



MALDON DISTRICT COUNCIL

FINAL INTERNAL AUDIT REPORT

LICENSING
OCTOBER 2023

Design Opinion	 Moderate
Design Effectiveness	 Moderate

IDEAS | PEOPLE | TRUST



CONTENTS

EXECUTIVE SUMMARY	285
DETAILED FINDINGS	288
APPENDIX I - DEFINITIONS.....	296
APPENDIX II - TERMS OF REFERENCE	297

DISTRIBUTION

Richard Holmes	Director of Service Delivery and Head of Paid Service
Hannah Wheatley	Assistant Director - Service Delivery
Shirley Hall	Interim Head of Environmental Health, Waste & Climate Action

BDO LLP APPRECIATES THE TIME PROVIDED BY ALL THE INDIVIDUALS INVOLVED IN THIS REVIEW AND WOULD LIKE TO THANK THEM FOR THEIR ASSISTANCE AND COOPERATION.

REPORT STATUS

Auditors:	Aaron Winter - Director and Chief Audit Executive Andrew Billingham - Audit Manager Chris Andre - Audit Manager Jack Rowan - Auditor
Dates work performed:	15/05/23 - 25/07/23
Draft report issued:	03/10/2023
Final report issued:	20/10/2023

EXECUTIVE SUMMARY

CRR REFERENCE: R15

Design Opinion



Moderate

Design
Effectiveness

Moderate

Recommendations

1

3

1



SCOPE

BACKGROUND

- ▶ Licensing is regulated under the Licensing Act 2003 for local authorities and Maldon District Council (the Council) must issue local establishments/individuals with licences for them to provide certain services. Some of the areas that the Council are required to provide licences for include:
 - Taxi or private hire licences
 - Alcohol and entertainment
 - Animal welfare licences
 - Temporary Event Notices (TENs).
- ▶ A Service Level Agreement (SLA) has been in place with Chelmsford City Council for a number of years. The Council lost their Senior Licensing Officer in May 2022, and with them, the knowledge necessary to train new members of staff. As a result, the SLA has been extended while newly appointed Officers are trained. While Chelmsford are responsible for the review of applications, administration such as the organisation of hearings is still completed by the Council and a Licensing Committee is maintained.
- ▶ Licensing forms are currently available on the Gov.uk website for the public to complete. It was originally intended for these forms to be removed in March 2021, as they weren't accessible and would be costly to change. Local Authorities were advised they would need to create their own forms and have them live by March 2021; however, this has since been extended to 2025.

BACKGROUND

- ▶ The purpose of the review was to ensure that there are sufficient controls over the management of issuing and maintaining licences and whether there are appropriate controls in place to ensure effective recovery of fee income.

AREAS REVIEWED

- ▶ Policy held by the Council, including:
 - Hackney Carriage and Private Hire Policy
 - Licensing Act 2003: Statement of Licensing Policy
 - Statement of Licensing Policy: Gambling Act 2005
 - Street Collections Policy;

Along with associated notes and appendices, were examined to assess the adequacy of their scope and requirements. This looked at whether they are up to date with statutory requirements and best practice.

- ▶ A sample, of 28 licences, covering:
 - Hackney Carriage Vehicles
 - Private Hire Vehicles
 - Dual Driver Licences
 - Premises
 - Temporary Event Notices
 - Charitable Collections (Street and House to House);
 were inspected for adequate evidence for decisions, timely processing of applications and correct fee collection.
- ▶ Procedures for monitoring administered licences were assessed, these establish whether licence holders continually reach the requirements laid out in policy throughout the duration of a licence.



AREAS OF STRENGTH

Our work highlighted areas of good practice, including:

- ▶ The Council holds several policies that detail key requirements and responsibilities. The recent update to the Hackney Carriage and Private Hire Policy requiring the Council to use the National Register for Revocations, Refusals and Suspensions (NR3) to report and share safeguarding concerns with other licensing authorities means they are up to date with statutory requirements and legislation.
- ▶ Weekly workload reports are generated for Council officers who process licence applications, giving a reminder of outstanding tasks. A separate report is generated for each officer detailing each licence they are handling. This aids staff in prioritising workloads and gives a reminder on outstanding tasks.
- ▶ Across the 28 items sampled, all relevant fees had been correctly charged and collected in a timely manner (ie prior to licence issuance).



