

ABERDEEN CITY COUNCIL

COMMITTEE	Audit, Risk and Scrutiny Committee
DATE	2 December 2021
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Internal Audit Report AC2202 – Licensing Income
REPORT NUMBER	IA/AC2202
DIRECTOR	N/A
REPORT AUTHOR	Colin Harvey
TERMS OF REFERENCE	2.2

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to present the planned Internal Audit report on Licensing Income.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee review, discuss and comment on the issues raised within this report and the attached appendix.

3. BACKGROUND / MAIN ISSUES

- 3.1 Internal Audit has completed the attached report which relates to an audit of Licensing Income.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this report.

6. MANAGEMENT OF RISK

- 6.1 The Internal Audit process considers risks involved in the areas subject to review. Any risk implications identified through the Internal Audit process are as detailed in the attached appendix.

7. OUTCOMES

- 7.1 There are no direct impacts, as a result of this report, in relation to the Council Delivery Plan, or the Local Outcome Improvement Plan Themes of Prosperous Economy, People or Place.
- 7.2 However, Internal Audit plays a key role in providing assurance over, and helping to improve, the Council's framework of governance, risk management and control. These arrangements, put in place by the Council, help ensure that the Council achieves its strategic objectives in a well-managed and controlled environment.

8. IMPACT ASSESSMENTS

Assessment	Outcome
Impact Assessment	An assessment is not required because the reason for this report is for Committee to review, discuss and comment on the outcome of an internal audit. As a result, there will be no differential impact, as a result of the proposals in this report, on people with protected characteristics.
Privacy Impact Assessment	Not required

9. APPENDICES

- 9.1 Internal Audit report AC2202 – Licensing Income.

10. REPORT AUTHOR DETAILS

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Internal Audit Report

Governance

Licensing Income

Issued to:

Gale Beattie, Director - Commissioning
Fraser Bell, Chief Officer – Governance
Jenni Lawson, Legal Services Manager
Alan Thomson, Team Leader
Jonathan Belford, Chief Officer – Finance
External Audit

EXECUTIVE SUMMARY

Background

The Aberdeen Licensing Board and the Council control licensing of a wide range of activities within Aberdeen. The Aberdeen Licensing Board is concerned with control of licences required for: the sale of alcohol under the Licensing (Scotland) Act, and gambling under the Gambling Act 2005. The Licensing Committee determines applications for the grant, renewal, revocation, variation or suspension of any licence under the Civic Government (Scotland) Act 1982 including licences required by / for: metal dealers; indoor sports entertainment; skin piercing and tattooing; knife dealers; taxi booking offices; taxi and private hire vehicles; taxi and private hire drivers; second hand car dealers; boat hire; street traders; public entertainment; late hours catering; window cleaners; public charitable collections, public processions; and market operators.

In 2020/21 the Council received income of £310,000 in respect of licence fees and a further £287,000 on behalf of the Aberdeen Licensing Board.

Objective

The objective of this audit was to provide assurance over the processes in place for controlling income from licensing applications. This involved a review of a sample of licence applications to ensure the Council's licence records were accurate and income was collected.

Assurance

In general, licence income is well controlled. However, updated procedures, periodic review of fee levels, system updates to ensure data protection requirements are met, and reconciliation of income received to licences issued, would enhance assurance over this area.

Findings and Recommendations

Governance last undertook a review of civic and miscellaneous licence fees in 2017, when the Licensing Committee approved proposals for increasing the majority of fees under the Committee's control. The proposal accepted in December 2017 forecast a small surplus, which may no longer apply. In order to ensure fees charged are sufficient for the Council to undertake its licensing responsibilities, a recommendation graded Significant within audited area was made for regular review of fee levels.

There is a clear process for each type of licence, however there was no guidance setting out how applications are processed, payments matched, and licence details input to the Council's licensing system; and no procedures describing how to deal with applications received where no payment could be identified, or how to deal with cheque payments (including rejected cheques). Without comprehensive written procedures there is more risk of errors and inconsistency, particularly for any new member of staff. A recommendation graded Significant within audited area was made to review and update these procedures.

