

Background Papers, if any, are specified at the end of the Report

CONSULTATION ON SECONDARY LEGISLATION FOR THE SETTING OF FEES LOCALLY IN CONNECTION WITH THE LICENSING ACT 2003

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RECOMMENDATIONS

This report is for information only following a consultation response on 10 April 2014.

Background

- 1 As part of the Coalition Government's proposals to 'rebalance the Licensing Act', locally set fees are being consulted on as an alternative to the current centrally set fees, over which local authorities have no control and which have been unchanged since 2005. The authority to consider locally set fees was introduced in the Police Reform and Social Responsibility Act 2011 (the 2011 Act).
- 2 The fees that are being consulted on are specified in Table 1 of **Appendix 1** and they are considered to be the 'main fees' under the act. These are fees paid in respect of: applications for new premises licences and club premises certificates; applications for full variations to premises licences and club premises certificates; and annual fees in respect of premises licences and club premises certificates.
- 3 The scope of the Home Office consultation concerns:
 - The future of the current variable fee "bands" based on the national non-domestic rateable value (NNDR) of the premises.
 - Variable fee amounts: Alternatives to NNDR.
 - Exclusion of certain classes of premises from liability for higher fee levels.
 - Proposed cap levels that will apply to each fee category.
 - Efficiency and the avoidance of "gold-plating".
 - A single annual fee date.
- 4 The consultation period commenced on 13 February 2014 and closed on 10 April 2014.

Discussion

The future of the current variable fee "bands" based on the national non-domestic rateable value (NNDR) of the premises

- 5 The current fee regulations prescribe different fee amounts for the "main fees" depending on the national non-domestic rateable value (NNDR) "band"

of the premises. NNDR represents the open market annual rental value of a business or non-domestic property - the rent the property would let for if it were offered on the open market.

6 The “bands” are:

- Band A: no NNDR to £4,300;
- Band B: £4,301 to £33,000;
- Band C: £33,001 to £87,000;
- Band D: £87,001 to £125,000; and
- Band E: £125,001 and above.

7 A study of licensing authority costs by the Home Office did not support NNDR as a criterion for variable costs because the costs incurred by premises within each band in an area were not significantly linked to cost differences for the licensing authority.

Variable fee amounts: Alternatives to NNDR

8 The proposed criteria on which the Home Office is consulting are whether or not premises are:

- a. authorised to provide licensable activities until a late terminal hour and/or
- b. used exclusively or primarily for the sale of alcohol for consumption on the premises.

9 Evidence is being requested which would support either of these criteria, or a combination of both.

Exclusion of certain classes of premises from liability for higher fee levels

10 The consultation seeks views on whether licensing authorities should be able to exclude certain types of premises from higher amounts which may be imposed upon some premises (to be defined as part of this consultation), if these types are not associated with higher costs to the licensing authority. The types of premises could potentially be similar to those available to licensing authorities as discretionary exemptions from the late night levy, such as: accommodation providers; theatres and cinemas; bingo halls; community amateur sports clubs; and community premises, as these are generally considered to lead to less compliance work for the licensing authority.

Proposed cap levels

11 The Government has committed to set “caps” (the highest permitted fee level) for each fee category. The consultation invites views on proposed cap levels. The aim of these caps is to provide reassurance to fee payers that fees cannot be set at excessive levels.

12 Caps are not recommended fee levels: locally-set fee levels would need to be based on local evidence of what is required for cost recovery in that fee

category, and it would be unlawful to merely set them at the level of the cap or at a proportion of the cap, without regard to costs.

- 13 The suggested level of cap for each fee category is detailed within the consultation and are based upon the highest reported costs from a sample survey that the Home Office conducted previously.

Efficiency and the avoidance of “gold-plating”

- 14 Licensing authorities are already under a duty to show that they have secured economy and efficiency in their use of resources. Setting fees on a cost recovery basis will bring new focus on the importance of keeping licensing costs as low as possible. The consultation seeks suggestions on practical steps that can be taken to secure efficiency. As South Bucks and Chiltern Councils have now established a shared Licensing Team and are seeking to move away from any paper based processes to more efficient electronic processes this should be incorporated as part of the Councils’ response to the consultation.
- 15 Gold plating is described in the consultation as activities that go beyond the duties of the 2003 Act and are not justified by proportionality. The consultation details specific actions which may or may not be considered to be gold-plating under this definition and asks for respondents whether they agree or not.

A single annual fee date

- 16 Annual fees for premises licences and club premises certificates are currently paid on the anniversary of the date on which the licence or certificate was granted. Holders of premises licences, particularly operators who hold multiple licences granted at different times, have argued that it would be more efficient for them to be able to pay all their annual fees on the same date.
- 17 This would create a peak period in work, and there would certainly be a transitional cost in the first year. Under locally-set fees aimed at recovering costs, any increased costs would be passed on to fee payers.
- 18 Although views are requested on a potential move to a single payment date, it is not intended that this would come into effect until a later date following implementation of the next locally set fees regime due to the complexities that this would bring.

Consultation Response

- 19 Officers are preparing a response to the consultation on behalf of the Council and are seeking to include any comments and/or views from Members of the Licensing Committee. A draft response to the questions raised within the Consultation Document is attached to this report at **Appendix 1** for Members to note and approve/comment upon.

- 20 The Home Office advises that responses received will be analysed and a 'Response to Consultation Document' published explaining the Government's final policy intentions. It should be noted that all responses will be treated as public.

Background Papers: *A consultation on fees under the Licensing Act 2003*
