

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 27

Brighton & Hove City Council

Subject: Covid19 Update – Licensing and hospitality sector

Date of Meeting: 4th March 2021

Report of: Interim Executive Director of Housing,
Neighbourhoods & Communities

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Wards Affected: All

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report has been requested by Members and is to provide an update on the report taken to the November Licensing Committee 2020 on the effects on Licensing, both the trade and the service, from the impact of Covid19 and the subsequent restrictions brought in to limit the transmission of the virus.

2. RECOMMENDATIONS:

- 2.1 That Members note the contents of this report and that officers should continue to take action as appropriate.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Key Dates:

- 23rd March 2020 - National Lockdown 1.0 (all shops and licensed premises closed, with exceptions). The Health Protection (Coronavirus, restrictions) Regulations 2020.
- 4th July – re-opening of hospitality sector together with local lockdown restrictions
- 9th July - Working safely during coronavirus (COVID-19), published by the Department for Business, Energy and Industrial Strategy (“BEIS”) (“the Working Safely Guidance”) in updated form on 9 July 2020, which is made up of 12 sub-guides for different types of work
- 21st July – Business and Planning Act 2020 - easing and of pavement licensing and allowing limited off sales on a time-limited (Sept 21 – extended to March 2022) basis.
- 14th September 2020 - Rule of Six, table service & face coverings mandatory
- 18th September 2020 - Mandatory Test and Trace
- 28th September – New restrictions on singing and dancing in premises (stop singing in groups of more than 6, dancing and restriction of music noise levels)
- 12th October - Three-tier system of restrictions Regulations

- 5th November – 2nd December 2020 – National Lockdown 2.0: The Health Protection (Coronavirus, Restrictions) (England)(No. 4) Regulations 2020 “No.4 Regulations - replacing Medium, High and Very High Regulations
- The Health Protection (Coronavirus Regs) (All Tiers) Regs 2020, adding Tier 4 – 26 December 2020
- National lockdown 3.0 – 6th January 2021: The Health Protection (Coronavirus Regs) (All Tiers) Regs 2020

4. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 4.1 The government has laid over 287 Coronavirus-related Statutory Instruments (SIs) before the UK Parliament during this pandemic. The first two Coronavirus-related SIs were laid on 28 January and 10 February 2020, respectively. The rest have been laid since 6 March, at an average rate since then of eight per week. Guidance can often be out of sync with regulations and this shows how fast-moving the legal landscape is.
- 4.2 On the 24th March 2020 the country went into lockdown that saw all non-essential businesses, forced to close with the introduction of The Health Protection (Coronavirus, restrictions) Regulations 2020.
- 4.3 Officers from Regulatory Services, in particular, Trading Standards, Licensing and Environmental Health have been enforcing the new legislation, dealing with over 1000 Covid related enquiries and complaints during the various lockdown periods and subsequent easing of restrictions and re-opening phases.
A summary of the enforcement action and types of complaints and enquiries is detailed in Appendix A.
- 4.4 From the 4th July we then had a period of moving cautiously out of lockdown, with only really nightclubs/sex entertainment venues remaining closed, albeit businesses particularly the hospitality sector were presented with immediate and exceptional challenges in adopting measures to restrict the transmission of the virus which means a significant reduction in capacities and an increase in overheads.
- 4.5 However, we saw a rapid rise in infections during October leading to increased hospital admissions and deaths, most notably in certain areas of the country. This led to further restrictions and new regulations introducing a 3-tier system introduced on the 14th October 2020 followed by a second national lockdown “lockdown 2.0” which started on the 5th November and ended on the 2nd December. From 2nd December we entered Tier 2 and then, as we again saw a rapid rise in infection rates (due in part to a new strain of the virus), we went into Tier 4 on 26th December 2020 before going into a national lockdown on the 6th January 2021.
- 4.6 Regulatory services, particularly Environmental Health and Licensing, have been working alongside Public Health and the Police to both support

and police the regulations and guidance, as well as assist with the local outbreak plan in tracing and following up reports of positive testing.