For a sample of 40 licence applications granted in 2021 the correct fees had been collected based on the licence types and duration of awards. However, two applications were incorrectly recorded as new licences rather than renewals, creating a cash discrepancy on initial review. One of these related to the use of discretion to award a late renewal rather than a new licence at £50 for one year. Application of this discretion and the related reasons was not recorded within the licensing system. There is currently no retrospective reconciliation between cash received and the licences recorded in the Licensing system, which would identify such discrepancies. Recommendations graded Significant within audited area were raised with the

Service to introduce a system of control to ensure the Licensing system is updated in line with licence fees paid, and for a regular reconciliation of cash received to licences awarded, according to the Licensing System, to be undertaken by an officer independent of licence processing.

In accordance with the General Data Protection Regulation (GDPR) data minimisation principle, personal data should be limited to what is necessary. However, the current Licensing system does not provide for licence records to be deleted, meaning applications are being retained for longer than described in the related privacy notices. This presents an increased risk data protection legislation will be breached. Inaccurate applicant contact details were also identified in one case, where the system had not been updated following changes reflected in a new application. The GDPR requires personal data to be accurate and, where necessary, kept up to date, with every reasonable step taken to ensure that personal data that is inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay. Recommendations graded Significant within audited area were raised with the Service for Licensing system details to be updated in line with current licence applications and licence applications to be retained in line with the related Council privacy notices.

Management Response

Governance has agreed to periodically review the level at which licence fees under the remit of the Licensing Committee are set. Governance confirmed that the licensing budgets are kept under periodic review and the fees are monitored, however note that a formal review has not been conducted for a while. The Civic Government (Scotland) Act 1982 states for both taxi and other civic licences that “*the licensing authority shall seek to ensure that from time to time the total amount of fees receivable by the authority is sufficient to meet the expenses of the authority in exercising their function*”. This is an ongoing balancing act as the costs and income will vary from year to year. In the past couple of years, this balance has been difficult to manage due to the impact of the covid pandemic on licence holder businesses. The recovery from the pandemic has also had an impact on demand for certain licences such as an increase in street trader licence applications.

The Service has also agreed to review and update licence processing procedures; this will cover Licensing system recording requirements, including changes to personal data relating to licence applications and use of discretion when awarding licence renewal applications received late. The Service will liaise with the system supplier to arrange deletion of historic licence application records and to ensure future records are retained in line with Council licence privacy notices.

In addition, Governance has agreed to undertake a regular sample reconciliation of cash received to Licensing system records.

1. INTRODUCTION

- 1.1 The Aberdeen Licensing Board and the Council control licensing of a wide range of activities within Aberdeen. The Aberdeen Licensing Board is concerned with control of licences required for: the sale of alcohol under the Licensing (Scotland) Act, and gambling under the Gambling Act 2005. The Council's Licensing Committee deals with the functions of the Council relating to licensing matters under the Civic Government (Scotland) Act 1982 and other licences, certificates and permits under the Housing (Scotland) Act 2006 (houses of multiple occupancy), Antisocial Behaviour etc. (Scotland) Act 2004 (private landlord registration), Theatres Act 1968 (theatre licence), Cinemas Act 1985 (cinema licence), and Safety in Sports Grounds Act 1975 (safety certificates).
- 1.2 The Licensing Committee determines applications for the grant, renewal, revocation, variation or suspension of any licence under the Civic Government (Scotland) Act 1982 including licences required by / for: metal dealers; indoor sports entertainment; skin piercing and tattooing; knife dealers; taxi booking offices; taxi and private hire vehicles; taxi and private hire drivers; second hand car dealers; boat hire; street traders; public entertainment; late hours catering; window cleaners; public charitable collections, public processions; and market operators.
- 1.3 The Council's Licensing Sub-Committee is responsible for determining any licence referred to it by the Licensing Committee or determining any urgent business referred by the Chief Officer – Governance or Chief Officer – Early Intervention and Community Empowerment relating to any matter falling under the remit of the Licensing Committee.
- 1.4 The Council's Licensing team are responsible for processing licence applications and ensuring applicants have paid the appropriate fees. In addition, where no objections or representations have been made in relation to a complete licence application under the remit of the Licensing Committee, the Chief Officer - Governance has delegated authority to approve these.
- 1.5 In 2020/21 the Council received income of £310,000 in respect of licence fees and a further £287,000 on behalf of the Aberdeen Licensing Board.
- 1.6 The objective of this audit was to provide assurance over the processes in place for controlling income from licensing applications. This involved a review of a sample of licence applications to ensure the Council's licence records were accurate and income was collected.
- 1.7 The factual accuracy of this report and action to be taken with regard to the recommendations made have been agreed with Fraser Bell, Chief Officer – Governance, Jenni Lawson, Legal Services Manager and Alan Thomson, Team Leader.

