members.

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Licensing Service Update and Draft Regulatory Committee Work Programme

2 Executive Summary

- 2.1 This report sets out a proposed future work programme to assist the Regulatory Committee in consideration of its priorities following the local government elections. The proposed work programme includes both existing work streams and additional issues which officers have identified.
- 2.2 The report also provides an update on the challenges the Licensing Service continues to face as a result of the COVID-19 pandemic, and the steps being taken to address these.

3 Background

- 3.1 The Council acts as Licensing Authority as required by a number of Acts, the two most important being the Civic Government (Scotland) Act 1982 ('the 1982 Act') and the Housing (Scotland) Act 2006 ('the 2006 Act').
- 3.2 The Air Weapons and Licensing (Scotland) Act 2005 introduced changes to the 1982 Act, which may impact on Committee workload in future.
- 3.3 Furthermore, as a result of legislation introduced by the Scottish Government, the Council will be required to introduce a new mandatory licensing scheme for short term lets (STL) later this year.
- 3.4 In line with official guidance from the UK and Scottish Governments, all Council services implemented changes due to the lockdown measures introduced on 23 March 2020. At that time, all Regulatory and Licensing Sub-Committee and Licensing Board meetings were suspended.

4 Main report

Licensing Service Workload

- 4.1 The Licensing Service continued to provide essential services throughout the COVID-19 pandemic, but this has not been without challenges. Significant

investment was required to provide mobile devices such as laptops, mobile phones and iPads, which were necessary to support staff working from home for the extended period.

- 4.2 Whilst staff adapted well to working remotely, the approach presented a series of challenges such as:
 - 4.2.1 The volume of applications remained high throughout the pandemic, with applications in anticipation of potential lifting of restrictions leading to increased demand for support from licensing customers. This peaked at 800 customer communications (via email and telephone) per day, with customers seeking reassurance or advice on the impact of the public health restrictions. More recently the volume has dropped to an average of 200 contacts per day.
 - 4.2.2 Whilst remote working was possible using mobile technology, the licensing process itself had to be manually managed for each individual application. The service was, in effect, receiving thousands of applications by email with images attached as single pages, whereas previously this would have been a scanned complete application. Timescales were therefore extended by up to 10 times of pre-pandemic levels.
 - 4.2.3 Internal communication with licensing consultees internal and external to the Council, was limited by the ability of other teams also working remotely and with other service demands and priorities.
 - 4.2.4 The Customer Hub would normally have accepted customer payments and applications but was closed until February 2022. A work-around for online payment had to be created.
- 4.3 The Licensing Service has also been required to carry out significant additional work such as the administration of Scottish Government grant funds to the taxi and private hire car (PHC) trade. Between Summer 2021 and Spring 2022, the service administered the grant schemes, with over 13,000 payments worth over £16m made to the trade.
- 4.4 The service has also been carrying out property inspections and disclosure checks on potential hosts as part of the 'Homes for Ukraine' scheme. The Council has currently received 1,080 offers of accommodation and, at the time of writing, officers have carried out approximately 400 property inspections. It is possible that a further 1,200 properties will require inspection and associated disclosure checks.
- 4.5 Lastly, although outwith the remit of this Committee, the service has been responsible for processing a significant number of occasional licence applications and outdoor area permit applications, which have helped businesses to make the most of outdoor spaces as lockdown measures have eased. These were essential to allow hospitality businesses to safely reopen after the lockdown periods and to continue to trade during the period when capacity was restricted in many venues.

- 4.6 The issues above created a backlog of 12,000 applications. Fully in line with the corporate approach in February 2022, staff began a hybrid work model of three days per week working in the office and two days working from home. The backlog has since reduced to 7,946 applications (at the time of writing). The service would normally be working on 20-25% of its annual applications at any one time, which would be between 4,000 and 6,000 applications. It is hoped to return to these pre-pandemic levels by the end of September. This timescale takes account of the large upturn of demand due to the temporary licensing requirements involved in delivering licensing of all summer events and the festivals. Updates will be provided to Committee, and it would be helpful if Committee could indicate a preferred format and frequency.
- 4.7 Plans are continually being reviewed to address issues arising from current circumstances and backlog. New applications will continue to be prioritised in order to ensure that applicants do not experience unnecessary delays which would prevent trading. Those who have submitted renewal applications can continue to trade whilst these are processed and, while this does not disadvantage licence holders in terms of trading, it is recognised that processing delays as a result of the challenges faced will cause inconvenience to some licence holders.
- 4.8 Work continues on the upgrade to the current 'Civica APP' information management system to 'Civica Cx'. This system, which will be introduced incrementally, requires significant investment but in the longer term will provide significant efficiencies for the service and will improve the customer experience. The system will also make it less likely that application backlogs will be created in future. The service is due to commence integration of the new system in October 2022.

