

INTERNAL AUDIT REPORT

FROM: Audit and Risk Manager
TO: Head of Community Protection
C.C. Chief Executive
Deputy Chief Executive (TP)
Head of Finance
Environmental Health and
Licensing Manager
Licensing Team Leader
Portfolio Holder (Cllr Falp)

SUBJECT: Licensing Services
DATE: 13 January 2022

1 Introduction

- 1.1 In accordance with the Audit Plan for 2021/22, an examination of the above subject area has recently been completed by Nathan Leng, Internal Auditor, and this report presents the findings and conclusions for information and, where appropriate, action.
- 1.2 Wherever possible, findings have been discussed with the staff involved in the procedures examined and their views are incorporated, where appropriate, into the report. My thanks are extended to all concerned for the help and cooperation received during the audit.

2 Background

- 2.1 The Licensing team is responsible for the administration and enforcement of a wide range of licences, permits, consents, and registrations. The Council has a number of statutory responsibilities in this area under various pieces of legislation, including (but not limited to) the Licensing Act (2003).

3 Objectives of the Audit and Coverage of Risks

- 3.1 The audit was undertaken to test the management and financial controls in place.
- 3.2 This was achieved through a 'risk-based audit' approach whereby key risks are identified and then processes are assessed to provide assurance that the risks are being managed effectively. This approach has been in place by WDC Internal Audit since the start of this financial year following an external review of the function.
- 3.3 In terms of scope, the audit covered the following risks:
- Service users bear excessive costs.
 - The costs of service provision are not met.
 - Statutory and regulatory requirements are not met.

- Licenses are awarded to businesses and individuals who are considered undesirable.
- Staff provide special dispensation to licensees they have connections with.
- Harm from public or licensees when conducting physical inspections.
- Harm from ineffective identification of a licensing standards breach.

3.4 These were drawn from a combination of risks identified in discussions with the Licensing Team Leader (LTL).

3.5 These risks, if realised, would be detrimental to the Council with regards to the meeting of the following corporate objectives as set out in the Fit for the Future Strategy:

- Health, Homes, Communities – Improved health for all, housing needs for all met and impressive cultural and sports activities.
- Green, Clean, Safe – Total carbon emissions within Warwick District are as close to zero as possible by 2030, Area has well looked after public spaces, improved air quality, low levels of crime and ASB.
- Infrastructure, Enterprise, Employment – Dynamic and diverse local economy, improved performance / productivity of the local economy, increased employment and income levels.
- Effective Staff – All staff are properly trained, all staff have the appropriate tools, all staff are engaged empowered and supported, the right people are in the right job with the right skills and right behaviours.
- Financial Footing over the Longer Term – Full cost accounting, continued cost management, seek the best value for money.

4 Findings

4.1 Recommendations from Previous Reports

4.1.1 The current position in respect of the recommendations from the audit report in 2017 was also reviewed. The current position is as follows:

Recommendation	Management Response	Current Status
1 Policy documents should be reviewed to ensure that they remain current.	Licensing Act 2003, Gambling Act 2005, Taxi Handbook and Street Trading Policies are all due to be formally reviewed in 2019. All other policies will be reviewed accordingly.	Policies are all at various stages of the formal review process.
2 Whilst physical income is still accepted, Reception and CST should be issued with reminders about the relevant coding of income.	Reception and CST have been issued with Fee Information for 2018 that includes the licence name, fee and cost centre it should be allocated against. Conversations have taken	Cash should no longer be an accepted payment method for licence fee income received via CST and reception. The new finance system Ci Anywhere includes a list of cost codes which

Recommendation	Management Response	Current Status
	place with Finance about improving the PARIS system, which is used for receipting income.	is thought to reduce the incidence of miscoding.

4.2 Financial Risks

4.2.1 Service users bear excessive costs.

Licence fees are the costs licensing applicants are charged. The licence fee rates are determined in one of two ways; either the fee rates for specific licensing costs are set externally by central Government or the Council calculates the fees.