2. FINDINGS AND RECOMMENDATIONS

2.1 Written Policies and Procedures

- 2.1.1 The Licensing (Scotland) Act 2005 and the Gambling Act 2005 both require Licensing Boards to publish a licensing policy every three years describing how the respective Licensing Board will exercise its functions under both Acts. The Aberdeen Licensing Board published such a policy as required in November 2018.
- 2.1.2 Fees for gambling licences and gaming permits are prescribed by the Gambling (Premises Licence Fees) (Scotland) Regulations 2007 and the Gambling Act 2005 (Fees) (Scotland) Regulations 2007 respectively. In relation to licences for the sale of alcohol it is a requirement of the Licensing (Fees) Scotland (Regulations) 2007 for each Licensing Board to publish details of any fee determined by the Board under the Regulations i.e. application for premises licence (for sale of alcohol); annual fee for premises licence; variation of premises licence; occasional licence; extended hours licence; and a personal licence (person responsible for supervising or authorising sale of alcohol). The Licensing (Scotland) Act 2005 sets maximum fees which Licensing Boards can set for undertaking their responsibilities under the 2005 Act. Whilst the Council has discretion over the level of fees charged for licences covered by the Civic Government (Scotland) Act 1982. Licence fees are included on the Council's website.
- 2.1.3 The Council's website includes details of all licences administered by the Council and the Licensing Board as well as links to the related applications and fees. The Council's website also includes licence application guidance resulting from Covid-19 restrictions.
- 2.1.4 Policies, procedures and guidance notes are stored on SharePoint within the 'Governance Hub' for relevant staff. These are filed by licence type (e.g., gambling, liquor, taxis, other civic licences). Procedures included information on how to apply for different licences, related fees, licence renewal timeframes, processing licences and preparing reports for Committee.
- 2.1.5 Governance last undertook a review of civic and miscellaneous licence fees in 2017, when after a reported process of consultation, the Licensing Committee approved proposals for increasing the majority of fees under the Committee's control in December of that year. The proposal accepted in December 2017 forecast a small surplus of £386 per annum. In order to ensure fees charged are sufficient for the Council to undertake its licensing responsibilities, regular fee reviews should take place.

Recommendation

Governance should regularly review the level at which licence fees are set for those fees under the remit of the Licensing Committee.

Service Response / Action

Agreed. Governance will undertake a review prior to fees being considered by Council as part of the annual budget setting process.

Implementation Date

March 2022

Responsible Officer

Team Leader

Grading

Significant within audited area

- 2.1.6 Although there were procedures in place that outlined the process for each type of licence, there was no guidance in place which explained how applications are processed, payments matched, and licence details input to the Council's licensing system. There were also no procedures describing how to deal with applications received where no payment could be identified, or how to deal with cheque payments (including rejected cheques).

The lack of comprehensive written procedures increases the risk of errors and inconsistency, particularly for any new member of staff.

Recommendation

The Service should review and update procedures to cover how licence applications are processed and input to the Council’s licensing system.

Service Response / Action

Agreed. Procedures exist for all licensing processes. Given the scale of the action and demand on services, anticipate completion in 2022.

Implementation Date

December 2022

Responsible Officer

Team Leader

Grading

Significant within audited area

2.2 Licensing Board Annual Financial Report

2.2.1 The Air Weapons and Licensing (Scotland) Act 2015 amended the Licensing (Scotland) Act 2005 to place a new statutory duty on Licensing Boards to publish an ‘Annual Financial Report’ within 3 months of the end of each financial year; the deadline for this report was extended to 9 months after the financial year by the Coronavirus (Scotland) Act 2020.

2.2.2 The ‘Annual Financial Report’ must include:

- a statement of the amount of relevant income received by the Licensing Board during the financial year in conducting its duties under the 2005 Act;
- a statement of the amount of relevant expenditure incurred by the Licensing Board during the financial year in conducting its duties under the 2005 Act;
- an explanation of how the amounts in the statement were calculated.

2.2.3 The 2020/21 annual financial report was reported to the Licensing Board as required in August 2021 showing a surplus of approximately £70,000.

2.3 Licence Applications and Related Fees

2.3.1 There are two primary systems used in the Licensing income process: the cash receipting system and the licensing system.

