

A Summary of the LGA Advice Note (9.4.20) to Licensing Authorities as relevant to Alcohol, Entertainment and Late Night Refreshment Licensing

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The Local Government Association has today, 9 April 2020, issued an [advice note](#) to local authorities entitled “*Approaches to managing licensing and related issues during the COVID-19 pandemic*”. The note covers a wide spectrum of local authority licensing, including alcohol, entertainment and late night refreshment under the Licensing Act 2003 (LA 2003), taxis, gambling, animal establishments and scrap metal. This summary focuses on the advice most relevant to Licensing Act 2003 applications and licences. The principal points to note are as follow:

- 1) The broad governmental steer is to encourage councils to take a **pragmatic approach** where there is discretion to do so.
- 2) Where possible, **prioritising requests, applications or hearings** that are business critical in terms of the COVID-19 response and potentially deferring those which may not need an urgent response if there are valid reasons why they cannot feasibly go ahead. Each case should be considered on its own merits in discussion with applicants and notes taken outlining the justification for why a decision was reached.
- 3) Whilst all councils will want to **support local businesses** as much as possible, not least to preserve employment and the local economy, there may nevertheless be **challenges** to meeting some requests.
- 4) Councils should consider how to respond to **non-payment or late payment of an annual premises licence fee**. Whilst legislation requires licences to be suspended

(LA 2003) it is **possible to delay when that suspension takes effect**. The Home Office has encouraged councils to consider this approach.

- 5) Some councils have suggested they will not be actively chasing annual fees that have not been paid. A related approach that has been used is to offer LA 2003 licence holders the option to **defer their annual licence fee payment** for six months. Although fee due dates will remain unchanged and original invoices issued, no reminders will be sent.
- 6) Outstanding fees could be sought at the point at which licensed businesses become operational again.
- 7) Where licences come up for renewal during the COVID-19 outbreak, deferring payment of fees could be considered to support businesses.
- 8) The **Institute of Licensing's Protocol** for Licence Applications and Hearings is expressly referred to as being of assistance to licensing authorities processing and determining applications.
- 9) The LGA has set up an online **Remote Council Meetings Hub** in order to pool information.
- 10) Under the LA 2003, **applications that are submitted in full will need to be considered**. However, this does not stop councils from having a conversation with applicants about the best way forward given the extraordinary circumstances.
- 11) Councils have had requests from businesses for changes to operating hours or activities during the COVID-19 outbreak via **minor variations**. Each application should be considered on a case by case basis, applying the usual minor variation considerations in each case.
- 12) For businesses that do not already have **off sales** on their licences, there is some debate as to whether this can be added through a minor variation or not. One view is that the legislation and section 182 guidance may require this to be treated as a full

variation; however, many authorities have considered it appropriate in the circumstances to permit the addition to the licence via a time-limited minor variation.

13) Under LA 2003, licensing authorities are required to prepare and consult on a **statement of licensing policy** (SLP), setting out their strategic approach to local licensing, every five years. A number of councils' policies are due to be reviewed this year to ensure they comply with the five-year cycle. Councils may want to consider with members whether it would be pragmatic to delay their consultations given the current challenges in effectively engaging with the local trade and residents. The LGA has flagged to the Home Office that this should be acceptable, assuming work is progressed once some level of normality has returned.

14) **Enforcement** activity may look quite different during the COVID-19 emergency response. Businesses may be operating under licences with conditions that are difficult to comply with and many have proactively contacted councils to make them aware that they may be breaching conditions. While councils will, as ever, need to look at each case on its own merits and weigh up the impact of potential breaches on the licensing objectives, there is a **need for flexibility** when there may be good reasons why businesses cannot meet their conditions.

15) A considered and **pragmatic approach** should be taken to breaches of licence **conditions** and **procedural defects** caused by the COVID-19 pandemic, particularly where these breaches or defects do not have a significant adverse impact on the licensing objectives. Licence holders must rectify any breaches as soon as reasonably practicable.

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9 April 2020