



City of Westminster Report

Decision Maker:	Licensing Committee
Date:	24 March 2021
Classification:	
Title:	Review of Licensing Fees following the implementation of further restrictions under the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020
Wards Affected:	All Wards
Key Decision:	To agree to waive fees and charges and reduce application fees for licensing regimes impacted by the national restrictions implemented by Government to combat the coronavirus pandemic.
Financial Summary:	The implementation of these recommendations would result in the reduction of £1.05million income for the Licensing Authority
Report of:	Alex Woodman Interim Director of Public Protection and Licensing

1. Executive Summary

- 1.1 The council manages many different licensing regimes under different pieces of legislation. Fees are charged for applications and most licences are required to renew annually and there are fees for this.
- 1.2 Since the beginning of the Coronavirus pandemic the Government has imposed national restrictions, under coronavirus legislation, which resulted in licensed businesses and individuals being unable to trade.
- 1.3 Many of these business and traders approached the council asking for fees and charges to be waived or reduced to support their businesses.

- 1.4 In June, a Licensing Urgency Committee agreed to waive fees and reduce Part B fees associated with other licence applications.
- 1.5 On 31 October 2020 the Government imposed further restrictions from November 5 to December 2 requiring all non-essential business and hospitality to close.
- 1.6 From midnight on 20 December 2020 all non-essential retail was required to close again, as London moved into Tier 4 of the Government's measures to combat the coronavirus pandemic. A new national lockdown was implemented on January 4 reiterating the need for non-essential retail and hospitality to remain closed.
- 1.7 The Government has announced its road map to lifting the current restrictions and in the earliest date that licensed premises and non-essential retail can resume is April 12.

2. Recommendations

- 2.1 That the Licensing Authority waives the full fees for non-essential market traders that are unable to trade during the restrictions in place in November 2020 and again in December 2020, January, February, March 2021 and up to April 12.
- 2.2 That the Licensing Authority reduces renewal fees and/or Part B fees, pro-rata, for businesses that are closed and not permitted to trade, during the restrictions in place in November 2020 and again in December 2020, January, February and March 2021 for the licensing regimes specified in paragraph 3.3 of this report where the Licensing Authority has the discretion to set the fees.
- 2.3 That the Licensing Authority be at liberty to waive fees for street traders of essential goods, should the government impose further restrictions restricting their trading.

3. Reasons for Decision

- 3.1 The majority of licensed premises are closed and for some licence types all activity has ceased, all non-essential street traders must not trade, and the council is keen to assist businesses in the borough during the Coronavirus outbreak.
- 3.2 This approach would be in keeping with the approach taken by the Licensing Urgency Committee in June.
- 3.3 Licence types where the venues have been required to closed, and must not trade at various times during the COVID-19 pandemic include:
 - Markets, Isolated Pitches and Exhibitions (Street Trading)
 - Massage & Special Treatment premises
 - Tables & Chairs
 - Sexual Entertainment Venues
 - Sex Shops
- 3.4 Licence types where some business continue to trade/operate include:

Those licenced under the Licensing Act Marriage Venues

- 3.5 Many licensing regimes require applications for renewal to be made before the expiry of the existing licence, and with the fee attached. Adoption of these approaches would help businesses renew their licence, ensuring they had a valid licence in place once the business can resume normal operations. It would also help businesses by waiving some of the cost, where appropriate, and deferring others until the business re-opened.
- 3.6 The Licensing Authority continues to be approached by businesses and those representing businesses such as solicitors seeking clarification from the council on our approach and this Decision will help provide clarity.

4. Background

- 4.1 The Licensing Committee has the authority to set fees for a number of licensing regimes including:

- Massage & Special Treatment Licences
- Tables & Chars Licences
- Sexual Entertainment Licences (SEVs)
- Sex Shop Licences
- Street Trading fees

Massage and Special Treatment Licences

- 4.2 Any premises wishing to provide special treatments as defined in Part II of the London Local Authorities Act 1991 must be licensed to do so. All premises licensed by the authority have a yearly licence from the date of original grant. Premises renew their licences each year before the expiry of the licence and pay a fee with the application.
- 4.3 The cost of a Special Treatment licence is split into two fees. Part A is the administration fee. Part B covers the monitoring and enforcement cost for the 12-month period.
- 4.4 The Licensing Authority recommends that upon renewal of the licence the administration fee (Part A) will be payable in full. The enforcement fee (Part B) will be calculated on a pro-rata basis with a reduction for the months the premises was not/or will not be able to trade.
- 4.5 All these venues are currently closed due to the restrictions.

Tables & Chairs Licences (T&Cs) under the Westminster Act 1999

- 4.6 In July 2020 the Government introduced the Business and Planning Act which created Pavement Licences to streamline, on a temporary basis, how premises can apply for a Pavement licence to authorise “furniture”, including tables and chairs in order to aide social distancing for the hospitality industry.
- 4.7 Notwithstanding that many premises have continued to apply for and renew existing T&Cs licences under the City of Westminster Act 1999.

