

Agenda

Licensing Committee



Date:

Tuesday, 1 April 2014 at 14:00

Venue:

Town Hall, St Annes

Committee members:

Councillor Angela Jacques (Chairman)
Councillor Dawn Prestwich (Vice-Chairman)

Councillors Brenda Ackers , Christine Akeroyd, Susan Ashton, Keith Beckett ISO, Alan Clayton, Simon Cox, Susanne Cunningham, John Davies, Leonard Davies, David Donaldson, Karen Henshaw JP, Ken Hopwood

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Contact: Sharon Wadsworth – Telephone (01253) 658546 – Email: sharon.wadsworth@fylde.gov.uk

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Licensing Committee



Date:	Thursday, 11 July 2013
Venue:	Town Hall, St Annes
Committee members:	Councillor Angela Jacques (Chairman) Councillor Dawn Prestwich Councillors Christine Akeroyd, Brenda Ackers, Keith Beckett, Alan Clayton, Susanne Cunningham, David Donaldson, Leonard Davies, John Davies, Kathleen Harper, Karen Henshaw, Ken Hopwood.
Other Councillors:	Councillor Cheryl Little.
Officers:	Clare Holmes, Chris Hambly, Paul Rogers.
Other Attendees:	None

1. Declarations of interest

Members were reminded that any disclosable pecuniary interests should be declared as required by the Localism Act 2011 and any personal or prejudicial interests should be declared as required by the Council's Code of Conduct for Members.

2. Confirmation of minutes

RESOLVED: To approve the minutes of the Licensing Committee meeting held on 12 October 2013 as a correct record for signature by the Chairman.

3. Substitute members

There were no substitute members.

4. Consultation Regarding Early Morning Alcohol Restriction Order by Blackpool Borough Council

Chris Hambly, Principal Licensing Officer, presented a report which informed the Committee that Blackpool Council had recently commenced a consultation regarding the introduction of an Early Morning Alcohol Restriction Order (EMRO) for an area of Blackpool Town Centre. The final date for any comments to the consultation is the 25th July 2013.

The Committee were reminded of the principles of an EMRO and were asked to consider the formulation of a potential response to the consultation.

After discussion, it was RESOLVED that the Committee would like to thank Blackpool Council for the consultation document. The Committee supports the objectives of the consultation and

appreciates the problems faced by the police and other statutory bodies. The Committee awaits the decision of Blackpool Council.

5. Licensing Act 2003

Chris Hambly, Principal Licensing Officer, presented a report of forthcoming changes to the Licensing Act 2003 regarding deregulation of some licensable activities. The report also informed the committee of the current numbers of licensed premises in the Borough. He informed members that government consultation on licensing fees will not take place until 2014 and suggested that the Statement of Licensing Policy be reviewed at that time.

After discussion, it was RESOLVED that a review of the Statement of Licensing Policy be carried out in 2014 when more information is available following the recent amendments to the Licensing Act and to be concurrent with the government consultation on licensing fees.

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REPORT

REPORT OF	MEETING	DATE
RESOURCES DIRECTORATE	LICENSING COMMITTEE	1 st APRIL 2014

LOCALLY SET FEES

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

This report is to seek Members' views on the proposed responses to the questions posed by the Home Office as part of the consultation on Locally Set Fees in relation to the Licensing Act 2003 and to seek their approval to submit a response on behalf of Fylde Borough Council to the consultation.

RECOMMENDATION

That the Committee note the report and approve the proposed response.

CABINET PORTFOLIO

This item falls within the following cabinet portfolio(s):

Social Wellbeing - Councillor Cheryl Little

SUMMARY OF PREVIOUS DECISIONS

There are no previous decisions in this matter.

REPORT

1. The Licensing Act 2003 (the 2003 Act) regulates the sale of alcohol, the provision of late night refreshment and regulated entertainment in England and Wales, and is primarily administered by local authorities, acting in their capacity as licensing authorities. Licensing fees are intended to recover the costs that licensing authorities incur in carrying out these licensing functions. Licensing fees are payable to licensing authorities by holders of licences and certificates, and those making applications or issuing notices. This can include, for example, pubs, shops, restaurants and private members' clubs (such as working men's clubs). Licensing fees are currently set by central Government through Regulations to the Licensing Act 2003.

2. Current fee levels were set in 2005 and apply nationally. They have not been adjusted since (other than for the introduction of new fees for new processes). The Police Reform and Social Responsibility Act 2011 amended the 2003 Act to introduce a power for the Home Secretary to prescribe in regulations that in future fee levels should be set by individual licensing authorities to enable them to recover their licensing costs.
3. The Home Office recently launched a consultation (app 1) which will run for eight weeks from 13 February until 10 April 2014 in relation to locally set fees. The consultation seeks views on important aspects of the regulations that will govern locally-set fees. These include:
 - whether and under what circumstances licensing authorities should be able to charge different amounts to different types of premises
 - the maximum amount that can be charged
 - the mechanisms that will provide reassurance to fee-payers that fees are being set transparently, at cost, and efficiency encouraged
4. The consultation also asks whether there should be a single national payment date for annual fees. (Annual fees are currently payable on the anniversary of the date the licence was granted.)
5. An impact assessment accompanies the consultation document, which estimates the change in fee payments that will result from fees being set locally. This includes an estimate of the costs for licensing authorities of the duty to set fees. This is attached at Appendix 2 to this report.
6. Alongside the consultation, the Home Office are conducting a survey of licensing authority costs. This seeks licensing authority estimates of their costs in performing each of their licensing function under the 2003 Act.
7. Officers have considered the questions in the consultation and have drafted responses for consideration by this Committee. These responses are attached as Appendix 3 to this report.
8. In summary, Members are requested to consider the consultation document and the proposed response, and to approve any amendments to the response that they see fit, and to authorise the Principal Officer of the Licensing Team to submit a response to the Home Office.

IMPLICATIONS	
Finance	At this stage there are no immediate financial implications.
Legal	No direct implications.
Community Safety	No direct implications.
Human Rights and Equalities	No direct implications.
Sustainability and Environmental Impact	No direct implications.
Health & Safety and Risk Management	No direct implications.

REPORT AUTHOR	TEL	DATE	DOC ID
Chris Hambly	01253 658422	12 th March 2014	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
None		

Attached documents

1. Home Office Consultation on Locally Set Fees
2. Impact Assessment
3. Draft Response to consultation



Home Office

A consultation on fees under the Licensing Act 2003

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Ministerial foreword

The Coalition Government is committed to cutting red tape in the licensing regime for responsible businesses. For example, we have already significantly reduced the burden of licensing regulation on live music, and have recently brought forward further proposals for the further deregulation of entertainment. We are also giving local government powers to remove licensing burdens on late night refreshment providers and reducing the burden of the personal licence regime.

However, the Coalition Government is very clear about its commitment to curbing excessive drinking and the problems it causes, especially the alcohol-related crime and disorder that costs around £11 billion annually in England and Wales. We have legislated to rebalance the Licensing Act in favour of local communities, ensuring that local authorities have significantly enhanced powers to tackle alcohol-related crime and disorder. For example, we have introduced the late night levy, giving licensing authorities the power to ensure that businesses selling alcohol late at night contribute to the police costs and wider council spending it causes. We have enabled licensing authorities to prevent alcohol sales late at night in problem areas through Early Morning Alcohol Restriction Orders (EMROs). We have also lowered the evidence threshold for decision-making, making it easier for licensing authorities and the police to refuse, revoke or impose conditions on licences.



Norman Baker

As part of our proposals to rebalance the Licensing Act, we also recognised arguments from some licensing authorities that they face significant deficits in carrying out their licensing functions, given that fee levels have been unchanged since they were set in 2005. We therefore introduced provisions in the Police Reform and Social Responsibility Act 2011 to enable locally-set fees based on cost recovery. We could have set fees centrally, but we recognise that costs vary for legitimate reasons in different areas, so that raising fees to recover costs in one area would mean fee payers paying too much in another.

Locally-set fees cannot be used to raise extra revenue. Nor are they tools to tackle crime. The late night levy, EMROs, and other strengthened licensing powers can be used for these purposes. Fees must be based on recovering the costs that licensing authorities incur in carrying out their licensing functions. Fee payers need to know that locally-set fees will be set transparently and be based on evidence. However, we do not wish to impose excessive duties or complex processes that will increase the costs of the licensing system for everyone. Therefore, we are seeking views on how to create a proportionate system of fees that follows these principles.

Additionally, we will introduce caps on the level of each fee to reassure fee payers. We are consulting on the level of each cap. I emphasise that the caps are intended to represent the maximum costs of licensing authorities. They will not be a “guide” to fee levels. Nor should they prevent licensing authorities from recovering legitimate costs.

Alongside this consultation, we are conducting a survey of the costs incurred by licensing authorities in performing each licensing function. The information will be important to us in developing the details of the regime. In addition, the information required to complete the survey will form a vital part of the calculations necessary to set fees locally in due course. I therefore urge all licensing authorities to complete and return the survey.

We look forward to hearing the views of all those with an interest as part of this consultation.

A handwritten signature in black ink that reads "Norman Baker". The signature is written in a cursive, flowing style.

Norman Baker MP
Minister of State for Crime Prevention

1. Introduction

- i. The regulatory regime of the Licensing Act 2003 (“the 2003 Act”) affects hundreds of thousands of businesses and many millions of us as workers, residents and consumers. It regulates the sale of alcohol, the provision of late night refreshment and regulated entertainment in England and Wales, and therefore influences activities that are central to many people’s lives. For instance, community pubs are often at the heart of neighbourhoods, providing employment and a focus for community engagement and social life. Licensable activities also support profitable industries which enhance the economy and promote growth. The majority of people who take part in regulated activities do so in an entirely responsible way. Nevertheless, these activities can sometimes have a less positive side, from which the licensing regime is designed to protect the public. Many agencies, such as the police, have a role. However, licensing functions under the 2003 Act are primarily implemented by local authorities – in their capacity as “licensing authorities” - and this role is funded through fees.
- ii. Licensing fees are intended to recover the costs that licensing authorities incur in implementing the 2003 Act, within the context of the transparency and accountability mechanisms to which licensing authorities are subject (see Chapter 8). Fees levels were set nationally in 2005, but have not been revised since then¹. The Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) introduced a power for the Home Secretary to prescribe in regulations that these fee levels should instead be set by individual licensing authorities.
- iii. Fees are payable to licensing authorities by holders of licences and certificates, and those making applications or issuing notices². Those paying fees, therefore, come from a wide variety of groups. They include businesses that sell alcohol and provide late night refreshment, not-for-profit organisations (including private members’ clubs, such as political or British Legion clubs) and individuals (such as personal licence applicants). In addition over 120,000 Temporary Event Notices (TENs) are given each year by a variety of businesses, not-for-profit groups and individuals to authorise licensable activities on an occasional basis.

Scope of this consultation

- iv. This consultation invites views on a number of specific aspects of the regulations that will introduce locally-set fees under the 2003 Act. These are:
 - The future of the current variable fee “bands” based on the national non-domestic rateable value (NNDR) of the premises.
 - Whether the basis on which fees are determined should include new discretionary mechanisms to apply different fee amounts depending on whether or not premises are:
 - authorised to provide licensable activities until a late terminal hour and/or
 - used exclusively or primarily for the sale of alcohol for consumption on the premises.
 - If licensing authorities are able to apply different fee amounts, whether they should have further discretion to exclude certain classes of premises from liability for the higher amount.

¹ Licensing Act 2003 (Fees) Regulations 2005 (S.I. 2005/79). The only substantive amendment has been the addition of new fees for new processes, such as for an application for a “minor variation”.

² A full list of the fees is available in Chapter 7.

- The proposed cap levels that will apply to each fee category.
 - What guidance will be needed on setting fees and on efficiency and the avoidance of “gold-plating” (by which we mean activities that go beyond the duties of the 2003 Act and are not justified by proportionality).
 - Whether there should be a single annual fee date.
 - The transition process to locally set fees.
- v. This consultation is primarily aimed at fee payers and licensing authorities, although we welcome responses from all those who have an interest.

Legal context

- vi. The power to make fees regulations is set out in primary legislation³. These provisions are designed to reflect wider Government policy on fees, in particular, the need to distinguish “fees” from “taxation”. The primary legislation enables licensing authorities to charge different amounts for different “classes of case” (or criteria) specified in the regulations, but does not enable them to introduce new “classes of case” themselves.
- vii. In other words, the legislation enables the Home Secretary to prescribe that licensing authorities set fee levels, but not that they determine their own fee structure. This will be specified in regulations and will therefore remain the same across England and Wales. This fee structure is one of the issues on which we are consulting.
- viii. The primary legislation enables the Home Secretary to apply constraints on licensing authorities’ power to determine the amount of any fee. The Government has signalled its intention to use this power to set caps on fee levels. Chapter 7 seeks views on proposed caps.
- ix. It should also be noted that these regulations cannot introduce new circumstances where a fee becomes payable⁴. For example, they cannot add a fee for applications for review.
- x. There are a number of objectives that have shaped our approach to the consultation. These are set out below.

Cost recovery

- xi. As described above, licensing authorities should, as nearly as possible, achieve cost recovery for the discharge of functions under the 2003 Act⁵. Cost recovery is best achieved by setting fees locally because the variations in actual costs between licensing authority areas make it difficult to achieve a close approximation to cost recovery with nationally-set fees. Locally-set fees should remove unintended public subsidy of the administration of the 2003 Act when a licensing authority’s costs are higher than current fee income. This should benefit tax payers. It should also mean that fee payers do not pay more than the licensing authority’s costs in areas with lower costs.
- xii. Alongside this consultation, the Government is seeking further evidence on variations in costs between licensing authority areas. An estimate of licensing authority costs, based on a small initial survey, is reflected in the accompanying Impact Assessment. We would welcome estimates of the costs of administering the 2003 Act from all licensing authorities to fully

³ This will be sections 197A and 197B of the 2003 Act (see Appendix A).

⁴ A list of fee categories is contained in Chapter 7.

⁵ Chapter 8 of this consultation contains a description of licensing authority costs.

assess the likely impact of locally-set fees and to ensure that costs reported are nationally representative. This will enable the Impact Assessment to be revised at final proposal stage, taking into account evidence received from the consultation. Further information about the cost survey is available at www.gov.uk/government/consultation/locally-set-licensing-fees.