AREAS OF CONCERN

Our work highlighted a number of areas for improvement, including:

- ▶ **DBS & Medical record monitoring:** Regular DBS and medical evaluation form checks are not completed for applicable drivers' licences. Six monthly DBS checks, for all drivers, and annual medical form checks, for drivers over 65, are not completed (Finding 1 - High)
- ▶ **Insufficient Application Evidence:** Applications held on Uniform do not have all documents and supporting material uploaded and saved on file as required by the service level agreement between councils (Finding 2 - Medium)
- ▶ **Rateable Value Checks:** Rateable values given on premises applications are not checked against Council records (Finding 3 - Medium)
- ▶ **Licence register updates:** Licence register information held on the Council's website is not up to date (Finding 4 - Medium)
- ▶ **Out of Date Policy:** Several policies are past their review date (Finding 5 - Low)



CONCLUSION


Based on our review of the Council's policies and processes, including those carried out on behalf of the Council, we have raised one high priority finding, three medium priority findings, and one low rated finding as part of our report.

Our testing has found that current practice does not fully meet requirements outlined in policy and the SLA. Additionally, there needs to be continuous review to ensure any updates required to keep policies as reflective of current practice occur.

Overall, we have concluded moderate assurance over the design and operational effectiveness of controls in relation to licensing.

DETAILED FINDINGS

1 DBS & Medical record monitoring

TOR Risk:	Policies and procedures for licensing are not followed resulting in licences being issued inappropriately		
Significance		High	



FINDING

Statutory Taxi & Private Hire Vehicle Standards, from the Department of Transport, gives guidance for licensing authorities to monitor DBS checks made for hackney carriage drivers every six months. To help with this, the Council requires that drivers subscribe to the DBS Update Service. Similar annual DBS checks must also be made for private hire operators. For drivers over the age of 65 years of age, annual medical evaluation reports should be sent and checked by the Council, as laid out in Council policy.

DBS checks are carried out as part of the licensing application process. Additionally, drivers over 65 had previously been required to apply for a renewal of licence annually, meaning that the medical evaluation was checked annually as part of the renewal processing.

However, these recurring checks have not been completed by the Council for drivers who already retain licences and there is no process or system for doing so. The requirement for signing up to the DBS Update Service has come into effect with the latest iteration of the Hackney Carriage and Private Hire Policy from January 2023. This means that the first six monthly check is overdue. Additionally, as drivers over 65 now have licences valid for three years, in line with other drivers, the medical evaluations are no longer being checked annually.

There is a risk that as DBS records are not being monitored, disclosures could be unseen by the Council for up to three years before being noticed when a licence is being renewed if the driver does not make the Council aware themselves. This means that persons may no longer be considered fit and proper. For example, in September 2022 it was discovered that a driver had been working whilst convicted of a battery offence. This was only flagged up in the DBS check that occurred when they tried to renew their licence. Regular DBS checks would reduce the likelihood of this occurring. Similarly, there is a risk that drivers are medically unfit to perform their duties without sufficient checks taking place.



RECOMMENDATION

- a) An application processing interface with the disclosure service should be set up for this purpose, as is in place at Chelmsford Council.
- b) Regular reminders should be created and embedded onto the system to alert the Council as to when checks should be carried out in relation to DBS and medical evaluation reports.




MANAGEMENT RESPONSE

- a) The interface as suggested has been discussed with Maldon IT and Service Manager and believe that it is under consideration.
N.B MDC are already signed up to the DBS Update Service. Please visit the dual driver licences page on the MDC website.

- b) This would be a useful addition - a policy decision may also be needed regarding what the actions should be if a driver has not signed up to the disclosure service or fails to provide a DBS check.

Responsible Officer:	Head of Service (Shirley Hall / Nick Chapman)
Implementation Date:	April 2024

2 Insufficient Application Evidence

TOR Risk:	Policies and procedures for licensing are not followed resulting in licences being issued inappropriately	
Significance		Medium



FINDING

Under the SLA in place, Chelmsford Council is responsible for the initial assessment, related checks and issuing of various applications and permits, including those covered by the Licensing Act 2003 and hackney carriage vehicles and drivers. Additionally, they are responsible for the retention of documentation relating to applications.

Application information is either received by the Council and passed to Chelmsford or is directly received by Chelmsford. It is subsequently uploaded onto Civica for archiving and then attached to the Uniform file where the details of the application are input. These details include personal information as well as reference numbers, which are obtained from applications submitted to the Council.

