

CMS 20361/DC

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Dear Colleague

We have now passed the 6 August cut off date for those wishing to apply to convert their existing licences to the new regime and I am writing to express my gratitude to licensing teams who have put in such a magnificent effort in assisting applicants and encouraging them to make applications. I am well aware of the difficulties in getting a significant proportion of potential licensees to engage in the process. The fact that the majority of applications are now submitted is a testament to the efforts of licensing teams and Council Members.

I am also well aware that, while the gloomy predictions from some quarters have not materialised, in many ways the biggest hurdle is yet to come. I am conscious of the amount of work that will be required in a set amount of time to process the large amount of applications that arrived in the last few weeks of the transitional period.

My officials and I have been considering with LACORS and the LGA whether there is anything we can do to help licensing authorities in the crucial period up to the second appointed day. Feedback we have been getting from some authorities is that they would appreciate some reassurance about their ability to exercise discretion in processing the application forms. With the support of LACORS and the LGA, I am therefore setting out how licensing authorities could approach the next few months in implementing the new regime. The objective is to help licensing authorities decide how to deploy their resources most effectively. It is not about second guessing decisions in respect of individual applications.

In drawing up the transition arrangements, we anticipated that there would be potential pinch points during this period. As you will be aware - subject to objections by the police - properly made applications to convert existing licenses will be automatically approved two months after receipt. This recognises that existing licences have been granted relatively



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recently and thus subject to scrutiny. It makes sense if there are capacity issues for licensing authorities, that they focus their effort on higher risk new applications and those seeking variation.

I strongly encourage licensing authorities to continue and extend the pragmatic approach the vast majority are taking to processing applications, in particular those for conversion. It is reassuring that very few of the applications that contain errors are being rejected and returned to applicants. Instead, licensing staff have worked with applicants to put right deficiencies and then process the forms. Examples include 'phone calls to resolve issues, inviting applicants into the office to validate unsigned forms, allowing applicants time to provide missing documentation, clarifying operating statements and amending plans. There will, of course, be some instances where the licensing authority has no choice but to return a poorly made application. But I hope that licensing officers will give applicants who have made a mistake every opportunity to correct it without needing to make a new application. I know that such attention may be difficult with a high level of applications to deal with, but I believe it is in everyone's long term interest to reject as few as possible of the conversion applications received on or before 6 August.

Despite the progress made in raising the number of applications for conversion, there remains a sizeable minority who failed to convert in time or have made a deliberate decision to apply from scratch. In addition, there are also a number of applicants who are new to licensing and would always have had to make new applications (such as boats and late night take aways outside London). It is vital that these applications are made as soon as possible so they can be processed in time for 24 November.

We are working closely with LACORS, LGA and other stakeholders to identify and target those who still have to apply, and I know that licensing authorities are doing much the same on a local level. But I hope that licensing authorities will do all they can to ensure these applications are progressed as quickly as possible. In particular, anyone applying to do what they do now should be treated in a proportionate way. This is particularly true where an applicant has not converted, but simply wants to carry on as now, including maintaining appropriate conditions. I see no reason why authorities cannot send a signal that such applicants would be broadly treated as if they were simply converting and encourage responsible authorities and others to recognise this and to take this into account when considering whether to make representations where there is a specific problem. Of course, unlike a conversion, new applicants do not have to apply existing conditions and representations from responsible authorities and interested parties must be properly considered. However, I hope that it will be possible for responsible authorities and licensing authorities to take a proportionate approach. It is also worth emphasising that the new legislation comes with the safeguard of significant review provisions which should things go wrong with a particular premises.

My officials have had discussions with the Department for Constitutional Affairs, the Justices Clerks Society and LACORS about how the Courts will handle appeals. They have agreed some practical approaches, including a potentially fast and easy way to deal with applications for variation which have attracted no representations, but have been deemed rejected for not being processed in time. JCS and LACORS are in the process of agreeing guidance for licensing authorities and the Courts which should be available shortly.

Finally, I recently laid the Order setting the 24 November as the second Appointed Day. At the same time, I made an Order to commence a number of provisions of the 2003 Act from 7 August. In effect, this allows new licences under the 2003 Act to be varied before the Second Appointed Day. This was to provide reassurance to those who were opting to simply convert their licences in order to meet the 6 August deadlines, but who wanted to make subsequent variation applications soon after which may then stand a chance of being processed before Christmas.

You have my full support in using the greatest flexibility and pragmatism, along the lines I have set out above, as necessary to ensure successful implementation. In particular, I hope you will feel able to adopt a flexible interpretation of the Regulations where there is no material reason not to.

Over the past few weeks I have seen licensing officers strive to implement the major reforms with professionalism and consideration. This has strengthened my view that we're absolutely right to give local licensing authorities this important role.

I wish you and your colleagues well over the weeks and months ahead.

A handwritten signature in black ink, appearing to be 'JP', written in a cursive style.

JAMES PURNELL MP
Minister for Creative Industries and Tourism