2.3.2 Licence applications can be submitted via the Council’s online services portal or where required a paper licence can be submitted. However, Covid-19 restrictions at the time of the audit are described on the Council’s website, which state no face to face contact is available at the Council’s Licensing offices, and require only essential signed applications and supporting documentation to be submitted electronically (including photographs of documentation if required) to licensing@aberdeencity.gov.uk. The Covid-19 Licensing Response guidance goes on to request that all existing civic government licence holders ensure their licence renewal application is submitted before their current licence expires. Furthermore, the guidance requires all payments to be made at the time of the licence application / renewal submission, online via the Aberdeen City Council payment portal.

2.3.3 The Council’s payment portal, which is linked to the Council’s cash receipting system, displays all licence types and the fee required for each. Once an applicant selects a particular licence application option, the fee is already attached to this option. If the payment is successful, an automated email receipt will be forwarded to the Licensing team’s shared inbox advising of the payment made. The following details will be included on the payment receipt: type of licence paid for, quantity, payment date and time, applicant details, card holder details (if different from applicant), receipt number and fee amount.

- 2.3.4 Once both the application and payment receipt have been received by the Licensing team, this information will be passed on to the Customer Applications team to update the licensing system. The applications and supporting documentation are also uploaded to the 'Legal Licensing' SharePoint group by the Customer Applications team (however this does not include personal licences or licenced vehicles, which are stored separately on the team's shared drive). Applications are filed by statutory deadlines for decisions on award to be made, then by type of licence (e.g., civic), the year they were granted and then the date they were granted.
- 2.3.5 The Licensing team are responsible for recording the outcome of licence applications within the licensing system and emailing the applicant to confirm the outcome. The Customer Applications team will issue the related decision letter once notified of the outcome.
- 2.3.6 Internal Audit selected a sample of 40 licence applications granted in 2021 to ensure they had been processed appropriately and fees received were correct. The sample was selected by obtaining reports from the licensing system of all awarded licences as at 5 August 2021.
- 2.3.7 The Council's website states that applications may take some time to be reviewed and processed and that applicants should expect 'most applications to take the statutory timescale of 9-12 months to process'. All applications in the sample were reviewed and granted either within this timeframe or earlier than anticipated.
- 2.3.8 Internal Audit reviewed the details contained within applications to ensure: applications were complete; the applicant or agent had declared the contents were true and accurate; and details recorded on the Licensing system matched the application, including type of licence, licence requirements (e.g. trading hours), granted date, renewal date, premises address and applicant contact details. Testing confirmed that this was the case for the majority of applications, with the following exceptions:
- 2.3.9 In accordance with the GDPR data minimisation principle, personal data should be limited to what is necessary. However, the Service advised that the current Licensing system does not allow licence records to be deleted easily, meaning licence applications are being retained for longer than that described in the related privacy notices.
- 2.3.10 Contact details relating to two directors for a late hours catering licence application were absent from the licensing system whilst the licensing system listed a director of the same business not detailed on the application. The General Data Protection Regulation (GDPR) requires personal data to be accurate and, where necessary, kept up to date, with every reasonable step taken to ensure that personal data that is inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.
- 2.3.11 Where personal data retained on the Licensing system is not maintained in line with licence applications and applications are not retained in line with the Council's related privacy notice, there is an increased risk data protection legislation will be breached

Recommendation

- a) Licensing system details should be updated in line with current licence applications.
- b) Licence applications should be retained for licences in line with the related Council privacy notice.

Service Response / Action

- a) Agreed. This will be considered as part of the review of procedures (2.1.6).

b) Agreed. Current system does not allow us to delete data. Service will write to the system supplier and ask them to propose a solution to delete older data.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
a) December 2022	Team Leader	Significant within audited area
b) December 2021 (write to Northgate) October 2022 (records to be deleted as appropriate)		

- 2.3.12 Internal Audit reviewed awarded licences to ensure the correct fee had been paid by applicants, by comparing the expected fee based on licence applications to the payment receipt value and the value recorded in the cash receipting system.
- 2.3.13 There were seven applications where the payment receipt was not held on file. Whilst it was possible to agree payment of licence fees for these applications to the cash receipting system, in the absence of retained payment receipts there is no evidence a process of fee verification was undertaken by the Licensing team prior to licence award.
- 2.3.14 Furthermore, there were three instances where licence application fees received were less than that owed based on the application and / or details in the Licensing system. The system indicated a new licence 'grant' was being applied for but payment receipts were for 'renewal' fees (Second Hand Dealer licence renewal £200 and Taxi Driver Licence Renewal £105. The Council's website states that a Second-Hand Dealer grant costs £230 for a period of three years and a new Taxi Driver Licence is £50 and must be renewed after one year however actual payments received were £200 and £105 respectively for renewals rather than grant of new licences. Both applicants had paid the correct fee however the licences were incorrectly recorded as new licences rather than licence renewals within the Licensing system. The Service advised in the case of the renewed taxi driver licence the applicant was late submitting their application and discretion was used to allow the applicant to apply for a licence renewal for 3 years at £105, rather than the applicant being required to incur additional expenditure by initially applying for a new licence of one year at £50 – however the use of this discretion was not documented within the Licensing system. Similarly, discretion was used to award the renewal of the Second Hand Dealer licence.