Committee Work Programme

- 4.9 A draft work programme for Committee has been prepared to consider and this is attached in Appendix 1. The items in the draft work programme are principally work which commenced during the previous term of the Council or items of business that would normally be dealt with by a committee to address statutory or legal requirements. The most immediate of these issues are set out in more detail below.

Short Term Lets Licensing Scheme

- 4.10 On 1 March 2022, the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 ('the 2022 Order') was enacted to introduce new powers for local authorities to regulate short term lets of accommodation (STL) by the introduction of a mandatory licensing scheme. The scheme includes a mandatory safety requirement that will cover every type of STL to ensure a safe, quality experience for visitors. It will also include a 'fit and proper' test to assess whether the applicant is suitable to hold such a licence, as with all other types of licensable activities under the 1982 Act. The Council also has the discretion to apply further appropriate conditions to address any localised concerns.
- 4.11 The 2022 Order sets out a timetable for the implementation of the licensing scheme, which will be incremental to give hosts and operators time to comply. The timeline

for local authorities to open a licensing scheme for short term lets to applications is as follows:

4.11.1 October 2022 – Licensing scheme opens to applications;

4.11.2 By 1 April 2023 – Existing hosts or operators must have made an application to the Council, and if they have done so they can continue to operate whilst their application is processed and determined. New entrants to the market will be required to have a licence application granted before being able to operate; and

4.11.3 1 July 2024 – All STLs to be licensed.

4.12 The implementation of any discretionary powers or conditions requires the Council to carry out a statutory consultation on whether or not to adopt further powers and their scope. On [31 March 2022](#), Regulatory Committee approved a two-stage consultation exercise, with each stage lasting eight weeks. At the time of writing, 1,079 responses to the initial consultation have been received. Issues such as noise, anti-social behaviour, impact on housing and the benefits of tourism to the city have been highlighted.

4.13 Following consideration of the results from the initial consultation, a draft statement of licensing policy and licence conditions framework will be developed. A second consultation will ask for views on the draft policy and conditions, with the results being presented to Committee for consideration.

Sexual Entertainment Venues licensing

4.14 On [31 March 2022](#), Regulatory Committee agreed to introduce a licensing scheme for Sexual Entertainment Venues (SEVs) by making a resolution in terms of section 45B of the 1982 Act. The scheme will come into effect from 1 April 2023.

4.15 Ahead of the licensing scheme coming into force, officers will bring forward a further report, which will set out a proposed fee structure for SEVs to ensure that all licensing costs are fully recovered. The Licensing Sub-Committee may be required to deal with applications for these licences during 2023.

Houses in Multiple Occupation (HMO)

4.16 Committee had previously agreed that officers should carry out a review of existing HMO licence application fees to ascertain whether any changes are required to reflect the current cost to the Council of dealing with an application. A report on this will be submitted later this year.

4.17 The City of Edinburgh Council agreed a motion with respect to elements of HMO licensing – to consider where standards applying to landlords could be raised and best practice amongst letting agents could be encouraged. Committee agreed that officers would consult on whether the HMO standard conditions should be amended to require licence holders, and agents acting on their behalf, to provide adjoining properties with emergency contact details annually. In addition to this work, a best practice guide for licence holders and agents is being developed, which will be presented to the Committee for consideration.

- 4.18 Additionally work has commenced to explore whether a training programme would assist in addressing some of the issues raised by residents and help to drive up standards in the sector. This could be similar to the mandatory training programme which is currently in place for licensed taxi and private hire drivers, and a report on this work will also be brought forward in due course.