Avoiding cross-subsidisation

- xiii. Fees (unlike taxes) must avoid “cross-subsidisation”. This is where one class (or type) of fee payer is charged at higher than cost-recovery so that another class can be charged less. An example might be charging big firms more as an economic deterrent, or so that charities or small firms can be charged less. This could be regarded as an unfair form of taxation on those that are charged more.
- xiv. Evidence suggests that the current sources of fee income are not properly aligned to licensing authority costs, either in terms of categories of fees (such as TENs or annual fees) or between the ‘classes’ of fee payers (for example at present the fee amount charged for an application for a premises licence is higher for premises with higher non-domestic rateable value, but the evidence does not support such variations in costs within licensing authority areas). This is discussed further in the impact assessment published alongside this consultation at www.gov.uk/government/consultation/locally-set-licensing-fees and in Chapter 5.
- xv. This consultation therefore contains proposals to change the basis on which variable fee amounts may be chargeable locally, with the intention that licensing authorities can reduce cross-subsidisation in their areas in efficient and practical ways.

Caps

- xvi. As mentioned above, the Government has signalled its intention to set a “cap” (or highest permitted fee level) for each fee category. The caps are intended to reassure fee payers that locally-set fees are not a blank cheque for local government. They should not prevent licensing authorities in areas with the highest actual costs from recovering these costs, and should not be treated as indicative fee levels. It is expected that, in all but the most exceptional cases in the highest cost areas, fee levels set by licensing authorities will be well below the caps. This consultation invites views on the levels of the caps. This consultation also seeks views on the other potential mechanisms by which fee payers could be reassured that the fee levels they are paying are fair.

Single national payment date for annual fees

- xvii. 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.
- xviii. This consultation therefore seeks views on whether there should be a single national payment date for annual fees. However, it is not proposed to implement this change at the same time as the regulations governing locally-set fees are introduced, because it would increase the complexity of the forthcoming change to the fees regime.

Out of scope

Additions to or exemptions from fees

- xix. The only basis on which licensing authorities will be able to charge fees is cost recovery. The regulations cannot enable fees to be charged for processes or activities for which fees are not already chargeable, nor can they exempt premises or activities from the licensing regime. The Government is looking more widely at how to reduce the burdens on businesses and not-for-profit groups affected by the 2003 Act. Recent Government consultations on its Alcohol Strategy and on regulated entertainment have invited views on a number of de-regulatory proposals, alongside proposals to tackle alcohol-related harms.
- xx. In the case of regulated entertainment, the Government has proposed changes that will see many activities removed from the scope of licensing entirely⁶. This will mean, for example, that many temporary events that formerly required a TEN (such as community concerts) will not require one in future. Likewise, many licences or certificates that authorise regulated entertainment only will not be required in the future. The Government intends to align the introduction of locally-set fee levels locally with these changes, so that operators whose activities are set to be de-regulated (subject to Parliamentary approval) will not be subject to locally-set fees in the interim.
- xxi. Following the consultation on the Alcohol Strategy, the Government has brought forward proposals to:
- simplify the system of personal licences;
 - introduce a new form of authorisation, the “community and ancillary sales notice” (CAN), which will reduce the burdens on community groups that sell small amounts of alcohol and on businesses, such as small accommodation providers, that only sell limited amounts of alcohol alongside a wider services; and
 - enable licensing authorities to de-regulate late night refreshment in their area⁷.

These proposals (as in the case of the CAN) are expected to result in new lighter touch processes with correspondingly low fees or (in the case of late night refreshment) exemptions from the licensing regime.

- xxii. As a consequence of the principles of cost recovery and the avoidance of cross-subsidisation, this consultation does not propose any nationally-imposed exemptions from the requirement to pay fees where activities remain within the licensing regime. Therefore, exemptions from fees such as those currently applicable to community premises and similar premises that hold a licence only for regulated entertainment, are not proposed. It should be emphasised that the Government’s de-regulatory proposals for entertainment will exempt the types of premises and activities that the fee exemption is currently intended to benefit from the requirement to hold a licence.

6 E.g. “Consultation on a proposal to use a Legislative Reform Order to make changes to entertainment licensing”: <https://www.gov.uk/government/consultations/legislative-reform-order-changes-to-entertainment-licensing>

7 “Consultation on delivering the Government’s policies to cut alcohol fuelled crime and anti-social behaviour”. The Government’s response was published on 17 July 2013: <https://www.gov.uk/government/consultations/alcohol-strategy-consultation>

Large events

xxiii. The “additional fees” for large event fees are not addressed in the current consultation. The Government intends to revisit this topic after licensing authorities have developed expertise in setting fees under the 2003 Act. In the meantime, fees for large events will remain as they are.

Impact Assessment

xxiv. An Impact Assessment has been prepared to accompany this consultation, available at www.gov.uk/government/consultations/locally-set-licensing-fees. In addition to seeking views on the proposals, the Government is also seeking views on the Impact Assessment.

2. About this consultation

Geographical Scope

This consultation applies to England and Wales. We continue to work with the Welsh Government on these proposals.

Impact Assessment

A consultation stage impact assessment is published alongside this consultation document.

Who is this consultation aimed at?

We are particularly keen to hear from everyone who will be affected by these measures, especially those who pay licensing fees (such as those who own or work in pubs, clubs, supermarkets and shops, or issue Temporary Event Notices); and licensing authorities, although we will welcome responses from all those with an interest.

Duration

The consultation runs for eight weeks from 13 February 2014 until 10 April 2014.

Enquiries:

AlcoholStrategy@homeoffice.gsi.gov.uk

How to respond:

Information on how to respond to this consultation can be found on the Home Office website at www.gov.uk/government/consultations/locally-set-licensing-fees

All responses will be treated as public, unless the respondent states otherwise.

Responses can be submitted online through the Home Office website. Alternatively you can submit responses by email at AlcoholStrategy@homeoffice.gsi.gov.uk or by post by sending responses to:

Alcohol Fees Consultation,
Drugs and Alcohol Unit,
Home Office,
4th Floor Fry Building,
2 Marsham Street,
London,
SW1P 4DF

If responding by email or by post, please follow the word limits in the consultation for each question. If you wish to provide additional information, please do so in an annex to your response, which can be emailed to the address above.

Additional ways to become involved:

Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The Department is obliged to both offer, and provide on request, these formats under the Equality Act 2010. We can also offer a version of the consultation in Welsh on request.

After the consultation:

Responses will be analysed and a 'Response to the Consultation' document will be published. This will explain the Government's final policy intentions.

Background

Getting to this stage:

The Government published its "Rebalancing the Licensing Act" consultation in July 2010. Following this, the Police Reform and Social Responsibility Act 2011 introduced the necessary power for the Home Secretary to prescribe that the level of fees under the 2003 Act are set by the authority to which they are payable, based on cost recovery.

3. Information about you

The following questions ask for some information about you. The purpose of these questions is to provide some context on your consultation responses and to enable us to assess the impact of the proposals on different groups of people. By providing these responses you are giving your consent for us to process and use them in accordance with the Data Protection Act 1998.

Company Name or Organisation (if applicable):

Which of the following best describes you or the professional interest you represent? Please select one box from the list below:

Individual involved in licensed premises	<input type="checkbox"/>
Individual involved in or managing club premises	<input type="checkbox"/>
Small or medium sized enterprise involved in licensed premises (up to 50 employees)	<input type="checkbox"/>
Large business involved in licensed premises (more than 50 employees)	<input type="checkbox"/>
Business or trade body involved in the production of alcohol	<input type="checkbox"/>
Trade body representing licensed premises	<input type="checkbox"/>
Association representing club premises	<input type="checkbox"/>
Person or organisation specialising in licensing law	<input type="checkbox"/>
Voluntary or community organisation	<input type="checkbox"/>
Licensing authority <i>[If you are from a licensing authority please specify which licensing authority in the box below:]</i>	<input type="checkbox"/>
Licensing authority officer	<input type="checkbox"/>
Local Government (other)	<input type="checkbox"/>
Police and Crime Commissioner	<input type="checkbox"/>
Police force	<input type="checkbox"/>
Police officer <i>[If you are from a police force specify which police force in the box below]</i>	<input type="checkbox"/>
Bodies representing public sector professionals (e.g. Local Government Association, Institute of Licensing)	<input type="checkbox"/>
Central Government	<input type="checkbox"/>
Member of the public	<input type="checkbox"/>
Other <i>[specify in the box below]</i>	<input type="checkbox"/>

4. Consultation principles, confidentiality and disclaimer

Consultation Principles

- 4.1 The Government has recently introduced a more proportionate and targeted approach to consultation, so that the type and scale of engagement is proportionate to the potential impacts of the proposal. The emphasis is on understanding the effects of a proposal and focusing on real engagement with key groups rather than following a set process. The key Consultation Principles are:
- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
 - departments will need to give more thought to how they engage with and consult with those who are affected;
 - consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and the principles of the Compact between Government and the voluntary and community sector will continue to be respected.

The full consultation guidance is available at:

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Responses: Confidentiality & Disclaimer

- 4.2 The responses you send us may be passed to colleagues within the Home Office, the Government or related agencies. The Department will process your personal data in accordance with the Data Protection Act 1998 (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
- 4.3 Responses to this consultation may be published as part of the analysis of the consultation, or subject to publication or disclosure in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.
- 4.4 Please tick the box below if you want your response to be treated as confidential. Please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, among other things, with obligations of confidence.
-
- 4.5 If you have ticked the box, it would be helpful if you could explain to us why you regard your response as confidential. If we receive a request for disclosure of your response we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
-

5. Variable fee amounts: the national non-domestic rateable value “bands”

Introduction

- 5.1 It is the Government's intention that cost recovery is achieved without cross-subsidisation. Therefore, unless there is evidence that one class (or type) of fee payer leads to higher average costs to the licensing authority than others, everyone should pay the same.
- 5.2 The current fee regulations prescribe different fee amounts for the “main fees”⁸ depending on the national non-domestic rateable value (NNDR) “band” of the premises (see the existing fees at Appendix B). 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.
- 5.3 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.
- 5.4 The fee amounts charged increase substantially for premises in higher bands. For example, the fee for an application for a premises licence is £100 for premises in Band A and £635 for premises in Band E. The only basis on which the Government would propose retaining the use of such bands under a system of locally-set fees would be if the higher bands were, on the basis of local evidence, related to higher costs to the licensing authority.
- 5.5 As described in the Impact Assessment, a study of licensing authority costs by the Home Office (referred to as the LA Sample survey) 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. This means, therefore, that retention of the bands would not assist in reducing cross-subsidisation. As noted in the Impact Assessment, however, it would add marginally to the cost of setting fees because of the need to determine costs for the members of each NNDR band.

⁸ The “main fees” are the 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.

The Government therefore proposes to abandon the use of NNDR as a criterion for variable fee amounts.

Consultation Question 1:

Do you agree or disagree that the use of national non-domestic rateable value bands as a criterion for variable fee amounts should be abandoned?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 2:

If you disagree, please provide evidence that higher national non-domestic rateable value is consistently linked to higher average costs to the licensing authority within individual licensing authority areas, keeping your views to a maximum of 200 words.

6. Variable fee amounts: alternative classes

6.1 This chapter focuses on alternative classes (or types) of premises in respect of which licensing authorities may be able to apply different fee amounts across their area for the “main fees”⁹, if the Government does move away from the use of NNDR bands. There are a number of different options to consider. The Government could prescribe that there be a ‘flat’ fee for the main fees in each area. However, some licensing authorities may consider that this would neither reflect costs nor reduce cross-subsidisation. For example, they may have evidence that, in their area, licensed restaurants or premises that close early consistently result in lower costs than premises used mostly for drinking or those which open until late.

Principles of alternative classes

- 6.2 The proposed discretion to charge different fee amounts for different classes of premises should enable licensing authorities to more closely achieve the objective of the avoidance of cross-subsidisation in their respective areas. These ‘classes’ would only be implemented locally as the basis for variable fee amounts if there was evidence that (and to the extent that) they were linked to costs in that area. They would apply throughout the licensing authority’s area.
- 6.3 Any classes proposed must of course be compatible with the fees provisions in the 2003 Act. In addition, they should also be practical and efficient to implement locally so that they do not significantly increase licensing authority costs.

Alternative classes proposed in pre-consultation discussions

- 6.4 During pre-consultation discussions, local government representatives and fee payers proposed a variety of different approaches. These included methods that seek to place a larger proportion of the fee burden on existing premises perceived as problematic or high risk. Proposals include basing the “main fees” on
- risk assessment of each premises; and
 - “polluter pays” approaches, with payments for interventions (such as inspections) or different amounts dependent on whether there were problems during the year.
- 6.5 A common feature of these methods is that they would require classification of premises in categories that are currently not a formal part of the licensing regime. They would therefore be likely to result in additional costs and burdens (for example, in conducting a risk assessment). They may also increase the likelihood of dispute between licensing authorities and fee payers about the classification that emerged or whether premises were at fault for an incident that led to the assessed risk increasing. Furthermore, they may involve retrospective decisions that could not apply to applications or variation applications. For these reasons, the Government is not proposing these mechanisms.

⁹ The “main fees” are the 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.

- 6.6 The proposed criteria on which we are consulting are whether or not premises are:
- authorised to provide licensable activities until a late terminal hour and/or
 - used exclusively or primarily for the sale of alcohol for consumption on the premises.

These are described in more detail below. However, in Question 18 below, we invite evidence in support of other alternative classes (or types) of premises that are consistently linked to higher or lower average costs to the licensing authority within individual licensing authority areas.

Inter-relationship between the classes

- 6.7 Subject to local evidence of costs, the intention is that a licensing authority will be able to apply neither, only one, or both of the criteria cumulatively; or both of the criteria in combination:
- If neither criterion were applied, there would be a flat rate for all premises.
 - If one was applied (for example, late terminal hour), then this would divide premises into two classes, those that were and were not authorised to provide licensable activities at that hour. Those that were authorised to open later would pay an additional amount.
 - If both criteria were applied, premises that had a late terminal hour and were used primarily for drinking would pay each additional amount cumulatively.
 - To provide additional flexibility for licensing authorities, we also propose that licensing authorities would be able to specify that a higher fee amount would apply only to premises to which both criteria applied in combination. This option is explained in more detail below.

Relationship with caps

- 6.8 We intend that the cap (see Chapter 7) is the highest permitted fee for that fee category. Premises subject to any higher fee amount will still be subject to the cap.

Discretion to vary fee amounts on the basis of late terminal hour

- 6.9 Premises could be charged more or less for the main fees dependent on whether or not the latest time that they are authorised to carry on licensable activities is beyond a set time in the evening. (The exact time is considered further below, paragraph 6.12).
- 6.10 Discussions with licensing authorities suggest that it is likely that premises open late may, in some areas, give rise to higher costs to the licensing authority. This could be as a result of, for example, heightened concern about noise nuisance (which may lead to more representations and applications for review) or the increased costs of inspection late at night.