The fees for licensing applications are submitted to the Council's Cabinet each year for approval within the annual Fees and Charges report. Specific fees are based on time-expenditure assessments which provide estimations for the time taken to administrate the application process. The estimated time-cost for administering an application is then used to calculate the amount of income based on the predicted number of applications over a period.

Payments can only be made online or via direct debit. The LTL advised that, occasionally, payments made via other methods are accepted by the Corporate Support Team (CST) but this is being phased out.

The issues identified in the previous audit around the correct coding of physical income are almost redundant considering the move away from cash payments. Furthermore, the new finance system 'Ci Anywhere' includes a list of cost-codes and the Assistant Accountant (AA) advised that this should reduce the occurrence of miscoding going forward.

The Environmental Health and Licensing Manager (EHLM) advised that further work needs to be undertaken on the new system so that any ring-fenced funds can be appropriately identified.

4.2.2 The costs of service provision are not met.

The AA advised that the annual budget is based on calculations of predicted expenditure and income, the actual spend from previous years and changes to the Council's statutory duties or externally set charges that could impact income and expenditure targets.

Variations to the budget are considered during monthly budget review meetings. Budget variations may be made to ensure the budget remains relevant and to account for changing conditions. The AA shared the budget setting spreadsheets for Licensing which show the factors considered when setting and adjusting the budget.

The LTL advised that for some licenses, the fee income is paid multiple years in advance. For drivers licences and scrap metal licences, the period is three years and for operator licences, the period is five years.

The AA advised that 'income in advance' is calculated by dividing the total income received during the year by the number of years the payment is due to cover. This process ensures that income payments covering future years are separated and allocated to the correct annual account. The EHLM advised that this also needs to be resolved on the new finance system.

4.3 **Legal and Regulatory Risks**

4.3.1 **Statutory and regulatory requirements are not met.**

The LTL advised that most licensing activities do not require specialist knowledge or qualifications. However, the LTL advised that some licensing areas, such as Animal Welfare, do require specialist knowledge. The LTL confirmed that only staff with the requisite knowledge are assigned these types of applications.

Knowledge is generally gained from attending training sessions and industry conferences. For example, the Annual Institute of Licensers. Attendees will share key points with the rest of the team during regular team meetings.

The LTL advised that Councillors receive training on licensing issues shortly after each election cycle. Training is conducted by the EHLM. This training is mandatory for all Councillors who sit on the Licensing and Regulatory Committee (LRC).

The LRC is a group of Councillors tasked with considering matters relating to the Licensing function of the Council.

The LRC has in turn established sub-committees to determine various matters. The Licensing and Regulatory Panels are sub-committees responsible for determining applications made to the authority under the Licensing Act (2003), the Gambling Act (2003) and for determining taxi driver licenses when representations have been made.

A review of up-to-date licensing and regulatory training records for Councillors identified shortfalls in the number of members in the LRC who have received or are scheduled to receive the mandatory training.

Previous training sessions were held in May and September 2019. At those sessions, ten of the fourteen active LRC members and three of the sixteen substitute LRC members received the training.

This presents the risk that some members responsible for licensing and regulatory decisions may lack sufficient knowledge to make informed decisions.

While it is recognised that Councillors have multiple commitments, mandatory training must be attended if Councillors are members, or substitute members, of a regulatory committee.

Recommendation

All members, including substitutes, of the Licensing and Regulatory Committee and sub-committee should receive the mandatory licensing and regulatory training.

Different types of licensing applications have their own statutory determination periods. In instances where the application is not resolved within the statutory determination period, the Council provides the applicant with tacit approval.

There is a risk that some applications may receive tacit approval when the application would likely be rejected under normal circumstances.

The LTL advised that performance against the determination periods is recorded on the licensing application on the CIVICA APP system.