- 4.7 Local authority licensing is a statutory function, its purpose rooted in public safety, requiring the local authority to fulfil a statutory process which then enshrines the licensing function within its remit and responsibilities.
- 4.8 So despite the lockdown, the licensing authority have continued to function, conducting virtual remote hearings and continuing its statutory duties of processing applications and ensuring compliance with not only licensing legislation but the new regulations brought in to minimise the transmission of the virus.
- 4.9 The vast majority of premises have been compliant and are keen to comply with both the guidance and the regulations. We've seen many premises have to re-think their traditional mode of operation, moving from to a greatly reduced capacity, table service operation, and as such we are receiving a lot of variations to amend hours and conditions. The 3rd lockdown has meant that the hospitality sector has had to largely close, except for "essential" businesses such as off licences and takeaways.
- 4.10 Coronavirus and the subsequent restrictions have not only affected licensed premises but have had a devastating effect on the Outdoor Events Industry in 2020, with research (undertaken by the Events Industry Forum) showing that, since March, 99% of business activity nationally ceased with events not taking place. This is particularly true for Brighton & Hove where outdoor events play a major role in the city as a leisure destination and therefore contribute significantly to the economic impact that tourism brings to the city, as well as raising substantial funding for charity organisations.
- 4.11 Many businesses have survived this period on a combination of loans, furloughing and redundancies. The Discretionary Fund, partially targeted at Events and Creative Industries here in Brighton and Hove, was massively appreciated by numerous local individuals and companies reliant on the Events Industry. However, many are now fearful of what a fallow winter and a potential delayed start to the 2021 season may bring with many events requesting their events be push back to autumn 2021.
- 4.12 Working alongside Comms, the council's covid website has been continually updated with the latest advice and guidance. In addition, Regulatory Services have sent out weekly, sometimes daily, messaging to all food and licensed businesses on the latest requirements and guidance.

5. ENFORCEMENT

- 5.1 The advice from Government and one we have adopted is to take a supportive approach, not seeking enforcement action, but in the first instance supporting and advising businesses with a staged approach to enforcement. However, where there is a flagrant breach of regulations after support has been given we will take enforcement action and this could include fixed penalty notices and prohibition notices.
- 5.2 There are also a number of existing powers that can be used. All businesses must operate subject to a Covid-19 risk assessment and in accordance with detailed government guidance and regulations. Action, including closure, prohibition, improvement and warning notices, as well as fixed penalty notices can be used under existing and recently introduced legislation.
- 5.3 In addition, the local authority can make a “Direction”, having regard to advice from the Director of Public Health, responding to a “serious & imminent threat to public health”. The “direction” is “necessary for the purpose of preventing, protecting against, controlling or providing a public health response to the incidents or spread of infection by Coronavirus in the Local Authority’s area”; and “the prohibitions, requirements or restrictions” which are imposed by the “Direction” are a proportionate means of achieving that purpose.
- 5.4 In July council officers resumed inspections with the re-opening of the hospitality sector and, in addition, have been carrying out weekly joint inspections with police licensing. The licensing team is working particularly closely with our colleagues in police licensing during this time – sharing intelligence, advice and interpretation of the new regulations and guidance, issuing joint statements to the trade and collating information on actions taken. During the subsequent two further lockdowns, we have scaled down on routine visits in line with government guidance but have continued to work closely with the police and carry out visits on a risk basis.
- 5.5 Officers have adapted well to interpreting, giving advice and enforcing the plethora of covid regulations and guidance that has been introduced, often changing on a weekly basis. A considerable skill base has been built up within Regulatory Services and we have also seen the introduction of Covid Information Officers (CIOs) and Covid Marshalls (CMs) since December 2020. The CIOs have been operating during the day and are visiting and giving advice and support to businesses. They are also being tasked by officers to follow and investigate complaints, reporting back to officers with their findings. The covid marshalls were initially engaged to work with the police to help manage the night-time economy and to engage with the public to ensure that they were socially distancing especially when leaving premises at the 10pm curfew. As we went into lockdown and these premises have closed we have redeployed them to work during the daytime on Saturday and Sunday again to engage with the public to ensure social distancing in areas of the city that see a lot of people out and about, such as the seafront.
- 5.6 Regulatory Services managers and senior officers are in daily and weekly briefings with Public Health, Safety Advisory Group and Legal, as well as attending key council and multi-agency groups around recovery and controlling the transmission of the virus.

6. COMMUNITY ENGAGEMENT AND CONSULTATION

6.1. None.

7. FINANCIAL & OTHER IMPLICATIONS:

7.1. This report is for information purposes only, so there are no financial implications.

Finance Officer Consulted: Michael Bentley

Date: 26.01.21

Legal Implications:

7.2 There are no direct legal implications.

Lawyer Consulted: Rebecca Sidell

Date: 22.01.21

Equalities Implications:

7.3 Licensing authorities must ensure that a safe hackney carriage and private hire service is freely available to meet the demand across all sectors of the public, especially those vulnerable groups to whom a taxi or private hire vehicle is often the only means of completing a journey.

Sustainability Implications:

7.4 None.

Crime & Disorder Implications:

7.5 Contained in the body of the report.

8. EVALUATION OF ANY ALTERNATIVE OPTION(S):

8.1. None – for information only.

8. REASONS FOR REPORT RECOMMENDATIONS

8.1. For information only.

Appendix A: Covid Summary Enforcement Briefing Document –