Consultation Question 3:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is linked to costs?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 4:

If you agree, please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

6.11 “Late terminal hour” is a readily understood concept in the current regime, therefore making dispute less likely and implementation relatively simple. It is important that any class that is specified in the regulations does not itself risk incurring costs (such as those arising from a dispute about liability to pay a fee or its amount).

Consultation Question 5:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is sufficiently practical to implement?

Agree	
Disagree	
Don't know	

Consultation Question 6:

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

6.12 We intend that the terminal hour which triggers the higher fee amount would be set locally but within prescribed criteria set out in regulations. We propose that it should be within the period midnight to 6am. (This is the same time period to which the Late Night Levy and Early Morning Alcohol Restrictions Orders may apply).

Consultation Question 7:

Do you agree or disagree that the licensing authority should be able to determine the hours during which the higher fee is payable within the boundaries of midnight to 6am?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 8:

If you disagree, please state the hours during which you think licensing authorities should be able to determine that a higher fee is payable.

	From	To
Select hours	<input type="text"/>	<input type="text"/>

6.13 We propose that licensing authorities that impose higher fees for premises that open later have discretion to exclude premises that are authorised to open late only on certain nights per year from the class of premises with a late terminal hour. This could mean that premises that are only authorised to open late on special occasions, such as, for example, New Year's Eve or St. Patrick's Day, would be excluded from the class of premises paying a higher fee amount.

Consultation Question 9:

Do you agree or disagree that licensing authorities that impose higher fees for premises which open later should have discretion to exclude premises that are authorised to open late only on certain nights per year?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 10:

Please state your reasons, keeping your views to a maximum of 200 words.

Discretion to vary fee amounts dependent on whether the premises is primarily used for drinking

- 6.14 Premises could be charged more or less depending on whether or not they are exclusively or primarily used for the sale of alcohol for consumption on the premises. This proposal is similar to the “multiplier”, used as part of the current fee structure, except that it would not be restricted to premises with high rateable value. Also, the amount by which the fee differed would not be a prescribed multiple of the standard fee, but would be determined by the licensing authority to reflect cost differences.
- 6.15 It is likely that premises that operate in this way, in some areas, give rise to higher costs to the licensing authority, given, for example, heightened concern about crime and disorder (which may lead to more representations and applications for review).

Consultation Question 11:

Do you agree or disagree that the criterion of whether or not a premises is used primarily for the sale of alcohol for consumption on the premises is linked to costs?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 12:

Please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

- 6.16 “Whether a premises is used exclusively or primarily for the consumption of alcohol for consumption on the premises” is an existing concept in the current regime, used in both the fees regulations, and in relation to whether unaccompanied children are allowed on premises.¹⁰ However, there are mixed views on whether this criterion presents practical challenges. Some licensing officers report that all the premises in their area that should pay the current “multiplier” do so, other licensing officers report that there is significant difficulty in applying the definition. For example, they report that there are premises which they consider should pay it, but which (for example) also provide some degree of refreshment or entertainment. It is important that any criterion which is set down in the regulations does not itself result in costs (such as those arising from a dispute about liability to pay a fee).

¹⁰ Section 145 of the 2003 Act.

Consultation Question 13:

Do you agree or disagree that the criterion of whether or not premises are exclusively or primarily used for the sale of alcohol for consumption on the premises is sufficiently practical to implement?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 14:

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

Relationship between the criteria: a combined class

6.17 As set out in paragraph 6.7, the Government proposes to give licensing authorities flexibility in the application of these two criteria. This includes the proposal that licensing authorities should additionally have discretion to apply higher amounts only to premises where the two criteria are both applicable. If this discretion were exercised, premises would only be charged a higher amount in that area if they were used primarily for the sale of alcohol for consumption on the premises and open to a late terminal hour. This would, in effect, enable licensing authorities to divide premises into two classes – those that were in the combined class and those that were not.

6.18 The benefit of this combined class would be that licensing authorities could exclude from any higher fee amount premises that were open late or used primarily for drinking, but which local evidence shows were not associated with higher average costs. This is an alternative solution to the problem described in paragraph 6.19 and 6.20 below. For example, premises such as accommodation providers, theatres and cinemas and community premises, as well as other relevant premises, could be excluded from any higher amount if this option were exercised in a locality. This alternative approach could be considerably simpler to implement than discretionary exclusions, as estimates of costs would not need to be made for each class of potentially excluded premises.

Consultation Question 15:

Do you agree or disagree that there should be discretion to apply higher fee amounts only where both criteria apply in combination?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Discretionary exclusions from classes of premises subject to a higher fee amount

6.19 Alternatively, it has been suggested that licensing authorities that introduce different fee amounts should be able to exclude certain types of premises from the higher amount, if these types are not associated with higher costs¹¹. 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.

6.20 This would require the regulations to specify each premises type that could be excluded. As with the other proposed classes, the only basis on which a licensing authority would be able to exclude these classes of premises from higher fee amounts would be evidence linking them to lower costs. Therefore, licensing authorities would need to classify premises into these classes and estimate costs for each one. Given the possibility of dispute about classification, and increased complexity in determining costs, the “combined” criterion proposed above (see paragraph 6.17-6.18) may achieve the intended objective in a simpler and more cost-efficient way.

Consultation Question 16:

Do you agree or disagree that, if a licensing authority has determined that different fee amounts should apply, it should have discretion to exclude certain types of premises from that higher fee amount?

Consultation Question 17:

If discretion to exclude certain types of premises from a higher fee amount were available, what types of premises should be specified in the regulations as potentially excluded classes? Please give reasons for your answer, keeping your views to a maximum of 200 words.

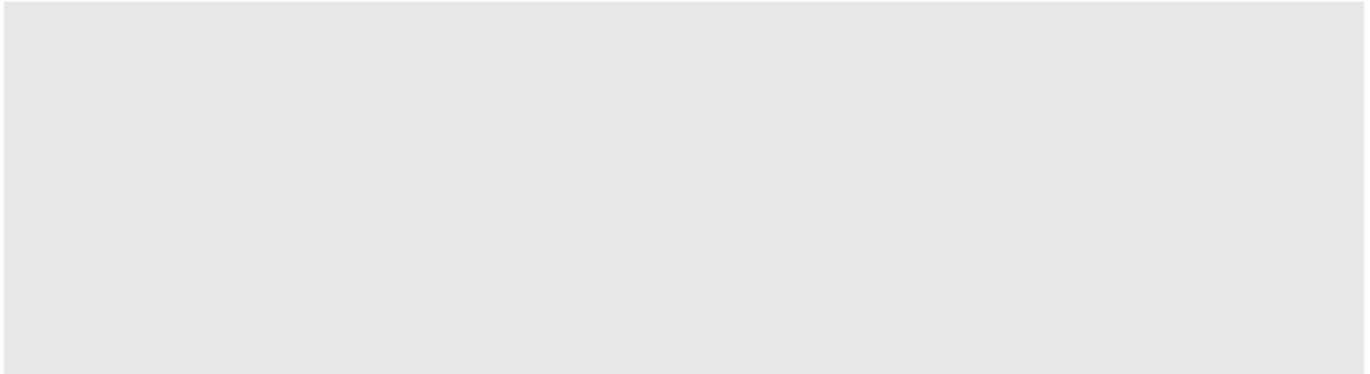
¹¹ Premises excluded from the higher fee amount would instead be subject to the lower fee amount. They would not be exempt from paying a fee at all.

Other Alternative Options

6.21 As discussed above, a range of different approaches to variable fees have been proposed during pre-consultation discussions. Subject to any proposals meeting the constraints imposed by the fees provisions in the 2003 Act and being practical, efficient and cost effective to implement locally, we are interested in what alternative options should be available for licensing authorities to apply different fee amounts in their area.

Consultation Question 18:

Are there alternative options that should be available to licensing authorities to apply different fee amounts in their area? Please specify and set out your evidence in the box below, keeping your views to a maximum of 200 words.



7. Caps

Introduction

- 7.1 The Government has committed to set “caps” (the highest permitted fee level) for each fee category. The consultation invites views on proposed cap levels. These caps will provide reassurance to fee payers that fees cannot be set at excessive levels to, for example, generate income or be used as an economic deterrent to the undertaking of licensable activities. The Government does not intend to set caps at levels that will prevent cost recovery, however, as costs that are incurred in the discharge of functions under the 2003 Act ought to be recovered. The implementation and level of the cap will be subject to periodic review, in consultation with licensing authorities, and to exceptional review, if there is a case to do so.
- 7.2 It is important to note that the caps are not recommended fee levels: locally-set fee levels should 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. The caps represent, therefore, an upper limit on the highest costs of licensing authorities in exceptional circumstances. As described in Chapter 8, licensing authorities should continually drive efficiency, whilst ensuring effective delivery of the licensing regime.
- 7.3 The evidence from the LA Sample Survey (described in the Impact Assessment published alongside this consultation) and discussions with licensing authorities indicates that the costs of particular fee categories vary greatly in different licensing authorities. This is particularly true of processes, such as applications for new licences, which can result in hearings. (This could be due, for example, to a greater likelihood of residents’ concerns in one area than another). Similar considerations apply to other duties of licensing authorities that can result in a hearing, such as how often they have received objection notices from the police to an application to vary a licence to specify a new Designated Premises Supervisor, or how often they have received representations on applications to vary licences¹².
- 7.4 Variable costs can apply to other processes. For example, in the case of applications for a minor variation, licensing authorities may decide to invite views from responsible authorities, and be required to consider residents’ representations. The case of TENs is addressed separately below.
- 7.5 The result of these variations in average costs is that areas with the highest costs in any fee category deviate very greatly from the mean. The caps proposed in the consultation are therefore much higher than the estimated average future fee levels and are expected to far exceed cost recovery fee levels in most areas. Chapter 8 provides more information on mechanisms that will guard against “gold plating” and excessive costs, and invites views on practical ways to improve efficiency.

¹² The processes that can potentially result in the need for a hearing (or, in the case of an annual fee, a review) administered by the licensing authority are 19(a) to 19(l) in the list below.

- 7.6 The caps proposed in Table 1 below are based upon the highest reported costs in each fee category¹³ in the LA Sample Survey (see the Impact Assessment accompanying this consultation). Outliers were excluded where, after discussion with licensing authorities that provided data, it appeared that the high estimates may not have been related to legitimate high costs. Outliers¹⁴ were, therefore, excluded for data quality purposes (for example, to exclude calculation errors or anomalies caused by the small sample size), and not to exclude high cost authorities.
- 7.7 For some rare processes, such as applications for a provisional statement and for the grant of a certificate; and applications to remove the requirement for a designated premises supervisor, insufficient information was available to estimate average costs to licensing authorities. In these cases, it was assumed that highest average costs are similar to related processes¹⁵. The costs survey that accompanies this consultation will seek further data on licensing authority costs to augment the LA Sample Survey.

Consultation Question 19:

Do you agree or disagree that the proposed cap levels will enable your licensing authority to recover costs?

Table 1: proposed cap levels				
Question	Fee Category	Proposed cap	Current fee or maximum fee (for information only)	Agree/ disagree/ don't know
processes that can result in hearings or include review hearings				
19 (a)	Application for the grant of a premises licence	£2,400	£1,905*	
19 (b)	Application for a provisional statement	£2,400	£315	
19 (c)	Application to vary a premises licence	£2,400	£1,905*	
19 (d)	Application to vary premises licence to specify designated premises supervisor	£105	£23	
19 (e)	Application to vary a premises licence to remove requirement for a designated premises supervisor	£105	£23	
19 (f)	Application for the transfer of a premises licence	£65	£23	
19 (g)	Interim authority notice	£114	£23	
19 (h)	Annual fee payable by premises licence holder	£740	£1,050*	

13 That is, they are based on the licensing authorities whose reported average cost over the year was highest for each process. They do not reflect the highest possible cost of administering a single application or notice.

14 Outliers are defined here as those falling outside two standard deviations from the mean.

15 Application for the grant of a licence and application to vary a licence to specify a designated premises supervisor, respectively.

19 (i)	Application for the grant of a certificate	£2,400	£635*	
19 (j)	Application to vary a certificate	£2,400	£635*	
19 (k)	Annual fee payable by club premises certificate holder	£720	£350*	
19 (l)	Application for grant or renewal of a personal licence	£114	£37	
other processes under the 2003 Act				
19 (m)	Application to replace stolen, lost etc. premises licence	£46	£10.50	
19 (n)	Notification of change of name or address of premises licence holder	£46	£10.50	
19 (o)	Application for minor variation of a licence	£244	£89	
19 (p)	Application to replace stolen, lost etc. certificate	£46	£10.50	
19 (q)	Notification of change of name or change of rules of club	£46	£10.50	
19 (r)	Notification of change of address of club	£46	£10.50	
19 (s)	Application to replace stolen, lost etc. temporary event notice	£38	£10.50	
19 (t)	Application to replace stolen, lost etc. personal licence	£59	£10.50	
19 (u)	Notification of change of name or address of personal licence holder	£59	£10.50	
19 (v)	Notification of interest of freeholder etc. in premises	£50	£21	

*denotes current maximum fee, where fee level is variable

Consultation Question 20:

Do you have any other comments on the proposed cap levels? Please specify them in the box below, keeping your views to a maximum of 200 words.

Temporary Event Notices (TENs)

- 7.8 Setting a cap level for TENs presents a particular challenge for two reasons. Firstly, TENs are used by a wide variety of organisations and individuals. For example, commercial operators may use a TEN to go beyond the terms of their current licence, individuals may wish to sell alcohol to the public at members' clubs, and community or charity groups may wish to sell alcohol at one-off events.
- 7.9 The Government is keen to ensure that the licensing regime is cost-efficient for all, and it is particularly important that costs are kept as low as possible for those working to improve their local community. As described paragraphs xx-xxi above, the Government is already reducing regulation for such groups.
- 7.10 Secondly, reports from licensing authorities suggests that TENs costs vary widely. Our best evidence indicates that the average TENs fee will be approximately £80¹⁶. Most authorities that responded to the LA Sample Survey reported costs below this level, whilst a small number of outliers reported costs significantly above £100. Analysis suggests that setting the cap at £100 would allow cost recovery in at least the significant majority of authorities.
- 7.11 Subject to further evidence, the Government therefore proposes a cap of £100, as this is appropriate for the generality of authorities and will encourage the remainder to keep their costs as low as possible. Although some authorities currently report higher costs, it should be noted that, with the present fee of £21, some operators may risk giving a TEN even though they are aware that it may result in an objection notice and therefore be wasted. We consider that an increase in the TEN fee to recover legitimate costs is likely to have an unintended consequence of deterring this practice and thereby lowering costs in the current highest cost areas. As set out in paragraph 7.1 above, the Government will retain the power to conduct an exceptional review of a cap if a case is made to do so.
- 7.12 We therefore invite evidence from all interested parties on the appropriate level for the TEN fee cap. The local authority cost survey that accompanies this consultation also seeks to strengthen our evidence base further on the average cost of a TEN, the degree of variation between areas, and the reasons for this variation, and we would encourage all licensing authorities to complete it.