Performance data shared with the senior management and Councillors in quarterly performance reports includes generic performance measures for services within Community Protection (i.e. generic service response and completion figures against target times) but there is no specific assessment of performance against these determination periods.

Advisory

Consideration should be given to including performance against licensing activities in quarterly performance reports.

4.4 Reputational Risks

4.4.1 Licenses are awarded to businesses and individuals who are considered undesirable.

The LTL advised that all licensing applications are initially processed online. Applicants can complete an application webform on the Council website. Once the application has been submitted, it is automatically emailed to the Licensing team's joint inbox.

Applications received via the post are scanned and emailed to the same email inbox.

Specialist applications, such as those concerning property or animals, are reserved for staff members who have been appropriately trained to assess them.

Other, more generic applications can be self-allocated by team members. Licensing staff are responsible for managing their workload and ensuring that their allocation of applications are decided within statutory deadlines.

The CIVICA system helps to automate the application process by setting workflow reminders, helping to ensure officers meet application deadlines.

Many licensing applications require a public consultation period or may be

deemed contentious enough to warrant a negotiation period with one of the Council's local partners (e.g. the Police).

Applications are generally approved if all relevant supporting documentation has been provided. Applications may be rejected if they do not meet policy criteria or objections have been made during the consultation period.

If an application is objected to, either by the public or local partners, during the negotiations, the LRC will make the final decision.

The enforcement of licence regulation helps the service deal with licence holders who abuse their responsibilities. Licences can be revoked if licensees do not conform to licensing standards.

The Licensing Act (2003) stipulates that the Council has a statutory duty to licence various activities. The list of activities is recorded in the Act and several amendments have expanded the initial responsibilities of the Council. For example, the Scrap Metal Dealers Act (2013) requires the Council to licence persons whose business involves the collection, buying and selling of scrap metal in the district. Another example can be found in the change in Animal Licensing legislation (2018) which requires the Council to licence persons responsible for the sale, performance or use of animals.

The Council's Scheme of Delegation details how the authority to determine licensing applications and to enforce licensing legislation is delegated to relevant Heads of Service and officers.

The Statement of Licensing Policy (SLP) (2021-2026) contains the strategic objectives that the Council, as the Licensing Authority, aim to promote.

These include:

- The prevention of crime and disorder.
- Public safety.
- The prevention of public nuisance.
- The protection of children from harm.

The SLP includes details on the rights and conditions which underpin licence policies and processes. The SLP also provides a summary of who is responsible for licensing decisions under the Licensing Act (2003).

The Council's Enforcement Policy (2018) details how authorised officers should act when dealing with non-compliance with the Council's regulatory activities. An updated policy (2021) has been approved by Council, but formal publication is delayed as approval from Stratford-on-Avon District Council for this joint policy is awaited.

The Licensing team have access to the above documents and can refer to the guidance throughout the licensing application process. However, it was also noted that a good source of licensing knowledge comes from experienced members of staff who share their knowledge and experience.

The previous audit identified issues with policy documents not being updated

as required. The LTL advised that there are currently four licensing policy documents that have either been approved for implementation or are still out for public consultation. These policies will provide Licensing staff with thorough and robust guidelines.

These policy documents must pass a public consultation before being approved by the LRC and finally approved by the Council's Cabinet.

The timelines for activities undertaken by the Licensing team are detailed in a document 'Timelines for activities undertaken by the Regulatory team'. The document details the type of licensing activity, whether applications of this type have a statutory determination period and for how long and whether tacit approval or rejection applies. There is also a 'remarks' section that includes key information relevant to the officers considering an application.

Licensing staff make use of other Council policy and procedure documents when enacting their duties, however, these procedures are not specific to Licensing activities.

4.5 **Fraud Risks**

4.5.1 **Staff provide special dispensation to licensees they have connections with.**

Council staff are required to complete a declaration of interest form upon commencing employment. This form serves as a declaration of any possible conflicts of interest and refers to situations in which personal interests may compromise professional judgements and integrity.

