

	<p>London Borough of Hammersmith & Fulham</p> <p>COVID 19 LICENSING SERVICE UPDATE</p>
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1. SUMMARY

Covid-19 has created an unprecedented challenge for the Licensing Service. We have needed to reassess all of our processes so we can continue to provide our statutory duties whilst providing increased levels of enforcement activity to a level not seen before. One of our new service priorities has been to proactively help businesses navigate new legislation in order to help them survive.

The purpose of this report is to provide an update on how the team has transitioned since March 2020 and how the team has led on enforcement actions throughout the Covid-19 pandemic.

2. ADMINISTRATION TEAM

When lockdown occurred in March 2020 all officers in the Licensing Service were requested to work from home with immediate effect, with only one person visiting the office occasionally to bank cheques and check for post.

Fortunately, all licence application forms were available online prior to the pandemic, however new processes still needed to be implemented, mainly in relation to how officers verified documents, receive payments and issue licences. Additionally, there was an uneasy transition from working in an office environment, with all the necessary equipment, to a purely online system, virtually overnight.

Over the last nine months we have adapted our processes and created new procedures for administration, enforcement and finance management. Second screens and additional equipment have been provided where necessary and our systems are now working effectively carrying out an almost purely digital service.

The only service which is not yet fully digital is issuing personal card licences to personal licence holders - this requires a specific printer located in the office. We still issue a personal licence certificate to applicants once a licence is granted. To date we have approximately 80 outstanding cards to issue. This backlog has started to be addressed now a member of the administration team has returned to the office.

Since March 2020 we still receive a small percentage of paper applications and cheques which are scanned by the officer who attends the office, however where possible we always promote our online services.

Table 1 below is a comparison of the number of applications received since March 2020 to November 2020 compared to the same period the year before.

Table 1:	No. of applications received	
	1 March 2019-1 November 2019	1 March 2020-1 November 2020
Licensing Act 2003 applications & notifications	1091	439

Whilst we have seen a drop in overall application numbers the biggest drop was during the first lock down period. Applications have been increasing over the last few months. Although applications initially reduced, we also found a steep rise in advice and application queries where businesses wanted to diversify their operation as a result of the lockdown.

3. OUR RESPONSE TO LICENSED PREMISES

The service has tried to be imaginative in how we assist businesses throughout the pandemic. With government legislation and guidance changing continuously, our advice and guidance to businesses has also been constantly reassessed. The points below outline some of the measures implemented by the service:

- Provided a free pre application service for up to one hour. This advice helped licence holders add activities to their licences which were not prohibited (such as off sales) and / or remove conditions which were affecting the way they were trading – such as a requirement to have door supervisors every evening they were open.
- Paused providing our new licence application checking service - so we could provide free advice to applicants on how to apply for a licence or registration electronically.
- In line with Local Government Association guidance, and a letter from Kit Malthouse MP sent to all local authorities at the beginning of April 2020, we considered requests for additional time to pay annual fees on a case by case basis. Additionally, the team are now promoting a payment plan option for businesses so they can still trade and pay for their annual fee in monthly instalments.

- Permitted a simplified application process (minor variation) to allow off sales to be added to a licence. However, this amendment was time limited to only be in effect whilst the Coronavirus legislation was in place. Minor variations cost £89, as opposed to approximately £800 (for a full variation, with advertising costs) as a result this decision gave smaller businesses a cost-effective solution when looking to adapt their licences so they could trade lawfully.
- Officers have been actively involved in the outside space project to promote the use of any outside local space for trading. Officers have worked closely with teams across the Council to implement this project quickly and efficiently. Officers then worked closely with the Highways Team to implement the application process on the Licensing database platform allowing public consultation on pavement licences via the Councils Website.
- Our enforcement team are taking a pragmatic approach to the enforcement of licensed premises conditions unless the breach is in relation to Covid 19 non-compliance or could cause harm to public health or safety.
- Providing regular updates to our licensed premises on the changes in legislation and government guidance. This has included, information on risk assessments, how to operate in a Covid secure way, providing information on advice, finance support and links to HSE guidance and Government guidance. As a result of the recent changes we are currently drafting another letter to include information on what is permitted and include information on H&F grants and schemes.

4. ENFORCEMENT TEAM

Enforcement activity has continued, and increased, throughout the Covid-19 pandemic and our strategy has continually altered depending on the measures and legislation introduced by central government. This has been particularly challenging due to the sheer number of legislative changes which have taken place with no prior warning.

4.1 Enforcement action – 23rd March 2020 – July 4th 2020 (First lockdown)

From the 23rd March 2020 until the 4th July 2020 during full lockdown our enforcement team were still working during the day and also out of hours to check for compliance. Enforcement activity was limited to observations and monitoring only. Officers would visit premises following intelligence and then travel around the borough to check for any premises which were breaking the lockdown rules.