¹⁶ See the Impact Assessment published alongside this consultation, Table 7 (page 34) and paragraphs 36 to 44 (page 13).

Consultation Question 21:

Do you agree or disagree that the proposed cap of £100 will enable your licensing authority to recover costs?

Agree Disagree Don't know

Consultation Question 22:

Please set out evidence for your answer in the box below, keeping your views to a maximum of 200 words.

8. Licensing authority costs, transparency, consultation with fee payers and guidance on setting fees

- 8.1 This chapter considers the costs that licensing authorities incur in discharging functions under the 2003 Act and the mechanisms of transparency and accountability to which licensing authorities are subject. It seeks views on the extent of local consultation on fee levels and how best to provide guidance to licensing authorities so as to ensure that high costs and “gold-plating” (exceeding the requirements of the 2003 Act) are avoided and efficiency encouraged.

Introduction – licensing authority functions and drivers of variable costs

Applications and notices

- 8.2 In administering the 2003 Act, licensing authorities must perform an administrative task of checking and processing a number of different types of application and notice. In respect of many of these processes, representations made by, for example, the police or residents may trigger a hearing, which is held by the licensing authority, so that the application or notice can be considered in more detail in the context of the licensing authority’s duty to promote the licensing objectives. In such cases, licensing officers may conduct an inspection of the premises to which the application relates. In particular, hearings occur in respect of a significant proportion of applications for premises licences and full variation applications. In other cases, such as an application to vary the Designated Premises Supervisor in relation to a premises licence, hearings are less common, but still occur. In rare cases, hearings may lead to appeal procedures involving the licensing authority. Licensing authorities are also responsible for advertising certain licensing applications on their website or by notices and for updating the licensing register.

Existing premises licences and club premises certificates

- 8.3 Licensing authorities must hold hearings to determine applications for the review of existing licences and certificates. A necessary component of fulfilling these responsibilities is the monitoring of compliance with the terms of licences and certificates in their areas. This may comprise inspections of premises, liaison with bodies with whom they work in partnership (such as the police, other departments of local authorities, or licensed premises) and conciliation between parties to avert the need for a review.
- 8.4 Licensing authorities must also carry out other functions under the 2003 Act for which no fee is specifically chargeable. For example, they must determine and periodically update their statements of licensing policy and they are responsible for maintaining a register of licensing information. Under these proposals for locally-set fees, they will also be responsible for setting fee levels. Under section 197A of the 2003 Act, the “general costs” arising from these functions are to be recovered through fees, with a “reasonable share” of these costs included in fee levels.

Responsible authority costs

- 8.5 Fees under the 2003 Act are intended to recover the costs of licensing authorities, and not of other bodies. This entirely excludes the recovery of police costs, for example. However, it includes the costs of the licensing authority exercising functions under the 2003 Act in its capacity as a responsible authority. This can include the environmental health authority, the planning authority; and the weights and measures authority, for example. The Government intends that the marginal costs of administering the 2003 Act (such as the costs of considering applications and making representations) can be recovered through licensing fees, but not other costs. In particular, the costs of inspection, monitoring of compliance or enforcement that arise in respect of the wider duties of responsible authorities under other legislation should not be recovered by fees under the 2003 Act.
- 8.6 It is important that costs that arise in respect of regimes that are funded by tax-payers or through their own fees regimes should not be passed onto licensing fee payers or double-funded.

The Provision of Services Regulations 2009

- 8.7 The fees provisions of the 2003 Act should be read in light of the requirements set out in the Provision of Services Regulations 2009 (the 2009 Regulations), as indeed should the 2003 Act as a whole. The 2009 Regulations provide that: “Any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities”. The Government will provide guidance to licensing authorities on the application of this provision to fees under the 2003 Act.

Transparency and local consultation

- 8.8 There are already a number of safeguards in place to ensure that local authorities take a fair, reasonable and transparent approach when developing policies, and this would also be the case when setting fees. Local government is, of course, subject to democratic accountability through councillors and the electorate. Decisions are also subject to challenge through judicial review. Additionally, local authorities are subject to a robust external audit. For example, the Audit Commission Act 1998 places a duty on auditors to ensure that they have made “proper arrangements for securing economy, efficiency and effectiveness in its use of resources”. Licensing authorities should also expect scrutiny from fee payers, particularly on inflationary pressures and the extent to which anticipated efficiency gains are reflected in fee levels. The Government considers, therefore, that these existing mechanisms should reassure fee payers that fees will be set properly, at cost.
- 8.9 However, some fees regimes, such as that which applies to taxi licensing, require local consultation with interested parties when fees are set (especially if they are due to increase). The Government is therefore recommending that licensing authorities should also be required to publish their proposed fees, and the basis on which they have been calculated, and invite comments from interested parties, before they are implemented

Consultation Question 23:

Do you agree or disagree that licensing authorities be required, before locally-set fees are implemented, to:

23a: publish their proposed fee levels?;



23b: publish the basis on which they have been calculated?



23c: publish the measures they have taken to keep costs down?



23d: invite comments from interested parties?



8.10 As well as the accountability mechanisms outlined above, local government is subject to existing duties with regard to freedom of information. The Government is not minded to specify any further specific requirements on local government with regard to publishing the basis on which they have set fees. However, the Government will give consideration to making data on licensing authority fee levels available centrally to assist fee payers in making comparisons.

Principles of regulation, efficiency and the avoidance of gold-plating

8.11 Licensing authorities are subject to various duties, in addition to the provisions of the 2003 Act, to ensure that they do not impose excessive burdens on those subject to regulatory regimes or incur excessive costs. Democratic accountability and external audit has been mentioned above. Paragraph 13.17 of the Guidance issued to licensing authorities by the Home Secretary under section 182 of the 2003 Act emphasises that:

“The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. Principles of risk assessment and targeted inspection (in line with the recommendations of the Hampton review) should prevail and inspections should not be undertaken routinely but when and if they are judged necessary.”

8.12 The Provision of Services Regulations 2009 requires that powers exercised under an authorisation scheme (including the 2003 Act) must be based on criteria that are:

- a. non-discriminatory,
- b. justified by an overriding reason relating to the public interest,
- c. proportionate to that public interest objective,
- d. clear and unambiguous,
- e. objective,
- f. made public in advance, and
- g. transparent and accessible.

- 8.13 Additionally, provisions under the Legislative and Regulatory Reform Act 2006¹⁷ require that any person exercising a regulatory function, including functions under the 2003 Act, must have regard to the principles that
- regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;
 - regulatory activities should be targeted only at cases in which action is needed.
- 8.14 The Government considers that, subject to these existing duties, licensing authorities are best-placed to determine the scope of their own activities in support of the licensing objectives. Therefore, we consider that additional guidance provided alongside regulations on locally-set fees should avoid adding to these duties. We nevertheless seek views on what further guidance is required on the application of these principles to functions under the 2003 Act so as to encourage efficiency and safeguard against gold-plating.

Encouraging economy and efficiency

- 8.15 As stated above, 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, reinforced by the priority importance of growth. Licensing bodies should set fees on the basis of estimates of actual costs, taking into account efficiencies to be achieved. It must be recognised that, for example, businesses that make licensing applications are seeking to start or grow their business.
- 8.16 The Government therefore intends to work with the Local Government Association and other partners to encourage innovation and best practice in securing economy and efficiency in the delivery of licensing functions. This could include changes to existing processes and procedures, potentially using the freedoms and flexibilities provided under the Localism Act 2011. Suggested mechanisms include the sharing of back-office functions between authorities and the use of partnership working and mediation to avoid the need for hearings or review. Licensing authorities should review their costs regularly (it is good practice to review these at least once a year) and, if appropriate, revise fee levels to take into account any changes to their costs, including from efficiencies that they have achieved or plan to achieve in the coming year. It is not good practice to simply assume that costs will increase due to inflation.

Consultation Question 24:

What practical steps can licensing authorities take to secure efficiency? Please state and give reasons for your answer in the box below, keeping your views to a maximum of 200 words.

¹⁷ The provisions apply by virtue of the Legislative and Regulatory Reform (Regulatory Functions) Order 2007

Safeguards against excessive costs and gold-plating

8.17 In addition to encouraging efficiency, we intend to ensure that the guidance guards against excessive costs and “gold-plating” (by which we mean that activities that go beyond the duties of the 2003 Act and are not justified by proportionality). Particular activities have been suggested where there may be a risk of excessive costs or gold-plating, as set out below.

Consultation Question 25:

Do you agree or disagree that the Guidance should suggest that these areas present a particular risk of excessive costs or gold-plating?

 Agree

 Disagree

 Don't know

25a: Notification of residents individually of licensing applications in their area by letter (given that the existing duties to advertise on the premises and on the licensing authorities' website enable the involvement of local residents, and that more cost efficient methods of further engagement may be available);

 Agree

 Disagree

 Don't know

25b: Central re-charges, such as payments from the licensing budget to legal services or external communications. These should relate to costs actually incurred in the delivery of functions under the 2003 Act and not, for example, a standard percentage of central costs.

 Agree

 Disagree

 Don't know

25c: The costs of discharging the statutory functions of licensing authorities that arise under other legislation, such as the duties arising under the Environmental Protection Act 1990. (Given that these functions are funded through taxation, and should not be funded by fees under the 2003 Act merely because they arise in respect of premises that hold an authorisation under the 2003 Act, see paragraph 8.5 above).

 Agree

 Disagree

 Don't know

Consultation Question 26:

Do you think that there are other activities that may present a particular risk of excessive costs or gold-plating? Please state and give reasons for your answer in the box below, keeping your views to a maximum of 200 words.

9. A single national payment date for annual fees

- 9.1 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.
- 9.2 On the other hand, some licensing authorities consider that it would increase their costs, by creating a peak period in their work. In any case, 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.
- 9.3 This consultation therefore seeks views on whether there should be a single national payment date for annual fees. However, it is not proposed to implement this change at the same time as the regulations governing locally-set fees are introduced, because it would increase the complexity of the forthcoming change to the fees regime. For example, it would strongly imply a date by which licensing authorities would have to have set their own fees. Please note that this topic is therefore not assessed in the Impact Assessment.

Consultation Question 27:

Do you agree or disagree that there should be a single national payment date for annual fees in England and Wales?

 Agree Disagree Don't know

10. Impact assessment

10.1 The impact assessment for the proposals in this consultation has been published alongside this document. Consultation respondents are encouraged to comment on this document.

Consultation Question 28:

Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposal to move to locally-set fees (including, in particular, the costs of setting fees locally)?

 Agree Disagree Don't know

Consultation Question 29:

Do you have any comments on the methodologies or assumptions used in the impact assessment? If so, please detail them in the box below, referencing the page in the impact assessment to which you refer. Please keep your views to a maximum of 200 words.

11. List of questions

Consultation Question 1:

Do you agree or disagree that the use of National Non-domestic Rateable Value bands as a criterion for variable fee amounts should be abandoned?

 Agree Disagree Don't know

Consultation Question 2:

If you disagree, please provide evidence that higher National Non-domestic Rateable Value is consistently linked to higher average costs to the licensing authority within individual licensing authority areas, keeping your views to a maximum of 200 words.

Consultation Question 3:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is linked to costs?

 Agree Disagree Don't know

Consultation Question 4:

If you agree, please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 5:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is sufficiently practical to implement?

 Agree Disagree Don't know**Consultation Question 6:**

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

Consultation Question 7:

Do you agree or disagree that the licensing authority should be able to determine the hours during which the higher fee is payable within the boundaries of midnight to 6am?

 Agree Disagree Don't know**Consultation Question 8:**

If you disagree, please state the hours during which you think licensing authorities should be able to determine that a higher fee is payable.

Consultation Question 9:

Do you agree or disagree that licensing authorities that impose higher fees for premises which open later should have discretion to exclude premises that are authorised to open late only on certain nights per year?

 Agree Disagree Don't know

Consultation Question 10:

Please state your reasons, keeping your views to a maximum of 200 words.

Consultation Question 11:

Do you agree or disagree that the criterion of whether or not a premises is used primarily for the sale of alcohol for consumption on the premises is linked to costs?

 Agree Disagree Don't know**Consultation Question 12:**

Please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 13:

Do you agree or disagree that the criterion of whether or not premises are exclusively or primarily used for the sale of alcohol for consumption on the premises is sufficiently practical to implement?

 Agree Disagree Don't know**Consultation Question 14:**

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

Consultation Question 15:

Do you agree or disagree that there should be discretion to apply higher fee amounts only where both criteria apply in combination?

 Agree

 Disagree

 Don't know
Consultation Question 16:

Do you agree or disagree that, if a licensing authority has determined that different fee amounts should apply, it should have discretion to exclude certain types of premises from that higher fee amount?

 Agree

 Disagree

 Don't know
Consultation Question 17:

If discretion to exclude certain types of premises from a higher fee amount were available, what types of premises should be specified in the regulations as potentially excluded classes? Please give reasons for your answer, keeping your views to a maximum of 200 words.

Consultation Question 18:

Are there alternative options that should be available to licensing authorities to apply different fee amounts in their area? Please specify and set out your evidence in the box below, keeping your views to a maximum of 200 words.

Consultation Question 19:

Do you agree or disagree that the proposed cap levels will enable your licensing authority to recover costs?

 Agree

 Disagree

 Don't know

Consultation Question 20:

Do you have any other comments on the proposed cap levels? Please specify them in the box below, keeping your views to a maximum of 200 words.

Consultation Question 21:

Do you agree or disagree that the proposed cap of £100 will enable your licensing authority to recover costs?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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Consultation Question 22:

Please set evidence for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 23:

Do you agree or disagree that licensing authorities be required, before locally-set fees are implemented, to:

23a: publish their proposed fee levels?;

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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23b: publish the basis on which they have been calculated?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
--------------------------------	-----------------------------------	-------------------------------------

23c: publish the measures they have taken to keep costs down?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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23d: invite comments from interested parties?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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Consultation Question 24:

What practical steps can licensing authorities take to secure efficiency? Please state and give reasons for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 25:

Do you agree or disagree that the Guidance should suggest that these areas present a particular risk of excessive costs or gold-plating?