- 4.8 However, due to the restrictions, premises have been unable to use their tables & chairs and have been asking for a refund, or pro-rata reduction in the fee.
- 4.9 A trend is beginning to develop which is seeing applicants move away from the business as usual scheme towards the cheaper Pavement Licence scheme and seeking a refund.
- 4.10 The Licensing Authority is seeking a pro-rata reduction in the fees for the period the premises was unable to trade in relation to any licences granted under the Westminster Act.

Sexual Entertainment Venues (SEV)

- 4.11 Sexual entertainment venues (SEVs) are a category of sex establishments that provide relevant entertainment. Anyone wishing to provide relevant entertainment in their premises must apply to the local authority to do so under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.
- 4.12 All premises have been closed for the purpose of relevant entertainment since April 2020.
- 4.13 The cost of a Sex Entertainment Venue licence is split into two fees. Part A is the administration fee. Part B covers the monitoring and enforcement costs for the 12-month period.
- 4.14 The Licensing Authority recommends that upon renewal of the licence the administration fee (Part A) will be payable in full. The monitoring and enforcement element of the fee (Part B) will be calculated on a pro-rata basis with a reduction for the months the premises was not able to trade.
- 4.15 These premises have not been able to trade since the beginning of the pandemic therefore this will have the effect of waiving the full Part B fee for the year.

Sex Shops

- 4.16 Anyone wishing to sell, hire, exchange, lend display or demonstrate sex articles or other things that are intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity needs to be licensed by the local authority under Schedule 2 of the Local Government (Miscellaneous Provisions) Act 1982.
- 4.17 All premises licensed by the Licensing Authority have a yearly licence from the date of original grant. Premises renew their licences each year before the expiry of the licence and pay a fee with the application.
- 4.18 The cost of a Sex Shop licence is split into two fees. Part A is the administration fee. Part B covers the monitoring and enforcement cost for the 12-month period.
- 4.19 The Licensing Authority recommends that upon renewal of the licence the administration fee (Part A) will be payable in full. The monitoring and enforcement fee (Part B) will be calculated on a pro-rata basis with a reduction for the months the premises was not able to trade.

Street Trading Licences

- 4.20 In November and again from December to March, all non-essential street traders were required to close due to the government restriction.
- 4.21 In line with the decision of the Licensed Urgency-Committee, in June, the proposal is to waive fee for these traders for the periods, the restrictions prohibited them from trading.
- 4.22 However, should further restrictions be imposed prohibiting all street trading, including essential traders, it may be necessary to waive all street trading fees for that period.

5. Equalities Implications

- 5.1 The council must have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.
- 5.2 Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 5.3 An Equalities Impact Assessment has been conducted and the council believes that these proposals do not adversely impact or unlawfully discriminate against any protected characteristics.

6.0 Financial Implications

6.1 The implementation of these recommendations would result in the reduction of £1,058,824 in the Licensing Authority income.

The table below show the impact of waiving or pro-rata reducing the various fees for the period that the licences may not be used. The calculations are based on no cancellations or loss of traders, and that all licenses are renewed.

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	*April	May	TOTAL
Markets	Trading	Trading	Trading	Trading	£31,311	£17,028	£46,068	£42,064	£31,311	£14,303	Trading	
ISP	Trading	Trading	Trading	Trading	£57,031	£22,090	£73,026	£63,410	£57,031	£25,109	Trading	
Exhibitions	Trading	Trading	Trading	Trading	£3,048	£762	£3,810	£3,048	£3,048	£1,524	Trading	
Street Trading (total)	Trading	Trading	Trading	Trading	£91,389	£39,880	£122,904	£108,522	£91,389	£40,936	Trading	£495,020
T&C	Trading	Trading	Trading	Trading	£53,812	£24,302	£53,812	£53,812	£53,812	£19,731	Trading	£259,281
MST (TOTAL)	£19,140	£19,328	£51,286	£30,858	£18,026	£23,046	£19,892	£15,986	£23,046	£10,402	£7,060	£238,070
SEVs	£0	£0	£20,763	£2,307	£9,228	£2,307	£4,614	£2,307	£0	£2,307	£0	£43,833
Sex Shops	£4,524	£0	£0	£2,262	£0	£0	£11,310	£2,262	£0	£0	£2,262	£22,620
											TOTAL	£1,058,824

* Non-essential retail closed until April 12

7. Legal Implications

The Power to Set (Waive/defer) Fees

- 7.1** In relation to the licensing regimes referred to in this report such as special treatment, and sexual entertainment venue applications, the Council does have the discretion to decide what fees to set in terms of the application fee and any renewal fees, as may be applicable. The Council therefore has the power to reduce or suspend the fees payable for such period as it considers appropriate during the lockdown period. Applicants would still need to submit their renewal applications on time to preserve the validity of their licence. This Licensing Authority is entitled to grant/renew licences for the periods and fees recommended in this report.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

BACKGROUND PAPERS

None