Recommendation

A system of control should be introduced to ensure the Licensing system is updated in line with licence fees paid.

Service Response / Action

Agreed. The Service will update procedures ensuring that systems are updated correctly and ensure that records are kept where discretion has been used due to unique circumstances.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
December 2022	Team Leader	Significant within audited area

2.4 Incomplete applications

- 2.4.1 Incomplete applications are also uploaded to SharePoint but held separately from granted licences. One folder holds applications submitted without fees paid and one folder holds fees paid without applications submitted. Internal Audit selected a sample of five

incomplete applications where fees had yet to be paid to ensure a licence had not been awarded on the Licensing system; this was the case for all.

2.5 Cheques

2.5.1 The Council accepts cheques to settle licence fees where necessary. These are received by the Licensing Team with the respective application and are forwarded to Finance to update the cash receipting system and bank.

2.5.2 Should a cheque subsequently be rejected by the Council's banking provider, the Council will receive a letter or email informing them and subsequently the income will be reversed from the Council's bank account. Finance would then rectify this reconciling difference by accessing the cash receipting system, searching for the original transaction and processing this as a bounced cheque which would reverse the transaction through the cash receipting system. The Licensing Team are then informed by Finance of the rejected cheque and the Licensing Team then contact the applicant to make alternative payment. As stated in paragraph 2.1.6 above, there are no formalised procedures covering Licensing processes for rejected cheques; a recommendation has been made at paragraph 2.1.6 to address this.

2.5.3 Finance (Senior Finance Assistant) advised there have been no rejected cheques in the current financial year i.e. since 1 April 2021.

2.6 Reconciliations

2.6.1 The Licensing team advised that no reconciliations currently take place between the Licensing system and the cash receipting system since applications are only sent to the Customer Applications team for processing on the Licensing system after payment is received, based on the automatic payment receipts received from the cash receipting system. However, as described in paragraph 2.3.14 above, whilst no cash discrepancies were identified, the licensing system was incorrectly updated in relation to two licences applications based on cash received. Whilst a recommendation has been made at paragraph 2.3.14 above to implement a system of control to address cash discrepancies at a transaction level, a regular retrospective reconciliation of cash received to licences awarded would provide assurance that licences are only awarded where payment has been received.

Recommendation

A regular reconciliation of cash received to licences awarded according to the Licensing System should be undertaken by an officer independent of licence processing.

Service Response / Action

Agreed. A reconciliation of all licences granted and rejected in any period will be a hugely onerous task due to system restrictions and staff resource. In recognition of this and the relative low risk as licences are paid upfront before processing, the Service will conduct reconciliations on a sample of licences on a regular basis.

Implementation Date

June 2022

Responsible Officer

Team Leader

Grading

Significant within audited area

2.6.2 All licensing income is received into the Councils General Bank Account. The reconciliation of the cash receipting system to the Council's General Bank Account was reviewed in Internal Audit report 2101 Bank Reconciliations; bank reconciliations were being undertaken regularly and in a timely basis and in general the methodology was found to be robust.

AUDITORS: C Harvey
A Johnston
C Jamieson

Appendix 1 – Grading of Recommendations

GRADE	DEFINITION
Major at a Corporate Level	The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss, or loss of reputation, to the Council.
Major at a Service Level	<p>The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss to the Service/area audited.</p> <p>Financial Regulations have been consistently breached.</p>
Significant within audited area	<p>Addressing this issue will enhance internal controls.</p> <p>An element of control is missing or only partial in nature.</p> <p>The existence of the weakness identified has an impact on a system’s adequacy and effectiveness.</p> <p>Financial Regulations have been breached.</p>
Important within audited area	Although the element of internal control is satisfactory, a control weakness was identified, the existence of the weakness, taken independently or with other findings does not impair the overall system of internal control.