We reviewed a sample of 28 applications that had been processed and issued by the Chelmsford licensing team from July 2022 as follows:

- Seven Hackney Carriage Vehicle
- One Private Hire Vehicle
- Five Dual Drivers (Hackney Carriage and Private Hire)
- Four Premises
- Eight Temporary Event Notices (TEN)
- One House to House Collections
- Two Street Collections

Following our review, we identified:

Vehicle & Drivers Licences

- Insufficient supporting documentation had been attached to the file for 11 of the 13 samples reviewed. Six of the 13 had no attachments to their file, four had the issued licence attached, but no documents from the application, and only two of the five dual drivers' files had the required medical form attached to Civica. Information missing across drivers' files included the application form, DBS certificate, proof of right to work and a passport standard photograph. Information missing from vehicle files included basic DBS certificates, vehicle registration document, certificate of motor insurance and vehicle inspection certificates (MOT).
- The Council has a target of five working days, from receipt of application and required fees, to issue a licence. Four of the 13 applications had missed this target and two did not provide additional information or rationale stating why.

Premises Licensing

- For the four items in the sample, no application forms or supporting documents were attached. Documents missing included an operating schedule, plan of premises, details on premises supervisor and proof of applicant right to work.

Temporary Event Notice

- Of the eight applications, four did not have evidence of the notice itself, acknowledgement from the Council or evidence of the notice being issued to Police and Environmental Health as required by Council policy.
- One had evidence from a different application attached to the file and we did not receive the correct evidence as it may have been saved locally.

House to House and Street Collections (HSC)

- Of the three applications, adequate information was not attached for one of the permits. An alert from Gov.uk was attached, detailing that an application was made, and that information can be accessed, but the actual application form that contains all the information was not attached.

Additionally, without applications and subsequent communications being attached to the file, it is difficult to determine whether applications were processed in a timely manner or confirm the validity of the licence being issued / appropriate checks being performed.

It is noted that officers interviewed spoke of their frustration of the delays between the two systems interfacing, Civica being used to archive documents and Uniform used to input information. Officers often find themselves indexing the supporting documents after the application has been processed. Where applications are received directly to the Licensing team inbox, the documents can be found inside the emails. However, for Licensing Act applications, where information is received online, there is a time window for them to access it. It is not known how long this information is available for, but afterwards it is no longer accessible. Where these documents are not saved to Civica in a timely manner, there is the risk that this information may be lost as it can no longer be accessed.

Without retention of documentation, it is unclear if necessary information was originally seen and correctly processed. Although information had been added onto Uniform, it is difficult to verify it without the original applications and supporting documents being attached to the file through Civica meaning that there is a risk that information is insufficient and thus licences are being issued incorrectly. As noted above, this is also not in line with the SLA which requires documentation to be retained.



RECOMMENDATION

- Supporting documentation should be uploaded and retained as part of the review process with licences not issued until this has been completed. A monthly audit of 10% of processed applications would determine whether this is being completed.
- The Council should look to discuss with the Uniform supplier whether amendments to the weekly workload reports could also reflect where attachments have not been saved to files.




MANAGEMENT RESPONSE

- The procedure, which has worked well to date is that officers index paperwork after the application has been dealt with. From an assessment of the individual files that have been assessed by the auditors - the documents are available and retrievable - but not all saved to the file until after the application has been dealt with. MDC need to manage this with CCC to align with Maldon's processes.
- Investigate ways of improving the passing of information between Uniform & emails and Civica
Investigate if it is possible to introduce processes (within Civica?) that create prompts or prevent moving a process forward unless an activity or check is made. Such processes are used in other service areas in Chelmsford where Civica and Uniform are used side by side. We may need to identify the IT support and skills services to support this.
Officer agrees this can be done and will investigate with IT. This will need to be an agreed BPR project which is a lot of work.

Responsible Officer:	Head of Service (Shirley Hall / Nick Chapman)
Implementation Date:	October 2024

3 Rateable Value Checks

TOR Risk:	Applications are not processed in a timely manner and fees for licence applications are not charged in accordance with statutory or agreed fee scales	
Significance		Medium



FINDING

As part of Premises licence application, the fee is dependent on the Rateable Value (RV) of the property. The RV of a property is an estimate set by the Valuation Office Agency, often used to calculate business rates. These fees are banded and must be paid for the application itself with a further fee paid annually.

From our review of four premises licences, three of the RVs noted on Uniform did not match the RV obtained from the Council's own records. However, it should be noted that the RVs given would not have changed the banding of the property and hence the fee. The remaining sample did not have a RV figure on Uniform at all, the difficulty with attachments as noted in finding two also means that this could not be verified and therefore it is unclear if the fee for the application is correct.

Where RVs are not checked against Council records and are solely reliant on information provided as part of the applications, there is a risk that incorrect fees are being paid.



