

13 January 2014

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Implementing Open for Business: licensing reform

Purpose

Following the Board's steer in November, this paper provides an outline of our draft report/proposals on licensing reform.

Summary

Developing proposals for licensing reform is one of several pieces of work to support the implementation of *Open for Business*, as well as the broader ambitions of the *Rewiring Public Services* growth agenda. This paper summarises the draft proposals developed by the regulatory services team as part of this workstream.

Recommendation

The Board is asked to approve the proposals outlined in this paper.

Action

Officers to progress as directed.

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Implementing Open for Business: licensing reform

Background

1. *Open for Business*, the LGA's vision for local regulation, was published in summer 2013. The regulatory services team's work plan, agreed by the Safer and Stronger 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. At the Board meeting in November, the Board was asked to provide a steer on our licensing reform work ahead of the development of a report outlining a series of proposals. Since the meeting, we have undertaken a survey of a group of councils and met with a number of business representatives to seek their input into the development of our proposals.
3. We are currently finalising a draft report on licensing reform, which we hope to launch at the annual licensing conference on 4 February. The full report will be circulated as soon as possible before the Board meeting on 13 January.
4. This paper provides an outline of the report and a summary of the proposals in it.

Objectives of licensing reform and overview of draft licensing reform report

5. The objectives of licensing reform are twofold:
 - 5.1. To consolidate, streamline, and embed consistency across licensing regimes in a way that minimises the burden on responsible businesses and frees up council resources for more targeted regulatory activity. This is in line with *Open for Business's* principle of targeted and effective working with businesses.
 - 5.2. As part of the revised framework, to give councils greater power to shape and control the nature of business activity in their areas, over and above the existing four Licensing Act objectives, in line with local needs and priorities. This is in line with the theme of locally determined regulation set out in the vision.
6. The draft report is divided into three core sections:¹
 - 6.1. An overview of current licensing frameworks setting out the basis for reform.
 - 6.2. An outline of what a reformed licensing framework should look like.
 - 6.3. The next steps required to deliver licensing reform.

¹ Excluding the executive summary, introduction etc.

Draft report: overview of current licensing framework

7. The draft report provides a critique of the historic legislative basis for licensing, which is split across a multitude of Acts of Parliament overseen by a number of government departments. The result is that there is a great deal of licensing legislation that is outdated; it is inconsistent; and there are significant barriers to councils joining up licensing in a way that makes sense to businesses. Councils and businesses are left to pick up the pieces from this centrally created maze. We note that the split between licensing and planning can be confusing to businesses.
8. We recognise that many historic licences continue to provide robust community protection measures and that this protection must not be lost or weakened by reform. However, many are inconsistent with each other and cause an unnecessary complexity when set in a business context.
9. We are supportive of the fact that within the current framework, councils have the discretion to licence certain activities; some have chosen to, while others have not. However we believe that greater clarity about councils' powers to set local licensing frameworks would be helpful. In summary, we argue that there is considerable scope to consolidate and clarify existing licensing legislation.
10. The report argues that licensing objectives have not kept pace with councils' increasing responsibility in areas such as public health, and calls for licensing committees to be able to take account of all council responsibilities in reaching licensing decisions. We also argue that communities and residents should be given a greater say on licensing decisions that shape how their communities look and feel.
11. We note that although licensing isn't typically businesses' greatest regulatory concern, many businesses have concerns about the number of different licences they are obliged to seek, the length of some licences, and licence fees.
12. The report acknowledges that while there is likely to be a solid business and economic case for licensing reform, licensing reform will not generate significant efficiency savings for the public purse, since licensing fees are set on a cost recovery basis, and most council licensing functions are already small (although the benefit of any efficiency savings would accrue to businesses in the form of lower, or more likely contained, fees). However, licensing reform provides an opportunity to free up council officer time to focus on better targeted, risk based activity rather than administrative processes and to free up business time to focus on running and growing businesses.