25a: Notification of residents individually of licensing applications in their area by letter (given that the existing duties to advertise on the premises and on the licensing authorities' website enable the involvement of local residents, and that more cost efficient methods of further engagement may be available);

25b: Central re-charges, such as payments from the licensing budget to legal services or external communications. These should relate to costs actually incurred in the delivery of functions under the 2003 Act and not, for example, a standard percentage of central costs.

25c: The costs of discharging the statutory functions of licensing authorities that arise under other legislation, such as the duties arising under the Environmental Protection Act 1990.

Consultation Question 26:

Do you think that there are other activities that may present a particular risk of excessive costs or gold-plating? Please state and give reasons for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 27:

Do you agree or disagree that there should be a single national payment date for annual fees in England and Wales?

 Agree

 Disagree

Consultation Question 28:

Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposal to move to locally-set fees (including, in particular, the costs of setting fees locally)?

 Agree Disagree**Consultation Question 29:**

Do you have any comments on the methodologies or assumptions used in the impact assessment? If so, please detail them in the box below, referencing the page in the impact assessment to which you refer. Please keep your views to a maximum of 200 words.

12. Appendix A: Sections 197A and 197B of the Licensing Act 2003

197A Regulations about fees

- (1) Subsection (2) applies where the Secretary of State makes regulations under this Act prescribing the amount of any fee.
- (2) The Secretary of State may, in determining the amount of the fee, have regard, in particular, to--
 - (a) the costs of any licensing authority to whom the fee is to be payable which are referable to the discharge of the function to which the fee relates, and
 - (b) the general costs of any such licensing authority;

and may determine an amount by reference to fees payable to, and costs of, any such licensing authorities, taken together.

- (3) A power under this Act to prescribe the amount of a fee includes power to provide that the amount of the fee is to be determined by the licensing authority to whom it is to be payable.
- (4) Regulations which so provide may also specify constraints on the licensing authority's power to determine the amount of the fee.
- (5) Subsections (6) and (7)--
 - (a) apply where, by virtue of subsection (3), regulations provide that the amount of a fee is to be determined by a licensing authority, and
 - (b) are subject to any constraint imposed under subsection (4).
- (6) The licensing authority--
 - (a) must determine the amount of the fee (and may from time to time determine a revised amount),
 - (b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases), and
 - (c) must publish the amount of the fee as determined from time to time.
- (7) In determining the amount of the fee, the licensing authority must seek to secure that the income from fees of that kind will equate, as nearly as possible, to the aggregate of--
 - (a) the licensing authority's costs referable to the discharge of the function to which the fee relates, and
 - (b) a reasonable share of the licensing authority's general costs;

and must assess income and costs for this purpose in such manner as it considers appropriate.

197B Regulations about fees: supplementary provision

- (1) Subsections (2) and (3) apply for the purposes of section 197A.
- (2) References to a licensing authority's costs referable to the discharge of a function include, in particular--
 - (a) administrative costs of the licensing authority so far as they are referable to the discharge of the function, and
 - (b) costs in connection with the discharge of the function which are incurred by the

licensing authority acting--

(i) under this Act, but

(ii) in a capacity other than that of licensing authority (whether that of local authority, local planning authority or any other authority).

- (3) References to the general costs of a licensing authority are to costs of the authority so far as they are referable to the discharge of functions under this Act in respect of which no fee is otherwise chargeable and include, in particular--
- (a) costs referable to the authority's functions under section 5;
 - (b) costs of or incurred in connection with the monitoring and enforcement of Parts 7 and 8 of this Act;
 - (c) costs incurred in exercising functions conferred by virtue of section 197A.
- (4) To the extent that they prescribe the amount of a fee or include provision made by virtue of section 197A(3) or (4), regulations may--
- (a) make provision which applies generally or only to specified authorities or descriptions of authority, and
 - (b) make different provision for different authorities or descriptions of authority.
- (5) Subsection (4) is not to be taken to limit the generality of section 197.

13. Appendix B: Current fee levels under the Licensing Act 2003

Table 1: Main fee levels (as they currently stand)

Band	A	B	C	D	E
Non domestic rateable value	No rateable value to £4,300	£4,301 to £33,000	£33,001 to £87,000	£87,001 to £125,000	£125,001 plus
Premises licences					
Application for grant and variation	£100	£190	£315	£450	£635
Multiplier applied to premises used exclusively or primarily for the supply of alcohol for consumption on the premises (Bands D & E only)	N/A	N/A	N/A	X2 (£900)	X3 (£1,905)
Annual fee	£70	£180	£295	£320	£350
Annual charge multiplier applied to premises used exclusively or primarily for the supply of alcohol for consumption on the premises (Bands D&E only)	N/A	N/A	N/A	X2 (£640)	X3 (£1,050)
Club premises certificates					
Application for grant and variation	£100	£190	£315	£450	£635
Annual fee	£70	£180	£295	£320	350

Table 2: Other fees in the Act (as they currently stand)

Application for the grant or renewal of a personal licence	£37
Temporary event notice	£21
Theft, loss, etc. of premises licence or summary	£10.50
Application for a provisional statement where premises being built etc.	£315
Notification of change of name or address	£10.50
Application to vary licence to specify individual as premises supervisor	£23
Application for transfer of premises licence	£23
Interim authority notice following death etc. of licence holder	£23
Theft, loss etc. of certificate or summary	£10.50
Notification of change of name or alteration of rules of club	£10.50
Change of relevant registered address of club	£10.50
Theft, loss etc. of temporary event notice	£10.50
Theft, loss etc. of personal licence	£10.50
Application to vary premises licence to include alternative licence condition	£23
Application for a minor variation to a licence or certificate.	£89
Duty to notify change of name or address	£10.50
Right of freeholder etc. to be notified of licensing matters	£21

Table 3: Current additional fees for “large events” (premises licences where more than 5,000 people are expected in non-purpose built premises)

Number in attendance at any one time	Additional Premises licence fee	Additional annual fee payable if applicable
5,000 to 9,999	£1,000	£500
10,000 to 14,999	£2,000	£1,000
15,000 to 19,999	£4,000	£2,000
20,000 to 29,999	£8,000	£4,000
30,000 to 39,999	£16,000	£8,000
40,000 to 49,999	£24,000	£12,000
50,000 to 59,999	£32,000	£16,000
60,000 to 69,999	£40,000	£20,000
70,000 to 79,999	£48,000	£24,000
80,000 to 89,999	£56,000	£28,000
90,000 and over	£64,000	£32,000

Title: Licensing Act 2003: fees regulations IA No: Lead department or agency: Home Office Other departments or agencies:	Impact Assessment (IA)		
	Date: 28 January 2013		
	Stage: Consultation		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
	Contact for enquiries: Paul Nicol Paul.nicol@homeoffice.gsi.gov.uk		
Summary: Intervention and Options			RPC Opinion: Awaiting Scrutiny

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
-£12.4m	-£125m	£1.3m	Yes IN

What is the problem under consideration? Why is government intervention necessary?

The Licensing Act 2003 came into force in November 2005 and extends to England and Wales. It is primarily administered by local authorities in their capacity as "licensing authorities" (LAs). Fees are payable to LAs by holders of licences and certificates, and those applying for licences and certificates or issuing notices. They are intended to recover the costs of LAs in discharging their functions under the 2003 Act. Fees levels were set centrally in 2005, but have not been revised since. There is evidence of a net deficit of income against costs and therefore that costs are not being fully recovered locally. Also, there is evidence that the burden of fee payments is not properly aligned between fee categories and the current classes of fee-payer within those categories. The Government intends to introduce regulations, as enabled by the Police Reform and Social Responsibility Act 2011, prescribing that fees levels are set locally to achieve cost recovery.

What are the policy objectives and the intended effects? To enable each LA to (as nearly as possible) achieve cost recovery for the discharge of functions under the 2003 Act without cross-subsidisation between fee categories and classes of fee-payers within those categories (i.e. without one class of fee-payers being charged at higher than cost recovery so that another class can be charged less). This will remove unintended public subsidy of LA's administration of the 2003 Act (benefitting tax-payers), and spread the cost more equitably between fee-payers, based on cost.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base):

Option 1: Do nothing (retain centrally-set fees at current levels).
Option 2: Revise centrally-set fees to so that they recover average costs, retaining the band structure under which premises with different non-domestic rateable value (NNDR) pay different amounts for the main (application and annual) fees.
Option 3: Enable locally-set licence fees (LSLF) retaining the NNDR band structure.
Option 4: LSLF with flat fees in each fee category.
Option 5: LSLF with the discretionary option for licensing authorities (LAs) to charge variable fee amounts for the main fees only on the basis of whether or not the premises are authorised to conduct licensable activities to a late terminal hour.
Option 6: LSLF with the discretionary option for LAs to charge variable fee amounts for the main fees only on the basis of whether or not the premises is primarily used for the sale of alcohol for consumption on the premises.
Option 7: LSLF with the discretionary option for LAs to charge variable fee amounts for the main fees on the basis of both late terminal hour and whether the premises are primarily used for alcohol sales.
Preferred options: The preferred options are 5-7 (variants of LSLF without NNDR) at this stage, subject to consultation.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** TBC through consultation

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: None		Non-traded: None

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister

Date: _____

Summary: Analysis & Evidence

Description: Revise centrally-set fees so that they recover average costs, maintaining the current non-domestic rateable value (NDR) band structure.

FULL ECONOMIC ASSESSMENT

Price Base Year 2013/14	PV Base Year 2013/14	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
		Low:	High:	Best Estimate: 0.9	

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional			
High	Optional			
Best Estimate			13.3	115

Description and scale of key monetised costs by 'main affected groups'

The achievement of cost recovery is estimated to result in a net change in fee income in England and Wales of 25%, £13.2m, paid by the overall population of fee payers. We estimate that there will be shifts in the balance of fee income between different fees (and therefore fee payers) with, for example, the costs to new applicants increasing relatively more. Providing information to enable centrally-set fees is expected to cost licensing authorities £0.1m annually. We would expect this cost will be recovered from the overall population of fee-payers.

Other key non-monetised costs by 'main affected groups'

As costs vary significantly between LA areas, fee payers will be charged at higher than cost in many areas if fee levels are based on average costs. Some fee payers may be deterred from licensable activities if the relevant fee increases.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional			
High	Optional			
Best Estimate			13.2	114

Description and scale of key monetised benefits by 'main affected groups': Estimated increase in fee income for LAs of £13.2m. We estimate that there will be shifts in the balance of fee income between different fees with, for example, the cost of annual fees paid by the existing population of licensed premises falling or increasing relatively less. We estimate that annual fees paid by the existing population of club premises certificate holders are particularly likely to be subject to lower relative increases or reductions.

Other key non-monetised benefits by 'main affected groups': Will achieve an approximation of cost recovery with reduced cross-subsidisation (i.e. a reduction in the extent to which one class of fee-payers is charged at higher than cost recovery and another class is charged less than). In areas where costs are higher than current fee income, unintended public subsidy will be marginally reduced. Therefore, the administration of the 2003 Act will be funded in a more equitable way.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
--------------------------------------------	--------------------------	-----

This is a pre-consultation IA and a number of assumptions and estimates have been made. Estimated changes to the balance of fee income between fee categories have been obtained from a relatively small number of LAs that may not reflect national outcomes. The likely change in net fee income has been estimated on the basis of a survey conducted in 2006 (supplemented by recent work). Therefore, there is a risk that the extent of these changes has been overestimated or underestimated. The costs of providing evidence of costs may have been underestimated or overestimated. The estimates of income and costs are derived from 2011/12 and uprated on an assumption that activity levels and costs will be broadly similar in the future. Therefore, the baseline of income and costs may have been overestimated or underestimated.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.1	Benefits:	Net: -0.1	YES	IN

Summary: Analysis & Evidence

Description: Prescribe that fee levels under the 2003 Act are set by the authority to which they are payable (referred to as “locally-set licensing fees”, LSLF) and maintain the national non-domestic rateable value (NDR) bands

FULL ECONOMIC ASSESSMENT

Price Base Year 2013/14	PV Base Year 2013/14	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -12.9

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		
High	Optional		
Best Estimate		16.0	138

Description and scale of key monetised costs by ‘main affected groups’

The achievement of cost recovery is estimated to result in a net change in fee income in England and Wales of 27%, £14.5m, paid by the overall population of fee payers. We estimate that there will be shifts in the balance of fee income between different fees (and therefore fee payers) with, for example, the costs to new applicants increasing relatively more. The process of setting fees locally is expected to cost licensing authorities £1.5m annually - this cost will be recovered from the overall population of fee-payers.

Other key non-monetised costs by ‘main affected groups’

Fee payers will need to familiarise themselves with the correct fee in their LA area and whether they are subject to a higher or lower fee amount. Some may be deterred from licensable activities if the relevant fee increases.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		
High	Optional		
Best Estimate		14.5	125

Description and scale of key monetised benefits by ‘main affected groups’: Estimated increase in fee income for LAs of £14.5m. We estimate that there will be shifts in the balance of fee income between different fees with, for example, the cost of annual fees paid by the existing population of licensed premises falling or increasing relatively less. We estimate that annual fees paid by the existing population of club premises certificate holders are particularly likely to be subject to lower relative increases or reductions.

Other key non-monetised benefits by ‘main affected groups’: Will enable cost recovery for LAs, (removing unintended public subsidy) and reduce cross-subsidisation (i.e. a reduction in the extent to which one class of fee-payers is charged more so that another class is charged less) more than Option 2. LSLF will enable fee levels that take account of variations in costs between different areas. Therefore, the administration of the 2003 Act will be funded in a more equitable way.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Individual LAs will use local evidence to set fee levels to achieve cost recovery. This is likely to result in considerable variation between LAs. This is a pre-consultation IA and a number of assumptions and estimates have been made. Estimated changes to the balance of fee income between fee categories have been obtained from a relatively small number of LAs that may not reflect national outcomes. The likely change in net fee income has been estimated on the basis of a survey conducted in 2006 (supplemented by recent work). Therefore, there is a risk that the extent of these changes has been overestimated or underestimated. The costs of the new duty to determine fees locally may have been underestimated or overestimated. The estimates of income and costs are derived from 2011/12 and updated on an assumption that activity levels and costs will be broadly similar in the future. Therefore, the baseline of income and costs may have been overestimated or underestimated.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 1.3 Benefits: Net: -1.3	YES	IN

Summary: Analysis & Evidence

Description: LSLF with flat fees in each fee category

FULL ECONOMIC ASSESSMENT

Price Base Year 2013/14	PV Base Year 2013/14	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -12.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		
High	Optional		
Best Estimate		15.9	138

Description and scale of key monetised costs by 'main affected groups'

The achievement of cost recovery is estimated to result in a net change in fee income of 27% in England and Wales, £14.5m, paid by the overall population of fee payers. We estimate that there will be shifts in the balance of fee income between different fees (and, therefore, fee payers) with, for example, the costs to new applicants increasing relatively more. The process of setting fees locally is expected to cost licensing authorities £1.4m annually - this cost will be recovered from the overall population of fee-payers.