RECOMMENDATION

- a) RV figures should be checked against Council records to ensure that the correct fee is being paid on application submission.




MANAGEMENT RESPONSE

A project has been agreed with Customer Services to review approx. 450 existing premises to establish whether their Licensing fee does match their existing RV. This will be checked against the Gov.Uk automatic checker. Any discrepancies will be addressed directly with the license holder. At this stage we are unaware of the extend of any inaccuracies. CS will complete this in down time during calls.

To complete this project, we are working with IT Support to extract data from Uniform so that CS have the accurate up to date detail about the premises. Any new applications and renewal invites will be checked by the Administration team in conjunction with CCC Licensing. Confirmation from CCC that they are checking this at their end when application is received.

Responsible Officer:	Head of Service (Shirley Hall / Nick Chapman)
Implementation Date:	April 2024

4 Licence register updates

TOR Risk:	Policies and procedures for licensing are not followed resulting in licences being issued inappropriately
Significance	 Medium



FINDING

The Council has a statutory requirement to publish public registers detailing all licences that have been issued, as outlined in Local Government (Miscellaneous Provisions) Act 1976 and the Licensing Act 2003. Information on licences is shared by Chelmsford to allow the Council to update records and publish updated registers online.

In our sample, we found that two dual drivers licences had not been added to the May 10th register. One of these was later added to the June register, although it had been issued in April, representing a delay in the publication of information. The other licence was not added to the June register.

Without sufficient review of completeness and the timely publication of information, there is a risk that the Council is not meeting its statutory requirements and is publishing out of date information to the public.



RECOMMENDATION

- The Council should reconcile all licences currently issued with those listed on the most recent registers, and retroactively add licences that could not be located to the register
- Information required for the registers should be sent periodically, for example the same day of each month, to allow regular updates in a consistent manner.



MANAGEMENT RESPONSE

Relevant Maldon Service area / officer identified to work with Chelmsford Licensing team:


- to ensure that the fields used within Uniform to create the public registers are being correctly used. Review and test these with Maldon.
- To ensure we understand the process used by Maldon for the public register
- Training of officers
- Document procedure

Training is being arranged but held up by the Phase 2 restructure at Maldon. This to be progressed from November.

Explore process for updating and checking Public Register with IT. Similar process to Animal Welfare Boarding Establishments Registered.

Responsible Officer:	Head of Service (Shirley Hall / Nick Chapman)
Implementation Date:	April 2024

5 Out of Date Policy

TOR Risk:	Policies and procedures covering the different types of licence within the Council's remit are not maintained or contain out of date references to legislation and requirements
Significance	 Low



FINDING

Licensing policies are currently written by the Council with changes to legislation and best practice being communicated by Chelmsford City Council. Prior to the Ignite restructuring, these were written by the Head of Service and Senior Licensing Officer.

However, there is no mechanism to remind the Council that policies are approaching their review date or to schedule policy review itself. This has led to several policies becoming out of date or needing review:

- Licensing Act 2003: Statement of Licensing Policy, review date June 2023
- Street Collections Policy, review date June 2023
- Statement of Licensing Policy: Gambling Act 2005, review date June 2021

Therefore, there is a risk that without regular review, policies contain out of date references, incorrect information or no longer reflects the processes carried out by the Council.



RECOMMENDATION

- a) The Council should produce a policy review schedule which outlines the review dates and those responsible for carrying out policy evaluation.



MANAGEMENT RESPONSE

As part of the Ignite transformation the Council lost technical resource to complete this task. On this basis, in September 2023, an amendment to the SLA (Additional Services) was issued and agreed that CCC would:

“Review and assist with the update of all Maldon strategy and policy documents pertaining to Licencing, seeking a consistent approach with Chelmsford City Council and applying best practice (allowing for minor local variations)”

The Gambling Policy expired in June 2021 and an urgent renewal is currently being sought through Committee, rather than a full review as new guidance is due in Autumn 2024. It is envisaged that the renewal will extend until 2025 which will be aligned with CCCs policy times going forward.

The Statement of Licensing Policy expires in Jan 2024, again we are looking to extend this until 2025 to align with CCC.

