

TITLE	Return Of Licensing Functions From Public Protection Partnership
FOR CONSIDERATION BY	Licensing and Appeals Committee on 2 March 2022
WARD	None Specific;
LEAD OFFICER	Director, Place and Growth - Steve Moore

OUTCOME / BENEFITS TO THE COMMUNITY Providing licensing functions in house offers a more localised service.
RECOMMENDATION The Committee to NOTE the update as to the repatriation of capacity, roles and procedures for licensing functions back to the Council.
SUMMARY OF REPORT Outlines the remit of the Licensing and Appeals Committee and Sub-Committee in the context of the licensing service being brought back in-house and to consider the implications of returning licensing from the Public Protection Partnership.

Background

Each licensing authority must establish a licensing committee consisting of between 10 and 15 members of the authority to discharge its licensing functions under Licensing Act 2003. In Wokingham the Licensing and Appeals Committee carries out functions relating to licensing and registration.

A licensing committee must make licensing decisions when required but it may make arrangements for those decisions to be made by a sub-committee consisting of three members of the committee. In Wokingham the Licensing and Appeals Hearings Sub Committee deals with appeals against licensing decisions and registration issues such as street trading and taxi licences.

The duties and responsibilities of a licensing authority are to carry out its functions under Licensing Act 2003 with a view to promoting the licensing objectives namely:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

For each five-year period a licensing authority must determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy before the beginning of the period. It must also have regard to any guidance issued by the Secretary of State (the current revised guidance was issued in March 2015).

Wokingham's current Statement of Licensing Policy is dated September 2018 so is due for review before September 2023. It includes an appendix listing the functions which are delegated to the Licensing Sub-Committee and those which are delegated to officers.

Hearing procedure

Licensing hearings must commence within the timescales prescribed. For example, a hearing to determine an application for a new premises licence must commence within 20 working days after end of the period during which representations can be made in relation to the application.

The licensing authority must give notice of the hearing to the relevant persons and within the timescales prescribed in the regulations.

A licensing hearing takes the form of a discussion and cross examination will only be permitted if the committee considers that cross examination is necessary. The hearing should focus on the steps considered appropriate to promote the particular licensing objective which has given rise to the specific representation. Any information not relevant to a party's case and the promotion of the licensing objectives must be disregarded. For example, planning and highways issues which are not relevant to the licensing objectives must be disregarded.

A licensing authority can reduce the risk of a successful challenge against a licensing decision by:

- setting realistic time scales and giving a fair opportunity for each party to present their case
- conducting a fair hearing which treats all parties equally and fairly
- avoids giving the appearance of pre-determination or not being impartial
- not making a public comment before all the evidence is heard dealing with a licensing hearing impartially
- making decisions which are evidence based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve
- giving full and clear reasons for their decision

Wokingham's Licensing Service

The staff complement will be

- 1 Licensing and Processing Service Manager, reporting to the Head of Enforcement and Safety
- 2 Licensing Officers
- 2 Licensing Processing Officers (3 staff covering 2 full time equivalent posts)

The team will be supported by 3 Customer Services Officers who will receive and deal with routine enquiries. On-line payments will be made possible through the council's website or payments can be made by telephone for smaller amounts (ie less than £100). For larger amounts invoices will be sent, as this has the benefit of registering the payment in the council's income system so that non-payment can be tracked and chased up. It is planned in due course that licence applications can be completed on-line, but this can only happen after a new software database has been procured, primarily because there are a large number of different types of licences and application forms which would be prohibitively costly to convert into online forms before new software is procured.

Analysis of Issues

Arrangements are in place to transition the functions during March 2022 from PPP to Wokingham, to ensure a smooth handover on 1 April. Current licence holders will be informed of the change, and there will be new pages on Wokingham Council's website with information how to apply for a licence and make payments. The service's email address will remain unchanged.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe funding pressures, particularly in the face of the COVID-19 crisis. It is therefore imperative that Council resources are focused on the vulnerable and on its highest priorities.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)			
Next Financial Year (Year 2)			
Following Financial Year (Year 3)			

Other financial information relevant to the Recommendation/Decision

There are no specific financial implications for the Council arising from this report. The costs of transferring licensing functions from PPP to Wokingham Council are the subject of separate decision making and associated reports.

Cross-Council Implications

Licensed activities make an important contribution to the economy of the Borough. By regulating activities under this legislation it acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. These often conflicting positions must be evaluated and all views will be taken into account when making licensing decisions or determining a course of action.

Public Sector Equality Duty

Please confirm that due regard to the Public Sector Equality Duty has been taken and if an equalities assessment has been completed or explain why an equalities assessment is not required.

There is no specific recommendation or policy change in this report, so an equalities assessment is not required, but the Public Sector Equality Duty is fundamental to decisions made in relation to the council's functions under Licensing Act 2003.

Climate Emergency – *This Council has declared a climate emergency and is committed to playing as full a role as possible – leading by example as well as by exhortation – in achieving a carbon neutral Wokingham Borough by 2030*

Please state clearly what the impact of the decision being made would be on the Council's carbon neutral objective.

There are no implications for the carbon neutral objective in the report.

List of Background Papers

Statement of Licensing Policy dated September 2018

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