Other key non-monetised costs by 'main affected groups'

Fee payers will need to familiarise themselves with the correct fee in their LA area. Some may be deterred from licensable activities if the relevant fee increases.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		
High	Optional		
Best Estimate		14.5	125

Description and scale of key monetised benefits by 'main affected groups':

Estimated increase in fee income for LAs of £14.5m. It is estimated that there will be shifts in the balance of fee income between different fees with, for example, the cost of annual fees paid by the existing population of licensed premises falling or increasing relatively less. We estimate that annual fees paid by the existing population of club premises certificate holders are particularly likely to be subject to lower relative increases or reductions.

Other key non-monetised benefits by 'main affected groups':

Will enable cost recovery for LAs (removing unintended public subsidy) and reduce cross-subsidisation (i.e. a reduction in the extent to which one class of fee-payers is charged more so that another class is charged less) more than Option 2. LSLF will enable fee levels that take account of variations in costs between different areas. Therefore, the administration of the 2003 Act will be funded in a more equitable way.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
<p>Individual LAs will use local evidence to set fee levels to achieve cost recovery. This is likely to result in considerable variation between LAs. This is a pre-consultation IA and a number of assumptions and estimates have been made. Estimated changes to the balance of fee income between fee categories have been obtained from a relatively small number of LAs that may not reflect national outcomes. The likely change in net fee income has been estimated on the basis of a survey conducted in 2006 (supplemented by recent work). Therefore, there is a risk that the extent of these changes has been overestimated or underestimated. The costs of the new duty to determine fees locally may have been underestimated or overestimated. The estimates of income and costs are derived from 2011/12 and updated on an assumption that activity levels and costs will be broadly similar in the future. Therefore, the baseline of income and costs may have been overestimated or underestimated.</p>		

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 1.3	YES	IN
Benefits:		
Net: -1.3		

Summary: Analysis & Evidence

Description: LSLF with the option for licensing authorities (LAs) to charge variable fee amounts for the main fees on the basis of whether or not the premises is authorised to conduct licensable activities to a late terminal hour.

FULL ECONOMIC ASSESSMENT

Price Base Year 2013/14	PV Base Year 2013/14	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -12.2

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		
High	Optional		
Best Estimate		16.0	137

Description and scale of key monetised costs by 'main affected groups'

The achievement of cost recovery is estimated to result in a net change in fee income of 27% in England and Wales, £14.5m, paid by the overall population of fee payers. We estimate that there will be shifts in the balance of fee income between different fees (and, therefore, fee payers) with, for example, the costs to new applicants increasing relatively more. The process of setting fees locally is expected to cost licensing authorities £1.4m annually - this cost will be recovered from the overall population of fee-payers.

Other key non-monetised costs by 'main affected groups'

Fee payers will need to familiarise themselves with the correct fee in their LA area and whether they are subject to a higher or lower fee amount. Some may be deterred from licensable activities if the relevant fee increases.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		
High	Optional		
Best Estimate		14.5	125

Description and scale of key monetised benefits by 'main affected groups': Estimated increase in fee income for LAs of £14.5m. It is estimated that there will be shifts in the balance of fee income between different fees with, for example, the cost of annual fees paid by the existing population of licensed premises falling or increasing relatively less. We estimate that annual fees paid by the existing population of club premises certificate holders are particularly likely to be subject to lower relative increases or reductions.

Other key non-monetised benefits by 'main affected groups' :

Will enable cost recovery for LAs (removing unintended public subsidy) and reduce cross-subsidisation (i.e. a reduction in the extent to which one class of fee-payers is charged more so that another class is charged less) more than Options 2-4. LSLF will enable fee levels that take account of variations in costs between different areas. The proposed discretion to vary fee amounts should enable LAs to further reduce cross-subsidisation. Therefore, the administration of the 2003 Act will be funded in a more equitable way.

Key assumptions/sensitivities/risks Discount rate (%) 3.5

Individual LAs will use local evidence to set fee levels to achieve cost recovery. This is likely to result in considerable variation between LAs. This is a pre-consultation IA and a number of assumptions and estimates have been made. Estimated changes to the balance of fee income between fee categories have been obtained from a relatively small number of LAs that may not reflect national outcomes. The likely change in net fee income has been estimated on the basis of a survey conducted in 2006 (supplemented by recent work). Therefore, there is a risk that the extent of these changes has been overestimated or underestimated. The costs of the new duty to determine fees locally may have been underestimated or overestimated. The estimates of income and costs are derived from 2011/12 and updated on an assumption that activity levels and costs will be broadly similar in the future. Therefore, the baseline of income and costs may have been overestimated or underestimated.

BUSINESS ASSESSMENT (Option 5)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 1.3	Benefits:	Net: -1.3	YES	IN

Summary: Analysis & Evidence

Policy Option 6

Description: LSLF with the option for LAs to charge variable fee amounts for the main fees on the basis of whether or not the premises is primarily used for the sale of alcohol for consumption on the premises

FULL ECONOMIC ASSESSMENT

Price Base Year 2013/14	PV Base Year 2013/14	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -12.2

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		
High	Optional		
Best Estimate		16.0	137

Description and scale of key monetised costs by 'main affected groups'

The achievement of cost recovery is estimated to result in a net change in fee income of 27% in England and Wales, £14.5m, paid by the overall population of fee payers. We estimate that there will be shifts in the balance of fee income between different fees (and, therefore, fee payers) with, for example, the costs to new applicants increasing relatively more. The process of setting fees locally is expected to cost licensing authorities £1.4m annually- this cost will be recovered from the overall population of fee-payers.

Other key non-monetised costs by 'main affected groups': Fee payers will need to familiarise themselves with the correct fee in their LA area and whether they are subject to a higher or lower fee amount. Some may be deterred from licensable activities if the relevant fee increases.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		
High	Optional		
Best Estimate		14.5	125

Description and scale of key monetised benefits by 'main affected groups': Estimated increase in fee income for LAs of £14.5m. It is estimated that there will be shifts in the balance of fee income between different fees with, for example, the cost of annual fees paid by the existing population of licensed premises falling or increasing relatively less. We estimate that annual fees paid by the existing population of club premises certificate holders are particularly likely to be subject to lower relative increases or reductions.

Other key non-monetised benefits by 'main affected groups':

Will enable cost recovery for LAs (removing unintended public subsidy) and reduce cross-subsidisation (i.e. a reduction in the extent to which one class of fee-payers is charged more and another class is charged less) more than Options 2-4. LSLF will enable fee levels that take account of variations in costs between different areas. The proposed discretion to vary fee amounts should enable LAs to further reduce cross-subsidisation. Therefore, the administration of the 2003 Act will be funded in a more equitable way.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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Individual LAs will use local evidence to set fee levels to achieve cost recovery. This will result in considerable variation between LAs. This is a pre-consultation IA and a number of assumptions and estimates have been made. Estimated changes to the balance of fee income between fee categories have been obtained from a relatively small number of LAs that may not reflect national outcomes. The likely change in net fee income has been estimated on the basis of a survey conducted in 2006 (supplemented by recent work). There is a risk of dispute about which premises are primarily used for alcohol sales, and, therefore, that the costs of the new duty to determine fees locally may have been underestimated. The estimates of income and costs are derived from 2011/12 and uprated on an assumption that activity levels and costs will be broadly similar in the future. Therefore, the baseline of income and costs may have been overestimated or underestimated.

BUSINESS ASSESSMENT (Option 6)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 1.3	Benefits:	Net: -1.3	YES	IN

Summary: Analysis & Evidence

Policy Options 7

Description: LSLF with the option for LAs to charge variable fee amounts on the basis of both late terminal hour and whether the premises are primarily used for alcohol sales.

FULL ECONOMIC ASSESSMENT

Price Base Year 2013/14	PV Base Year 2013/14	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -12.4

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		
High	Optional		
Best Estimate		16.0	138

Description and scale of key monetised costs by 'main affected groups'

The achievement of cost recovery is estimated to result in a net change in fee income of 27% in England and Wales, £14.5m, paid by the overall population of fee payers. We estimate that there will be shifts in the balance of fee income between different fees (and, therefore, fee payers) with, for example, the costs to new applicants increasing relatively more. The process of setting fees locally is expected to cost licensing authorities £1.4m annually this cost will be recovered from the overall population of fee-payers.

Other key non-monetised costs by 'main affected groups'

Fee payers will need to familiarise themselves with the correct fee in their LA area and whether they are subject to a higher or lower fee amount. Some may be deterred from licensable activities if the relevant fee increases.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		
High	Optional		
Best Estimate		14.5	125

Description and scale of key monetised benefits by 'main affected groups': Estimated increase in fee income for LAs of £14.5m. It is estimated that there will be shifts in the balance of fee income between different fees with, for example, the cost of annual fees paid by the existing population of licensed premises falling or increasing relatively less. We estimate that annual fees paid by the existing population of club premises certificate holders are particularly likely to be subject to lower relative increases or reductions.

Other key non-monetised benefits by 'main affected groups': Will enable cost recovery for LAs (removing unintended public subsidy) and reduce cross-subsidisation (i.e. a reduction in the extent to which one class of fee-payers is charged more so that another class is charged less) more than Options 2-4. LSLF will enable fee levels that take account of variations in costs between different areas. The proposed discretion to vary fee amounts should enable LAs to further reduce cross-subsidisation. Therefore, the administration of the 2003 Act will be funded in a more equitable way.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

Individual LAs will use local evidence to set fee levels to achieve cost recovery. This will result in considerable variation between LAs. This is a pre-consultation IA and a number of assumptions and estimates have been made. Estimated changes to the balance of fee income between fee categories have been obtained from a relatively small number of LAs that may not reflect national outcomes. The likely change in net fee income has been estimated on the basis of a survey conducted in 2006 (supplemented by recent work). There is a risk of dispute about which premises are primarily used for alcohol sales, and, therefore, that the costs of the new duty to determine fees locally may have been underestimated. The estimates of income and costs are derived from 2011/12 and updated on an assumption that activity levels and costs will be broadly similar in the future. Therefore, the baseline of income and costs may have been overestimated or underestimated.

BUSINESS ASSESSMENT (Option 7)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 1.3	Benefits:	Net: -1.3	YES	IN

Evidence Base (for summary sheets)

A. Strategic Overview

Context

- 1) The Licensing Act 2003 (the 2003 Act) regulates “licensable activities”. These are the sale of alcohol (and the supply of alcohol by members’ clubs); the provision of late night refreshment; and the provision of regulated entertainment. The 2003 Act made local authorities, each acting in their capacity as a “licensing authority” (LA), responsible for the administration of licensing in their respective areas. Licensing fees are paid to LAs and are intended to recover their costs in discharging their functions under the 2003 Act.
- 2) The current fees were set centrally, and have not changed¹ since the 2003 Act came into force in November 2005. The Government decided in 2010 that cost recovery should be achieved by fee levels being set locally, because variations in costs mean that it is difficult to achieve a close approximation to cost recovery with centrally-set fee levels. The Police Reform and Social Responsibility Act 2011 (the 2011 Act) contains provision to amend the 2003 Act by inserting a power (in section 197A) for the Home Secretary to prescribe by regulations that fee levels under the 2003 Act are set by the LA to which they are payable, based on cost recovery. The Government intends to consult on these regulations before implementing them. This Impact Assessment (IA) considers the options to be put forward in that consultation, alongside options reflecting the status quo, which are presented for comparison.

Groups Affected

- 3) LAs are responsible for the administration of the 2003 Act, and would be responsible for the administration of locally-set licensing fees.
- 4) Fee payers include a wide array of businesses, especially those who sell alcohol and provide late night refreshment; not-for-profit organisations, including private members’ clubs (such as political or British Legion clubs); and individuals (such as personal licence applicants). In addition, over 120,000 Temporary Event Notices (TENs) are given each year by a variety of businesses and not-for-profit groups, to authorise the carrying on of licensable activities on an occasional basis.

Consultation

- 5) This is a pre-consultation IA and is based on the best available evidence at the point of publication. The IA sets out a number of areas in which we intend to expand our evidence base during the consultation process. Estimates therefore remain subject to change following consultation.
- 6) The “Rebalancing the Licensing Act” consultation (2010) sought views on enabling local authorities to increase licence fees so that they are based on cost recovery. 66% of respondents to the consultation question on fees agreed that they should be increased based on cost recovery. Furthermore, 37 of the 46 LAs who responded on this matter were in support of the proposal.
- 7) A description of data-gathering conducted with LAs in preparation for this consultation is set out below. Representatives of both fee-payers and LAs were represented on the locally-set fees working group. Technical discussions will continue during the consultation process.

B. Rationale

- 8) The aim of these proposals is to enable each LA to, as nearly as possible, achieve cost recovery for the discharge of functions under the 2003 Act. This will remove, as nearly as possible, unintended public subsidy of the administration of the 2003 Act by LAs in areas where costs are higher than current fee income, and thus benefit tax payers. It will avoid unintended excess costs on fee-payers in areas with lower costs, and therefore benefit fee-payers.

¹ Except for the addition of new fees for new processes, e.g. an application for a minor variation.

C. Objectives

- 9) In achieving the objective of cost recovery there are a number of subsidiary objectives that the Government seeks to fulfil. These are set out below alongside further details on the background of the consultation.

Avoidance of cross-subsidisation

- 10) It is the Government's intention that cost recovery is achieved without cross-subsidisation. That is, that one class of fee-payers should not be charged at higher than cost recovery to enable another class of fee payers to be charged at less than cost recovery. For example, one consequence of this principle is that small or micro businesses should not be charged less if this means that larger businesses are charged more. Micro businesses are therefore *not* exempt from this policy.
- 11) It is therefore intended that the change should result in a distribution of fees between different fee categories and different categories of payer that is more closely related to costs.