Street Trading

- 4.19 Prior to the COVID-19 pandemic, several city centre locations had been redeveloped to improve the quality of their public spaces. This has led to competing demands for the use of public space, with a consequential increase in the volume of licence applications for street trading. Areas particularly affected by this increased demand and lack of available space include Castle Street, High Street, Hunter Square and Grassmarket.
- 4.20 Public realm space continues to attract significant demand from street traders, market operators, parades and processions and event organisers. In particular, the demand for street trading space in the city centre is currently greater than the spaces available. Furthermore, there have been historic concerns in areas such as the High Street and Playfair Steps. Officers will work with Committee to shape how work in this area will be taken forward.

Committee training

- 4.21 In order to assist committee members with their consideration of licensing policy and applications, it is proposed that an extensive programme of training will be provided. It is proposed that the training will cover the following key areas of licensing:
- 4.21.1 HMO and STLs;
 - 4.21.2 Civic and temporary licensing including an awareness of other regulatory regimes such as liquor licensing/planning; STLs
 - 4.21.3 SEVs; and
 - 4.21.4 Taxi and Private Hire Car vehicle and driver licensing.
- 4.22 It is also planned that colleagues from Legal Services will provide a session which has an overview of legal cases in which the Council has recently been involved. This is intended to inform future decisions that Committee may have to make in relation to individual licence applications and wider policy.
- 4.23 Lastly, arrangements will be made so that members will have the opportunity to visit the Taxi Examination Centre at Murrayburn, where all taxi and private hire vehicles are inspected. There will also be the opportunity to attend HMO property inspections alongside officers from the Licensing Service, in addition to accompanying enforcement officers on visits to licensed premises.

5 Next Steps

- 5.1 Officers will bring forward reports as required and in consultation with the Committee based on the agreed work programme.
- 5.2 If Committee approve the proposed programme of training, officers will begin implementation of this.

6 Financial impact

- 6.1 Fees received from all areas of licensing are the only source of income for the Licensing Service.
- 6.2 There is an outstanding remit to bring forward proposals for a fee structure specifically for STL and SEVs that will be reported to Committee for approval. There is a separate remit to report back on the HMO fee structure which will also be reported to Committee for approval.

7 Stakeholder/Community Impact

- 7.1 A public consultation is ongoing in relation to the development of a STLs licensing policy and conditions framework. Public consultations are also planned in respect of HMO conditions and street trading policy.

8 Background reading/external references

- 8.1 None.

9 Appendices

- 9.1 Appendix 1 – Proposed Strategic workplan for Regulatory Committee.

Appendix 1

Issue	Licensing Subject	Action
Taxi Examination Centre	Taxi/PHC Licensing	Relocation of centre and staff from Murrayburn To create a multi-functional service delivering processing, guidance, inspection, enforcement and complaints handling
ICT systems	Introduction of Cx	Introduction of automated ICT system for applications and mobile working for inspection and enforcement
Taxi Unmet Demand/Overprovision of taxi/PHC	Taxi/PHC Licensing	Report to Regulatory Committee following Motion at Full Council. Jacobs consultation exercise underway
Licensed Driver Training Programme	Taxi/PHC Licensing	Rollout of training requirement for existing licensed drivers.
Taxi Fare Review	Taxi/PHC Licensing	Carry out statutory review of taxi fare scales by May 2023
Taxi Stances	Taxi/PHC Licensing	Joint report to Transport and Environment Committee and Regulatory. Roads Service has started consultation exercise being run by Jacobs
Age and Emissions	Taxi/PHC Licensing	Annual update on policy implementation and update on impact of LEZ on the licensed fleet
Short Term Let Licensing Scheme	Civic	Agree policy and conditions for new licensing scheme and implementation from 1 October 2022 Agree fee structure for licence applications
Street Trading	Civic	Regulatory Committee paused review of arrangements in the High St and Hunters Sq. Review of arrangement which were formerly in place for Playfair Steps.
Houses in Multiple Occupation (HMO)	HMO	Review of two licence conditions and consulting on a code of conduct for landlords. Consider if there are further measures such as training which would improve standards in the sector/ Review of existing fee structure and criteria for granting a three year licence.
Sexual Entertainment Venues	Civic	Agree fee structure to apply to applications received from 1 April 2023