This process is governed by the Council's Employee Code of Conduct. Completed forms are reviewed by the relevant Head of Service and retained by HR on personnel files.

Failing to disclose a conflict of interest may be seen as a breach of the Council's Code of Conduct and result in disciplinary action. In some instances, the breach may constitute a criminal offence under Section 117 of the Local Government Act 1972. This may result in criminal sanctions being applied.

4.6 **Health and Safety Risks**

4.6.1 **Harm from public or licensees when conducting physical inspections.**

Staff safety at work is a statutory responsibility of the Council outlined in the Health and Safety at Work Act (1974) and the Council's duty is also stated in its Health and Safety Policy Statement (2020).

There are several policy documents guiding Council staff working outside the office. It should be noted that both the Lone Worker Policy and the associated procedure document were due for review in 2019 and contain potentially outdated information. While it is not the responsibility of Licensing staff to review and update these documents, there is a risk that Licensing staff are following out of date guidance.

As these are corporate issues, they will be formally followed up in the audit of Corporate Health and Safety which is due to be undertaken during the 2022/23 financial year.

4.6.2 **Harm from ineffective enforcement of licensing standards.**

The LTL advised that due to the COVID-19 pandemic, enforcement of licensing policy has become less proactive.

The LTL advised that while some elements of enforcement activity were more reactive than proactive, the service has continued to carry out spontaneous inspections and worked closely with its community partners to promote the licensing objectives contained in the SLP.

There are monthly Multi-Agency Licensing Enforcement Meetings. These meetings provide the opportunity for community partners to provide information and updates on licensing concerns. The Council uses this information to schedule targeted enforcement visits.

Other inspections are generally proactive with licensing staff scheduling enforcement visits for premises with risk-based concerns. The LTL advised that the current system prioritises inspections on a risk-based rating system which provides a variable frequency of inspection.

The LTL advised that the Council have a statutory obligation to inspect the premises of specific licence holders at a set frequency. The Civica system helps ensure these inspections occur at the set frequency.

5 **Conclusions**

5.1 Following our review, in overall terms we are able to give a SUBSTANTIAL degree of assurance that the systems and controls in place in respect of Licensing Services are appropriate and are working effectively to help mitigate and control the identified risks.

5.2 The assurance bands are shown below:

Level of Assurance	Definition
Substantial Assurance	There is a sound system of control in place and compliance with the key controls.
Moderate Assurance	Whilst the system of control is broadly satisfactory, some controls are weak or non-existent and there is non-compliance with several controls.
Limited Assurance	The system of control is generally weak and there is non-compliance with controls that do exist.

5.3 One issue that requires further action was identified:

- Not all Licensing committee and sub-committee members have received licensing and regulatory training.

- 5.4 A further, minor, 'issue' was identified where an advisory note has been reported. In these instances, no formal recommendations are thought to be warranted and addressing these issues are discretionary on the part of the service.

6 Management Action

- 6.1 The recommendations arising above are reproduced in the attached Action Plan (Appendix A) for management attention.

Richard Barr
Audit and Risk Manager

Action Plan

Internal Audit of Licensing Services – January 2022

Report Ref.	Risk Area	Recommendation	Rating*	Responsible Officer(s)	Management Response	Target Date
4.3.1	Legal and Regulatory Risks - Statutory and regulatory requirements are not met.	All members of the Licensing and Regulatory Committee and sub-committee should receive the mandatory licensing and regulatory training.	Low	Environmental Health and Licensing Manager	A new round of training is being planned. The Chair of the Committee will be consulted with the ensure that he can encourage Members to attend.	May 2022

* The ratings refer to how the recommendation affects the overall risk and are defined as follows:

High: Issue of significant importance requiring urgent attention.
Medium: Issue of moderate importance requiring prompt attention.
Low: Issue of minor importance requiring attention.