Evidence-based rationale for variable fee amounts

- 12) The current fee regulations prescribe that the amount of the "main fees"² depends on the national non-domestic rating (NNDR³) of the premises to which the fee relates, with higher fees for premises with higher NNDR. The *LA sample survey* (see Section E below) was used to test for statistically significance differences between the costs incurred by premises within each NNDR band⁴ in an area. The evidence did not support the use of NNDR as a criterion of variable costs because the costs incurred by premises within each band were not significantly linked to cost differences. This supports the general view of licensing officers licensing officers, expressed in technical groups and discussions in preparation for this consultation, that NNDR levels are not linked to costs.
- 13) The retention of NNDR bands will, therefore, not assist in reducing public subsidy or cross-subsidisation, but will add marginally to the cost of setting fees (see Section E). However, abandoning the use of NNDR bands is not expected to significantly affect the overall cost of the policy in terms of the overall increase in fee income.
- 14) Discussions with licensing officers indicate that alternative approaches to variable fee amounts may:
- better reflect variations in licensing authority costs and;
 - be practical and cost-effective to implement as the basis for variable fee amounts.
- 15) These alternative approaches were:
- variable fee amounts for the main fees on the basis of whether or not the premises are authorised to conduct licensable activities to a late terminal hour; and
 - variable fee amounts for the main fees on the basis of whether or not the premises are primarily used for the sale of alcohol for consumption on the premises.
- 16) If made available in regulations, these criteria would only be implemented locally as the basis for variable fee amounts if there is evidence that (and to the extent that) they are linked to costs in that area. They will therefore enable LAs to more closely achieve the objective of the avoidance of cross-subsidisation in their respective areas. The consultation will seek further views on the link between these criteria and costs.
- 17) It is expected that the higher fee amount would be applicable to premises whose latest terminal hour is between midnight and 6am and that LAs will be able to define the terminal hour to which the higher fee applies. (For example, some authorities may determine that, in their area, higher costs are only associated with premises that serve alcohol after 1am on any day). The consultation will seek views on the hours at which the variable fee amount may apply. The consultation will also seek views on whether LAs should be able to exempt premises whose latest terminal hour is

² The "main fees" are: the 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 Rateable value represents the open market annual rental value of a business/ non-domestic property - the rent the property would let for if it was being offered on the open market.

⁴ Premises with no NNDR up to a NNDR of £4,300 are Band A; £4,301 to £33,000 Band B; £33,001 to £87,000 Band C; £87,001 to £125,000 Band D; and above £125,001 Band E.

occasional only (e.g., for special events such as New Year's Eve and St. Patrick's day), if occasional late opening is not connected to higher costs.

Practicality and cost effectiveness of classes

- 18) The availability of classes creates marginal costs (see Section E). The consultation will therefore also seek views on the practicality and cost effectiveness of the criteria. For example, we will invite views on the practicality of determining whether premises are in each class and whether there is a possibility of dispute about which premises are in each class.

Commitment to setting fee maxima

- 19) The Government is committed to setting a maximum fee level for each fee. The consultation invites views on proposed fee maxima. These "caps" will provide reassurance to fee payers that fees cannot be set at excessive levels to, for example, generate income or be used as an economic deterrent. The Government is also committed to providing guidance to licensing authorities on the avoidance of gold-plating. The Government does not intend to set fee maxima at levels that will prevent cost recovery, however, as costs that are incurred in the discharge of functions under the 2003 Act ought to be recovered.
- 20) The maxima will not be, to any extent, recommended fee levels: locally-set fee levels should be based on evidence of what is required for cost recovery, and it will be unlawful to merely set them at the level of the maxima or at a proportion of the maxima, without regard to costs.
- 21) The evidence from the *LA sample survey* (see below) and discussions with LAs indicates that the costs of any particular fee category vary greatly in different LAs. This variation is largely driven by variations in the level of intervention (as opposed to merely variations in the cost of, for example, processing applications or notifications that are not subject to representations or objection notices).
- 22) For example, one central London LA that responded to the *LA sample survey* (see below) reported that the average cost of administering a Temporary Event Notice (TEN) was £414 in 2011/12. The combined average cost of the other respondents was £55. Some of the other LAs had rarely or never received objection notices to TENs (which are likely to result in a hearing held by the LA and, therefore, to significant costs). However, 17% of TENs in the central London LA resulted in those costs in 2011-12. Similar considerations apply to other duties of LAs, such as how often they have received objection notices from the police to an application to vary a licence to specify a new Designated Premises Supervisor, or how often they have received representations on applications for premises licences. (All of these processes can potentially result in the need for a hearing administered by the LA).
- 23) The result of this is that areas with the highest costs in any fee category deviate very greatly from the average, whilst it is likely that the costs in the majority of LAs will fall below the average in any fee category. The maximum fee levels proposed in the consultation are designed to ensure that LAs with the highest costs are not prevented from recovering those costs. They are therefore much higher than the estimated average fee levels that are used as the basis of this impact assessment and are assumed to have no impact on these estimates.

Legal parameters

- 24) This IA concerns regulations to be made under Section 197A Act of the 2003 Act. This legislation sets out constraints on those regulations. In particular, LAs will be able to charge different amounts for different "classes of case" (or criteria) specified in the regulations, but may not otherwise prescribe different amounts for different cases. In other words, the legislation enables the Home Secretary to prescribe that licensing authorities set fee levels, but not that they determine their own fee structure. The current NNDR fee bands are examples of different "classes of case" being charged different amounts, based on the criterion of NNDR. LAs will not be able to determine variable fee amounts dependent on NNDR, or any other criteria, unless the criteria are specified in the regulations.
- 25) It should be noted that nothing in section 197A of the 2003 Act enables regulations that change the circumstances under which a fee is payable under the 2003 Act (See Annex B). For example, regulations under section 197A cannot enable fees to be charged for processes or activities for which fees are not already chargeable or exempt premises or activities from the licensing regime.

These subjects are, therefore, not addressed by this IA. Recent consultations on the Government's Alcohol Strategy and regulated entertainment have invited views on proposals to de-regulate and reduce the burden of the 2003 Act⁵.

Background

Licensing functions

- 26) LAs are required to perform a range of functions under the 2003 Act. In particular, LAs must process and determine a number of different types of application and notice in relation to premises licences and club premises certificates, administer temporary authorisations and process and determine applications for personal licences. Applications and notices may trigger hearings held by the LA and, in rare cases, lead to appeal procedures involving the LA. LAs are responsible for advertising certain licensing applications on their website or by notices.
- 27) LAs must hold review hearings to determine applications for the review of existing licences and certificates. A necessary component of fulfilling these responsibilities is the monitoring of compliance with the terms of licences and certificates in their areas. This may comprise inspections of premises, liaison with bodies with whom they work in partnership (e.g. the police, other arms of local authorities, licensed premises) and conciliation between parties to avert the need for a review.
- 28) Under the 2003 Act, application processes, and certain processes under which notification must be sent to LAs, must be accompanied by a fee. Additionally, LAs are required to recover an annual fee from premises licence and club premises certificates holders. The existing levels of these fees (including the scheme of variable fee amounts for different types of premises) are set out in **Annex A** and the powers to prescribe these fees are set out in **Annex B**.
- 29) LAs must also carry out other functions under the 2003 Act for which no fee is specifically chargeable. For example, they must determine and periodically update their statements of licensing policy and they are responsible for maintaining a register of licensing information. Under the proposals for locally-set fees, they will also be responsible for setting fee levels. Under section 197A of the 2003 Act, the "general costs" arising from these functions are to be recovered through fees, with a "reasonable share" of these costs included in fee levels.

Scope of IA

- 30) This impact assessment therefore assesses the following key outcomes:
- the estimated change in net fee income that will result from the fees being set on the basis of cost recovery,
 - the estimated change in the distribution of fee income arising from different fee categories,
 - the estimated change in the distribution of fee income arising from proposed change to the classes of fee payer that may be charged different amounts for the same fee category, and
 - the costs of a new duty to set fees locally.

D. Options

- 31) The options considered in this IA are as follows:

- Option 1: Do nothing (retain centrally-set fees at current levels).
- Option 2: Revise centrally-set fees to so that they recover average costs, retaining the band structure under which premises with different non-domestic rateable value (NNDR) pay different amounts for the main (application and annual) fees.
- Option 3: Prescribe that fee levels under the 2003 Act are set by the authority to which they are payable (referred to as "locally-set licensing fees", LSLF) retaining the NNDR band structure.

⁵ The recent "Consultation on delivering the Government's policies to cut alcohol fuelled crime and anti-social behaviour" invited views on measures to free up responsible businesses. The Department for Culture, Media and Sport has recently brought forward proposals to de-regulate entertainment. More information is available at <http://www.homeoffice.gov.uk/> and <http://www.culture.gov.uk/>.

- Option 4: LSLF with flat fees in each fee category.
- Option 5: LSLF with the discretionary option for LAs to charge variable fee amounts for the “main fees” only on the basis of whether or not the premises is authorised to conduct licensable activities to a late terminal hour.
- Option 6: LSLF with the discretionary option for LAs to charge variable fee amounts for the “main fees” only on the basis of whether or not the premises is primarily used for the sale of alcohol for consumption on the premises.
- Option 7: LSLF with the discretionary option for LAs to charge variable fee amounts on the basis of both late terminal hour and whether the premises are primarily used for alcohol sales.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS AND DATA

- 32) The impact of a move to cost recovery on total fee income in England and Wales is very difficult to estimate. Several uncertainties exist due to local variations in activity levels and costs and the discretionary nature of licensing at a local level. Areas of uncertainty (considered in more detail below) include:
- The number of licence applications and other related processes over the next 10 years; and their costs;
 - For Option 2, what fee levels would be set centrally;
 - The possible deterrent (or incentive) effect of increased (reduced) fee levels for applications, notices, and annual fees;
 - For Options 3 to 7, what fee levels each LA will determine for each type of fee to recover their costs;
 - For Options 5 and 7, whether the LA decides that the local evidence of costs justifies variable fee amounts; the amount of the variation (within boundaries set centrally); and what is defined as a late terminal hour (between the hours of midnight and 6am);
 - For Options 6 and 7, the number of premises that fall into this category. The LA will decide whether the local evidence of costs justifies variable fee amounts; and the amount of the variation (within boundaries set centrally).

Scope for One-in-two-out (OITO)

- 33) The purpose of Options 2 to 7 is to enable each LA to recover the cost of service provision as nearly as possible without cross-subsidisation between fee-payers. This is not a policy change: the current fees also had this intention. As described above (constraints), the circumstances for which a fee is chargeable will remain (see **Annex B**). In particular, it is not the objective of the policy to regulate or de-regulate the market, i.e. to use fees to control the number of businesses using the service. Under Options 3-7, it will be unlawful for LAs to set fees on any basis other than cost recovery, for example, so as to raise income, or act as an economic disincentive. Therefore, the adjustment of fees to achieve cost recovery is out of scope for OITO⁶.
- 34) However, the administrative cost to LAs in providing information to enable centrally-set fees (Option 2), and setting LSLF (Options 3 to 7) (estimated below) will be transferred to fee-payers through fees. This is an additional function in administering the 2003 Act and is therefore in scope for OITO. Paragraph 4 describes the groups that are encompassed by the term ‘fee payers’ in this appraisal.

Baseline fee income

- 35) The current total fee income in England and Wales in 2011/12 is estimated to be **£53.2m**. (See Table 8 in Annex A)⁷.

⁶ The One-in, One-out (OIOO) Rule: Frequently Asked Questions, July 2012: “where a fee/charge is altered to cover the cost of service provision this is not considered an expansion in regulatory activity and would be considered out-of-scope of OIOO”.

⁷ This estimate is based on national statistics where possible. The 2011-12 national statistics bulletin does not provide a breakdown of applicants for new premises licences and club premises certificates (CPCs); or full variations to premises licences and CPCs, by fee band. The breakdown by fee band for these classes was estimated by extrapolation from the population of annual fee payers. Income from fee processes that were not available in the 2011-12 survey were estimated by extrapolation from the most recent national statistics bulletin in which they were recorded. Income from fee processes that have never been recorded in a national statistics bulletin (reflecting a small proportion of total estimated income) was estimated from extrapolation from the sample survey (see below for explanation). This sample of LAs may not be nationally representative of all LAs and these figures should therefore be treated with caution.

Estimates of LA costs (“LA sample survey”)

- 36) The Home Office, working with the Local Government Association, conducted a survey of the relationship between costs and income with 20 LAs in preparation for this consultation. The LAs approached were a mix of different types of authority (such as Welsh County Borough; District; Unitary; and London Borough); different sizes (in terms of the number of licences held); and different parts of the country. However, the final sample was not statistically representative of the total 350 LAs in England and Wales⁸. The LAs provided estimates on the actual costs that they had incurred in respect of all fee-paying process under the 2003 Act in 2011-12⁹. This was based on the full employment costs of each task, as well as applicable overheads (such as office rents). Where relevant, this was broken down by fee-band. In addition to the base cost of administering a non-contentious application, notice, or annual fee payment, the incidence and cost of the main additional “interventions” that may or may not be required was estimated for each fee category. Examples of “interventions” measured in the survey included: hearings on application or to consider an objection to a TEN; conciliation processes to avert the need for a hearing; and review applications or inspections to monitor compliance in respect of existing premises paying annual fees.
- 37) Each LA was also invited to provide an estimate of the overall relationship between cost and income for the total cost of service. This included, for example, the costs of preparing a statement of licensing policy. The sum of average costs for fees was not required to equal the total cost of service, because there are additional functions under the 2003 Act that are not directly attributable to a fee-paying process (see above) and because the estimates of the costs of fee-paying processes were not able to capture all possible interventions.

Future fee income

- 38) To estimate total future fee income, the report of the Independent Fee Review Panel (the Elton Report) (2006) was used which estimated that a 7% increase in all fees would have broadly ensured cost recovery for the following three years, at that time, and that fee levels should be reassessed after that.¹⁰ Taking account of inflation since this assessment and assuming implementation in 2013/14, then fees would have to rise by approximately **25%** from the baseline.
- 39) The *LA sample survey* provided information on the costs to LAs of individual processes, and from this, average costs were calculated. We know that these average costs are likely to be underestimates of the actual fee levels charged, due to the additional costs incurred by LAs, as explained above. The average costs for individual processes were therefore weighted according to the required increase in total fee income, to show the distribution of the total fee increase across fee categories. Average reported costs were used to estimate how fees in each category will change to achieve cost recovery. Therefore, individual fees do not all increase by 25%. For example, the cost of a TEN is currently £21. The average cost estimated by the LAs in the *LA sample survey* was £55. This was scaled up to £80 to reflect the required increase in total fee income.
- 40) The required increase in total fee income was estimated to be **£13.1m**, from £53.2m to £66.3m. This does not include the cost to LAs of providing information to enable centrally-set fees (Option 2), or administering LSLF (Options 3 to 7), which are expected to be recovered through fees (see below).
- 41) To sense-check these estimates, an alternative estimate of future total fee income was calculated using the *LA sample survey*. Respondents were asked to state an estimate of total costs to the licensing authority of discharging its functions under the 2003 Act. As mentioned above, it was stated that there was no expectation that these should be equal to the sum of average costs associated with each fee process (as there are other costs not associated with individual fee processes), and the survey did not ask the respondents to explain how they reached their total figures. These estimates of total costs were then modelled up to a national figure according to the

⁸ Not all participants provided responses on each element of the survey. In addition, three further LAs provided responses on one element only (the average cost of a TEN).

