

SUBJECT:	Consultation on secondary legislation for the setting of fees locally in connection with the Licensing Act 2003
REPORT OF:	Officer Management Team - Director of Services Prepared by - Head of Health and Housing

1. Purpose of Report

- 1.1 To advise the Licensing Committee of the Home Office consultation entitled "A consultation on fees under the Licensing Act 2003".
- 1.2 To advise Members in respect of the Council's response which were agreed by the Chair of the Licensing Committee.

2. Links to Council Policy Objectives

- 2.1 The provision of an efficient and effective licensing service contributes to the Council's Corporate Plan Key Theme 3 of safe communities.

3. Background

- 3.1 As part of the Coalition Government's proposals to 'rebalance the Licensing Act', fees to be set at a local level were the subject of consultation, as an alternative to the current national prescribed fees. The current fees have little relation to the costs of a licensing authority and have been unchanged since 2005. The ability for government to introduce locally set fees was included in the Police Reform and Social Responsibility Act 2011 (the 2011 Act).
- 3.2 The fees that were being consulted on are specified in the Proposed Licensing Fee Cap as detailed in Table 1 of Appendix 1. These proposals considered the 'main fees' under the Licensing Act 2003. These are fees paid in respect of;
 - new premises licences and club premises certificates;
 - full variations to premises licences and club premises certificates and
 - annual fees in respect of premises licences and club premises certificates.
- 3.3 The scope of the Home Office consultation concerns:
 - The future of the current variable fee "bands" which are based on the National Non-Domestic Rateable value (NNDR) of the premises.
 - Alternatives to NNDR e.g. a variable fee amounts:
 - Exclusion of certain classes of premises from the liability for higher fee levels
 - Proposed licensing fee cap levels that will apply to each fee category.
 - Efficiency and the avoidance of the "gold-plating" of licensing services
 - A single annual renewal fee date.
- 3.4 The consultation period commenced on 13 February 2014 and closed on 10 April 2014

4. Discussion

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

- 4.1 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.
- 4.2 The current “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.
- 4.3 A study of licensing authority costs by the Home Office did not support NNDR as a criterion for variable costs because the costs associated with a premises within each band is not significantly linked to cost incurred by the licensing authority.

Variable fee amounts: Alternatives to NNDR

- 4.4 The proposed criteria on which the Home Office consulted on were whether or not premises incur higher costs to a licensing authority when they 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.
- 4.5 Evidence was 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.

- 4.6 The consultation sought views on whether licensing authorities should be able to exclude certain types of premises from higher fee levels. The exclusions could be: hotels; 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

- 4.7 The Government has committed to set “caps” (the highest permitted fee level) for each fee category. The consultation invited views on the proposed cap levels. The aim of these caps is to provide reassurance to fee payers that fees cannot be set at excessive levels.
- 4.8 The caps are not intended to be recommended fee levels: locally-set fee levels would need to be based on local evidence of what is required for full cost recovery of undertaking the functions of the 2003 Act. It would be unlawful to merely set them at the level of the cap or at a proportion of the cap, without regard to the actual licensing costs incurred by an authority.

- 4.9 The suggested level of each fee cap was detailed within the consultation document and is based upon the highest reported costs from a sample survey conducted by the Home Office.

Efficiency and the avoidance of “gold-plating”

- 4.10 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 full cost recovery basis will bring new focus on the importance of keeping licensing costs as low as possible.
- 4.11 The consultation sought suggestions on practical steps that can be taken to secure efficiency. As South Bucks and Chiltern councils have now established a shared Licensing Service and are seeking to reduce costs through adopting electronic processes, this was incorporated as part of the Councils response to the consultation.
- 4.12 Gold plating was described in the consultation as activities that go beyond the duties of the 2003 Act and are not justified by proportionality. The consultation detailed specific actions which may or may not be considered to be gold-plating under this definition and asked respondents whether they agreed or not.

A single annual fee date

- 4.13 Annual renewal 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.
- 4.14 This could 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. There could be a benefit to the council in that BACS or Direct Debit payments could reduce the cost of administration.
- 4.15 Although views were 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

- 4.11 The Licensing Manager consulted with the Chair of the Licensing Committee and prepared a response to the consultation on behalf of the Council and the agreed response to the questions raised within the consultation document is attached to this report as Appendix A for Members to note.
- 4.12 The Home Office advised that responses received would be analysed and a ‘Response to Consultation Document’ published explaining the Government’s final policy intentions. It should be noted that all responses were to be treated as public.

5. Resource Implications

- 5.1 There are no financial implications from consultation but if introduced, a report detailing implications of the proposed approach will be provided.

6. Recommendation

- 6.1 This report is provided for information only following the consultation being responded to by the Licensing Manager in agreement with the Chair of the Licensing Committee.

Officer Contact:	Nathan March 01494 732056 nmarch@chiltern.gov.uk
Background papers:	Licensing Act 2003, as amended. Police Reform and Social Responsibility Act 2011. Home Office consultation document -A consultation on fees under the Licensing Act 2003