Responsible Officer:	Head of Service (Shirley Hall / Nick Chapman)
Implementation Date:	January 2024

APPENDIX I - DEFINITIONS

LEVEL OF ASSURANCE	DESIGN OF INTERNAL CONTROL FRAMEWORK		OPERATIONAL EFFECTIVENESS OF CONTROLS	
	FINDINGS FROM REVIEW	DESIGN OPINION	FINDINGS FROM REVIEW	EFFECTIVENESS OPINION
Substantial	Appropriate procedures and controls in place to mitigate the key risks.	There is a sound system of internal control designed to achieve system objectives.	No, or only minor, exceptions found in testing of the procedures and controls.	The controls that are in place are being consistently applied.
Moderate	In the main there are appropriate procedures and controls in place to mitigate the key risks reviewed albeit with some that are not fully effective.	Generally a sound system of internal control designed to achieve system objectives with some exceptions.	A small number of exceptions found in testing of the procedures and controls.	Evidence of non compliance with some controls, that may put some of the system objectives at risk.
Limited	A number of significant gaps identified in the procedures and controls in key areas. Where practical, efforts should be made to address in-year.	System of internal controls is weakened with system objectives at risk of not being achieved.	A number of reoccurring exceptions found in testing of the procedures and controls. Where practical, efforts should be made to address in-year.	Non-compliance with key procedures and controls places the system objectives at risk.
No	For all risk areas there are significant gaps in the procedures and controls. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Poor system of internal control.	Due to absence of effective controls and procedures, no reliance can be placed on their operation. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Non compliance and/or compliance with inadequate controls.

RECOMMENDATION SIGNIFICANCE

High	A weakness where there is substantial risk of loss, fraud, impropriety, poor value for money, or failure to achieve organisational objectives. Such risk could lead to an adverse impact on the business. Remedial action must be taken urgently.
Medium	A weakness in control which, although not fundamental, relates to shortcomings which expose individual business systems to a less immediate level of threatening risk or poor value for money. Such a risk could impact on operational objectives and should be of concern to senior management and requires prompt specific action.
Low	Areas that individually have no significant impact, but where management would benefit from improved controls and/or have the opportunity to achieve greater effectiveness and/or efficiency.

APPENDIX II - TERMS OF REFERENCE



KEY RISKS

Based upon the risk assessment undertaken during the development of the internal audit operational plan, through discussions with management, and our collective audit knowledge and understanding the potential key risks associated with the area under review are:

- ▶ Policies and procedures covering the different types of licence within the Council's remit are not maintained or contain out of date references to legislation and requirements.
- ▶ Policies and procedures for licensing are not followed resulting in licences being issued inappropriately.
- ▶ Authorisation for licences is not evidenced or decisions are made outside the limits of the Council.
- ▶ Applications are not processed in a timely manner and fees for licence applications are not charged in accordance with statutory or agreed fee scales.



SCOPE & APPROACH

The following areas will be covered as part of this review:

- ▶ We will review a sample of licence applications across those provided by the Council to ensure appropriate policies and procedures are in place and were adhered to in the review and approval of licence applications.
- ▶ We will assess whether the correct fees were charged to applicants and applications were reviewed and responded to in a timely manner.

The scope of the review is limited to the areas documented under the scope and approach. All other areas are considered outside of the scope of this review. However, Internal Audit will bring to the attention of management any points relating to other areas that come to their attention during the course of the audit.

We assume for the purposes of estimating the number of days of audit work that there is one control environment, and that we will be providing assurance over controls in this environment. If this is not the case, our estimate of audit days may not be accurate.

In delivering this review BDO may need to observe and test confidential or personal identifiable data to ascertain the effective operation of controls in place. The organisation shall only provide the Shared Personal Data to BDO using secure methods as agreed between the parties. BDO will utilise the data in line with the Data Protection Act 2018 (DPA 2018), and the UK General Data Protection Regulation (UK GDPR) and shall only share Personal Data on an anonymised basis and only where necessary.

FOR MORE INFORMATION:

AARON WINTER

Aaron.Winter@bdo.co.uk

The matters raised in this report are only those which came to our attention during the course of our audit and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. The report has been prepared solely for the management of the organisation and should not be quoted in whole or in part without our prior written consent. BDO LLP neither owes nor accepts any duty to any third party whether in contract or in tort and shall not be liable, in respect of any loss, damage or expense which is caused by their reliance on this report.

BDO LLP, a UK limited liability partnership registered in England and Wales under number OC305127, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. A list of members' names is open to inspection at our registered office, 55 Baker Street, London W1U 7EU. BDO LLP is authorised and regulated by the Financial Conduct Authority to conduct investment business.

BDO is the brand name of the BDO network and for each of the BDO Member Firms.

BDO Northern Ireland, a partnership formed in and under the laws of Northern Ireland, is licensed to operate within the international BDO network of independent member firms.

Copyright ©2023 BDO LLP. All rights reserved.