Partnership working was key during this time to address any premises which were deemed not to be Covid secure. The licensing team implemented the following measures to ensure a collaborative approach across all regulatory services –

- Set up and managed a joint enforcement spreadsheet for all Regulatory Services teams to feed into. This was a huge success as by pooling our resources, we were able to visit large numbers of premises and officers could immediately see what actions, if any, had been taken against a particular premises.

- The licensing action group (LAG) was also extremely useful during this period as a central meeting point to discuss enforcement actions from all regulatory departments across the Council. The afore mentioned enforcement spreadsheet was also discussed at this meeting and many joint agency operations were arranged during these meetings.
- Enhanced working with the Police Licensing team who were met with virtually twice a week in order to share and discuss intelligence on non-covid compliant premises. On many occasions body worn footage from Police officers was viewed at these meetings so that the Police and Council could work on a coordinated enforcement response.

As the weather improved in late spring / early summer it became clear that one of the biggest problems was the number of pubs/ restaurants and supermarkets providing off sales. Large groups of customers would routinely congregate along the river frontage and this problem became worse as more businesses along the river began offering off sales. Groups of people also started to regularly congregate on Parson's Green and other green spaces around the borough. As pubs and restaurants were not, at this time, able to admit customers into their premises this caused a major problem with public urination and concerns over social distancing.

To try and address the public drinking and public urination problem we wrote to all premises providing off sales clearly outlining their legal responsibilities and also asking them to consider taking some extra steps. These additional steps included asking that any drinks were sold in a sealed container, so that customers were encouraged to take them home. We also asked these businesses to display controlled drinking zone and social distancing posters outside their premises. Unfortunately, this had a limited effect due to the sheer number of premises involved. The problem did not improve until the government's partial relaxation of the lockdown, when customers were permitted to use the toilets on licensed premises.

On the whole we found very high levels of compliance during the first lockdown and on the occasions when we did offer advice or guidance this was typically acted on immediately. We issued one prohibition notice to a premises for persistent Covid breaches during this period and we also instigated a licensing review against another premises which persistently breached the lockdown restrictions, details of these cases can be seen in Appendix 3.

4.1.2 Enforcement action - 4 July 2020 to 26 November 2020

The Licensing Service co-ordinated a multi-agency operation on the 4th July when premises reopened. Police licensing officers, Council licensing officers and Health and Safety officers visited over 60 premises in one day. The purpose of the visits was to try and quickly identify any premises which were taking little or no Covid-19 measures and to offer advice in the first instance. A high level of compliance was found during our first visits.

With the slow reopening of businesses after the 4th July, we did see a trend for premises expanding their operations to legitimately make more use of their outside spaces. This resulted in more complaints of noise and disturbances originating from outside areas - as can be seen from some of the high-profile enforcement cases in Appendix 3.

Complaints slowly continued to rise during this period and mainly concerned premises and customers not complying with Covid regulations and guidance. Each and every complaint concerning a licensed premises has been investigated by the team during this period. However due to the sheer number of complaints, and our limited resources, our service is operating on a completely reactive basis. All of the partnership working measures implemented during the first lockdown have continued and are now even more valuable with the continued rise in complaints and Covid cases across the borough.

More recently local authorities have been given the authority to issue Fixed penalty notices (FPNs), for Covid non-compliance. These have made our enforcement actions much easier as we are able to issue fines to gain compliance rather than being caught up in lengthy and costly legal proceedings - please see the Jack's case outlined in Appendix 3 for an example of this problem. Since these powers were introduced the licensing service has issued three FPN's totalling £3000. A further FPN is being considered for which we are currently waiting legal advice.

We currently have approximately 50 live cases/complaints which we are investigating. Further figures are provided below. We also have a number of complex complained about premises which are receiving continuous multi agency action. Please see Appendix 3 for full details of these cases.

Our strategy for when the second lockdown ends on the 2 December is to undertake visits to check for compliance and assist businesses where necessary. We will continue to be pragmatic with our enforcement powers recognising that many businesses are struggling during this incredibly difficult time. However, we will always look to take action where advice and guidance is continually ignored.

The table below details the number of Covid visits and current live cases the team are dealing with. This is in addition to the normal day to day work and general complaints regarding licensed premises which the service is still receiving.

Table 2.	Total Number
Number of visits, inspections, monitoring of businesses	403
Prohibition Notices	1
Fixed Penalty Notices issued	3
Current live cases being investigated/action required	50
Reviews submitted	1
Informal agreements	20