Draft report: outline of a reformed licensing framework

13. We set out a number of considerations that must be taken into account in pursuing licensing reform. These are:
 - 13.1. The balance of personal responsibility and risk acceptable in establishing licensing frameworks.
 - 13.2. Whether the risk of an activity can be dealt with outside of a licensing framework, and what additional benefit (ie, check or oversight) a licence provides.
 - 13.3. How licensing frameworks can be future proofed, to enable them to incorporate (or remove) activities as required.

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14. The draft report suggested a number of key components of a reformed licensing framework.
15. The first is the principle of **local democratic accountability, flexibility and transparency**. In line with feedback at the last Board meeting, we contend that the 2003 Licensing Act provides a useful model in terms of a national framework that is managed and applied locally. We argue that there a number of activities that should be licensed everywhere, but that councils should retain the flexibility to determine whether other activities should be subject to locally introduced licensing frameworks if they pose particular risk in their areas. However, we believe that locally introduced licences should be subject to the same underpinning framework.
16. Underpinning this, and again in line with feedback at the previous Board meeting, we call for a common set of **expanded licensing objectives** reflecting councils' economic and public health responsibilities.
17. We argue that licences should reflect the way that businesses operate, not the way government departments are structured, and propose that businesses should be able to apply for a **single licence** covering all the activities for which a licence is required. Provided that the relevant information is required by the business, the onus would then be on councils to work across services to approve the application.
18. We support the principle of the **licence for life** embodied in the 2003 Act, provided that there are clear and enforceable measures for withdrawing a licence if this becomes necessary.
19. We argue that there is more that can be done to ensure a **simple administrative approach** for businesses applying for licences, including applying for and paying for licences online, and providing flexibility over payment dates.

Draft report: next steps to deliver licensing reform

20. The report does not seek to suggest that responsibility for licensing reform rests solely with Government, in terms of legislative change. We set out a number of actions for councils, government, businesses and the LGA, all of whom have a contribution to make to improve licensing.
21. These include:
 - 21.1. **Councils** work to join up different services as they relate to individual businesses, simplify administrative processes (for example, payment dates and methods) and ensure comprehensive information is available online.
 - 21.2. The requirement for **Government** to review and overhaul existing licensing legislation and bring this together into a consistent framework that underpins all licensing activity.
 - 21.3. Encouraging **businesses** to be more forthcoming about difficulties they encounter in licensing / broader regulatory processes, while also recognising that councils have wider responsibilities in addition to licensing and economic growth.

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- 21.4. Noting that there is a role for the **LGA** in supporting councils exploring how to join up services and enhance support for businesses; assisting the Government in progressing detailed licensing reform proposals; and providing licensing training for councillors.

Likely response to the proposals

22. Our early media work indicates interest in licensing reform among BRDO, CLG and other government departments and we believe the proposals to be in line with the Government's desire for deregulation. Our discussions with businesses indicated likely broad support for the administrative proposals outlined in the report, although not for the proposal for broader licensing objectives.
23. We believe that there will be broad support at councillor and officer level for our licensing reform proposals, provided that the reforms could be introduced in a way that reduces workloads (for example, joining up the www.gov.uk/licence-finder site with council back office systems). The broad proposals were tested during our recent licensing masterclasses for councillors and now incorporate points raised during those events, as well as reflecting views received during the year from councillors involved in licensing committees.
24. However, the report does also set out a challenge to councils to make more progress simplifying processes and joining up licensing and related services, independently of the legislative reform required for full reform. The report also proposes changes to some existing council licensing activity by supporting the principle of a licence for life (we know for example that some councils require licences permitting tables and chairs on pavements to be renewed every six months). However, in line with *Open for Business*, we believe that there is a role for the LGA to articulate ambition for the development of regulatory services, including licensing, while recognising that progress towards modernisation will vary in different areas.

Next steps

25. Subject to the Board discussion today, we intend to finalise the draft report for launch at our annual licensing conference on Tuesday 4 February. We will also be developing a plan for promoting and lobbying government on licensing reform.
26. We have sought the views of the Environment and Housing Board in regard to the references to planning and housing licensing contained in the report.

Financial Implications

27. None.