

Implementing Open for Business: Licensing Reform

Purpose

To provide an update on initial licensing reform work, and seek the Board's views on taking this forward.

Summary

Developing proposals for licensing reform is one of the several pieces of work that will support the implementation of *Open for Business*, as well as the broader ambitions of the *Rewiring Public Services* growth agenda. This paper outlines some key issues for the Board to consider and provide direction on, arising from the regulatory services team's initial work on licensing reform.

Recommendation

Board to provide direction on future licensing reform work.

Action

Officers to progress as directed.

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Background

1. *Open for Business*, the LGA's vision for local regulation, was published earlier this year. The regulatory services team's work plan, agreed by the Safer Communities Board, is now focused on supporting councils to implement the principles set out in the vision.
2. A key strand of the work plan is to lobby for a review of current licensing frameworks, including developing a set of proposals for reform. The objectives of reform are twofold:
 - 2.1. To consolidate and streamline existing licensing frameworks into a single framework based on common principles in order to minimise the burden on responsible businesses and free up council resources for more targeted regulatory activity. This is in line with the vision's principle of targeted and effective working with businesses.
 - 2.2. As part of the revised framework, to give councils greater power to shape / control the nature of business activity in their areas, over and above the existing four licensing objectives, in line with local needs and priorities. This is in line with the theme of locally determined regulation set out in the vision.
3. We have agreed a high level work plan for licensing reform, with the aim of using the LGA's annual licensing conference on 4 February to outline our proposals.
4. We have also undertaken an initial review of licences and this has raised a number of issues on which we are now seeking an early steer from the Board.

Our proposals

5. There are three components to our reform proposals:
 - 5.1. A coordinated review and overhaul of the legislative framework for licensing across five government departments, in order to remove outdated or unnecessary licence regimes and consolidate those that remain.
 - 5.2. Developing a simplified and consistent approach to underpin the remaining licensing regimes. Currently, each licensing regime has its own unique legal framework of renewal periods, supporting documentation and information, inspection requirements, statutory forms and appeals, which is confusing for businesses. We propose that instead they should be based on a common legal framework.
 - 5.3. Make existing processes more business friendly, in terms of joining up services and implementing risk based approaches to enforcement. This will include promoting the work that councils can already do to achieve this, as well as minor legislative reform.

Proposals

Legislative framework for local licensing

6. The legislative framework for licensing is complex. Some licences are mandated nationally; others have adopted locally in some areas but not others. Additionally, there

Item 3

may be a question mark over whether some licences presented as national requirements are in fact optional. We are seeking legal clarification on this.

7. Locally adopted licensing systems reflect a form of locally determined regulation as set out in the vision and may be a power councils wish to retain in a reformed licensing system. However, we believe that a full legislative overhaul is a critical component of licensing reform. This would provide the opportunity for a debate about business activity for which licences are mandatory across the country and the principles that should govern such licences, and would subsequently ensure greater clarity for councils and businesses.

Developing a single legal framework that empowers councils

8. A related issue is the issue of national consistency versus local flexibility. *Open for Business* calls for councils to have flexibility to determine appropriate levels of local regulation that target resources at the issues of most concern to local communities. Yet we know that businesses operating across multiple local authority areas value consistency and are concerned at the premise of local flexibility. Clearly, any proposals we make will have a greater chance of being accepted if we can demonstrate that businesses support them.
9. We believe that developing a common set of principles for all licensing regimes but leaving councils free beyond this to determine how they regulate licensed businesses on a day to day level may help reduce some of the concerns felt by businesses in this area.
10. There is a question, however, as to whether this is ambitious enough in the context of local regulation proposed by the vision, and whether we should be making a stronger case for licensing to be determined entirely at a local level, in terms of the activities to be licensed and the principles governing them.

Council activity to improve licensing

11. While legislative reform is critical in this area, it is clear that there is also more that councils can do to reduce regulatory burdens on businesses. We consistently hear of the difficulties in joining up the different regulatory services that businesses engage with (such as licensing, planning and environmental health), and complaints about businesses having to liaise with two or more parts of the same organisation which do not coordinate with each other. We believe that legislative barriers to formally joining up services should not preclude a more helpful approach for businesses in terms of different council services proactively liaising on applications relating to the same business or premise.
12. We would also like to explore the extent to which councils are adopting a risk based approach, to ensure that councils are targeting their enforcement resources as effectively as possible.

Developing the approach

13. It would be useful to have an early steer from the Board on some of these emerging issues.
14. Some suggested questions for discussion are:

Item 3

- 14.1. Does the Board favour a wholly local approach to licensing, or believe that there should be some national consistency underpinning it? If so, what elements should be determined nationally?
- 14.2. Does the Board support the idea that a business should be able to apply for a licence that covers a range of related activities (eg, alcohol, food, street tables, billboard) via a single transaction with a council?
- 14.3. Is the Board comfortable with the idea that some activities may be brought **into** a licensing system, as part of our work to give councils the ability to meaningfully tackle local issues such as the clustering of betting shops?

Next steps

15. Subject to the Board discussion today, we aim to take forward our work on licensing and publish a short document seeking the views of councils, businesses and others on licensing reform, before Christmas.

Financial Implications

16. None.