⁹ With the exception of some rare processes, such as applications by community premises with existing licences to dis-apply the requirement for a Designated Premises Supervisor; and provisional statements.

¹⁰ Elton et al (2006), The Licensing Act 2003: Report of the Independent Fees Review Panel, <http://www.almr.org.uk/legislativepdfs/91.pdf>. HMT GDP deflators were used to uprate the figures for inflation. http://www.hm-treasury.gov.uk/data_gdp_fig.htm

ratio of the number of premises in the sample to the total in England and Wales. Estimated future fee income is hence this total cost of service for all LAs, assuming cost recovery.

- 42) Using this alternative estimate, future total fee income was estimated to increase by £17.5m, from £53.2m to £70.7m. This does not include the cost to LAs of providing information to enable centrally-set fees (Option 2), or administering LSLF (Options 3 to 7) which will be translated into higher fees (see section below).
- 43) As the total costs in the Elton Report were viewed as more robust than an extrapolation of the *LA sample survey* to the entire population of LAs, the former has been used to estimate the impact on individual fee processes. The total cost estimates from the *LA sample survey* are included for illustrative purposes and as a sense check.
- 44) The *LA sample survey* showed that the costs incurred by LAs for the various processes and activities varied significantly, thus supporting the argument for LSLF. For example, for premises licence applications, the average amount that LA's costs differed from the mean was £264 (58% of the mean) (excluding one outlier) with a range of £79-£897(see Table 11 in Annex A). This implies that a centrally-set fee to recover average costs would result in very large over- or under-payments for many LAs, and thus be inequitable. For example, if the premises licence application fee was set at £264, one LA could be charging as much as £633 less than their average costs. We will seek further evidence on costs, and cost variation, through the consultation process.

Additional costs to LAs of providing information to enable centrally-set fees, or administering LSLF

- 45) For Option 2, we assume that LAs will provide central Government with estimates of their costs in order to calculate centrally-set fees, and we expect that this will result in costs to LAs, recovered from fee-payers through licensing fees. This cost will be an "IN" for the purpose of "One in Two Out". We have assumed that a re-evaluation of fees will be done every three years.
- 46) For Options 3-7, the new duty to determine fees locally will result in a cost to LAs, recovered from fee-payers through licensing fees, and, therefore, an "IN" for the purpose of "One in Two Out".
- 47) For each fee, LAs will need to assess the costs that are referable to the discharge of the functions to which the fee relates. They will also need to assess their general costs in discharging licensing functions for which no fee is otherwise payable, and apportion a reasonable share of these costs to each fee.
- 48) LAs will need to publish proposed fees and enable fee payers to comment. The final determination of the fees will require internal consideration by the council. The task of determining fees will therefore involve costs to the LA associated with initial cost assessment; external publication and consideration of responses; and final internal decision-making.
- 49) We expect that LAs will incur the majority of these costs in each financial year, and assume for the purposes of this IA that they are incurred in each year. However, in some years, the cost assessment process may reveal that the existing fees are correct and no change is required. This will remove the need for publication of revised fee levels and consideration of responses, and may reduce the cost of consideration by the council. There is therefore a risk that this assumption results in an over-estimate of the costs of determining fees locally over a 10-year period.

- 50) The estimated costs are outlined in Table 1 below. For a full explanation of these costs please see [Annex C](#).

Table 1: Average annual cost of providing information to enable centrally-set fees (Option 2) / administering LSLF (Option 3-7) (2013/14 prices)

	Option 2	Option 3	Option 4	Option 5	Option 6	Option 7
Calculating fees	£300*	£900	£610	£660	£660	£720
Advertising	-	£720	£720	£720	£720	£720
Further consideration, discussion and reports	-	£1,660	£1,660	£1,660	£1,660	£1,660
Council decision	-	£1,010	£1,010	£1,010	£1,010	£1,010
Total	£300*	£4,290	£3,990	£4,060	£4,060	£4,110

*Whilst the cost of calculating fees is estimated to be £900 for Option 2, this will be done every three years, rather than yearly (like Options 3-7), therefore the average annual cost over 10 years is approximately £300.

- 51) In order to estimate the impact on net fee income, the estimated annual costs of providing information to enable centrally-set fees (Option 2), or administering LSLF (Options 3-7), have been added to the estimated total future fee income based on Elton (see above).
- 52) For Option 2, the estimated total annual cost of providing information to enable centrally-set fees is **£0.1m**. This leads to an overall increase of **25%**, **£13.2m** in fee income, based on Elton, with a total estimated fee income of £66.4m (see Table 9 in Annex A for full breakdown). As an illustration, using the total costs of service from the LA sample survey, adjusting national fees is estimated to lead to an increase of 33%, £17.6m in fee income, with a total estimated fee income of £70.8m. This will effectively be a transfer from fee-payers to LAs.
- 53) For Options 3-7, whilst these vary slightly by option (see Table 1, above) we have applied an average cost to the total fee income in order to avoid showing spuriously accurate figures. For all LAs the estimated total annual cost of administering LSLF is £1.4m (350 LAs x £4,100).
- 54) The added cost of administering LSLF leads to an overall increase of **27%**, **£14.5m** in fee income, based on Elton, with a total estimated fee income of £67.8m. It is estimated that 2% of this results from the administration of LSLF. (See Table 10 in Annex A for full breakdown). As an illustration, using the total costs of service from the LA sample survey, LSLF is estimated to lead to an increase of 36%, £19.0m in fee income, with a total estimated fee income of £72.2m. This will effectively be a transfer from fee-payers to LAs.
- 55) It is important to note that these are rough estimates of total future fee income as this is a discretionary policy with a number of factors that would determine the actual fee levels charged and overall fee income (including, for example, the number of licence applications and other processes). It is however using the best available information and therefore is viewed as our best estimate. We will invite views in the consultation on the costs of implementing LSLF, including the practicality of determining whether premises are in each class and the extent to which the criteria for variable fee amounts might result in disputes about the classification of individual premises.
- 56) Options 2-7 are all estimated to incur approximately the same overall costs to fee-payers and LAs (whilst recognising that marginal variations exist, as set out in paragraphs 46-54). The main difference will be the spread of costs between different classes of fee payer depending on whether there are variable fee amounts for the “main fees”.

Evidence on the use of NNDR as a basis for variable fee amounts

- 57) As described in Section C, the *LA sample survey* was used to test for statistical significance between the costs incurred by each NNDR band within an area. The evidence did not support the use of NNDR as a criterion of variable costs because the costs incurred by premises within each band were not significantly linked to cost differences. This supports the general view of licensing officers, expressed in technical groups and discussion in preparation for this consultation, that NNDR levels are not linked to costs and, therefore, potentially lead to cross-subsidisation.

Fee Maxima

- 58) As described in Section C, the Government will consult on proposed fee maxima. Fee maxima have not been estimated in this Impact Assessment and should not have any impact on the costs and benefits of this policy.

Number of premises affected by variable fee amounts based on late terminal hour

- 59) As set out in paragraph 16, we expect that variable fee amounts for the “main fees” on the basis of whether or not the premises has a late terminal hour may be used by LAs if they are justified by higher costs incurred in this class. Use of variable fees will vary by LA and anecdotal evidence from licensing officers indicated that approximately 25-50% would potentially use this class.
- 60) Data obtained by the Home Office in 2010¹¹ indicated that around 33% of premises licensed to sell alcohol in the on-trade are open after midnight on a typical Saturday. The majority of these, around 21% of those in the study, were shut at or before 1am. A further 6% closed at or before 2am. Only about 6% of those in the study were open after 2, with various terminal hours. We will assume that LAs will not charge higher amounts to only a very small proportion of their premises because this is unlikely to reflect costs or be efficient, and that the average proportion of premises affected if higher fees apply will vary between 33% (all the premises estimated to be open after midnight) and 12% (those estimated to be open later than 1am).
- 61) There were 202,000 premises licences and 15,900 club premises certificates authorising regulated entertainment in force in England and Wales on 31 March 2012.¹² It is therefore estimated that between **6,500-36,000 premises** ($25-50\% \times (12-33\% \times 217,900 \text{ premises})$) would be charged a higher amount and the remainder a smaller amount if variable fee amounts for the main fees are applicable from midnight onwards.
- 62) This does not have any impact on the overall costs and benefits of this policy as this is based on what the average fee may be to achieve cost recovery. The result of this option would be that some premises may be charged a higher amount whilst others would be charged a lower amount.

Number of premises affected by higher fees due to being used primarily for the sale of alcohol for consumption on the premises

- 63) We cannot be sure how many LAs will adopt higher fees for applications, full variations and annual fees in respect of premises primarily used for the sale of alcohol for consumption on the premises. As set out in paragraph 16, any decision to charge such an amount will have to be justified by evidence that the premises in this class lead to higher costs to the LA in the discharge of licensing functions in that area. Such costs could arise due to, for example, higher inspection costs or because premises in that class can be shown to be more likely to be subject to representations or review applications that lead to hearings conducted by the LA. In some areas, there may be no link to higher costs.
- 64) Use of variable fee amounts will vary by LA and anecdotal evidence from licensing officers indicated that approximately 25-50% would potentially use this class. In 2011/12 approximately 15% of premises in Band D and Band E were subject to a higher fee amount on the basis that they were “used exclusively or primarily for the purposes of the sale of alcohol for consumption on the premises”.¹³ If we assume that the same proportion of premises in Bands A-C would fall into this category, as well as club premises, an estimated **8,200-16,300 premises** ($25-50\% \times (15\% \times 217,900 \text{ premises})$) could be subject to a higher fee amount because they are primarily used for the sale of alcohol for consumption on the premises.
- 65) This does not have any impact on the overall costs and benefits of this policy as this is based on what the average fee may be to achieve cost recovery. The result of this option would be that some premises may be charged a higher amount whilst other may be charged a lower amount.

¹¹ From CGA Strategy, commercially obtained.

¹² Alcohol and Late Night Refreshment Licensing, England and Wales, 2011/12 <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/home-office-science/alcohol-lnr-licensing-1112-tabs>

¹³ Alcohol and Late Night Refreshment Licensing, England and Wales, 2011/12 <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/home-office-science/alcohol-lnr-licensing-1112-tabs>

Deterrence effect of higher fees

- 66) An increase in fees may lead to some businesses or individuals being deterred from making an application, issuing a notice, or continuing to hold an authorisation; particularly when the profits of doing so are relatively small. This includes, in particular, the issuing of Temporary Event Notices (TENs). If, for example, the fee for a TEN (currently £21) rose by £60, some potential users may not see the benefit of carrying out licensable activities at their temporary event.
- 67) It is not possible to estimate the number of businesses that would be deterred by higher fees due to the discretionary nature of the policy as well as the lack of information on businesses' profits. It is assumed that the maximum loss of profit from being deterred from making an application, issuing a notice, or continuing to hold an authorisation would be equal to the rise in fee otherwise there would still be an economic incentive to make an application, issue a notice, or continue to hold an authorisation.
- 68) Potential implications include reduced availability of licensable activities but also a greater awareness of the costs involved for each process. This may indirectly lead to a fall in costs, and thus fees, if it deters irresponsible behaviour. If this is the case then the required fee could be lower than estimated in this appraisal.
- 69) For example, anecdotal evidence indicates that TENs may generate high average costs in some areas as they are issued irresponsibly despite a high likelihood that they will be subject to a counter-notice, or withdrawn following police objection. TENs that are subject to a counter-notice or withdrawn in these circumstances have no benefits to issuers, but cause significant administrative costs. If TEN fees are significantly higher in order to recover costs, and subsequently deter the irresponsible issuing of TENs, this may have an unintended effect on those costs, in reducing the total administrative cost of that process. If this is the case, there would therefore be a reduction in the required fee.

OPTION 1: Do nothing

- 70) The 'do nothing' option is provided as a baseline for comparison with the potential impacts of a moving to LSLF. There would be no impact on fee-payers from this option but it would maintain the current problems of unintended public subsidy and cross-subsidisation.

OPTION 2: Revise centrally-set fees so that they recover average costs, retaining the NNDR band structure

COSTS**Public Sector**Transition costs

- 71) None.

Annual costs

- 72) The cost of providing information to enable centrally-set fees every three years is estimated to be £300 per annum per LA (**£0.1m per annum** for 350 LAs in England and Wales). (See General assumptions for a detailed explanation).

BusinessTransition costs

- 73) A change in fee level should not lead to any significant cost to business in terms of processing the payment.

Annual costs

- 74) The direct cost of this option is an overall rise in the total fees paid by business estimated at **£13.2m** per year, which is an increase of 25% of current fee income (see General assumptions). Following consultation with LAs, the impact on individual fees is expected to vary. In particular, preliminary evidence suggests that premises application and variation fees, except for premises in

Band D and E, will rise by up to 512% (from £100 to £612 for premises in Band A) whilst annual fees will rise by up to 58% for premises in Band A (from £70 to £111). Likewise fees for club applications and variations are estimated to rise by up to 507% (from £100 to £607 for premises in Band A). The cost of a temporary event notice (TEN) is expected to rise by up to 272% (from £21 to £78). See Annex A Table 3 for full breakdown of estimated fee changes. As costs vary significantly between LA areas, fee payers will be charged at higher than cost in many areas if fee levels are based on average costs.

Individuals

- 75) Businesses may pass on the higher fees to customers through higher prices. It is not possible to know what the impact would be as it would depend on whether a business was already operating at competitive prices and whether they are in a position to pass on costs to customers. If there is a deterrent effect of a higher fee level this may result in the reduced availability of licensable activities for individuals.

COSTS (OITO)

- 76) Whilst setting fees in order to achieve cost recovery is out of scope for OITO, the cost of providing information to enable centrally-set fees will be transferred to businesses and be in scope. This policy therefore leads to an IN of **£0.1m per annum**.

BENEFITS

Public Sector

- 77) The purpose of adjusting fees is to ensure that they enable cost recovery. It is estimated that LAs will receive **£13.2m** more per year as a result of Option 2. As costs would still vary significantly between LA areas, centrally-set fees based on average costs will not result in full cost recovery in all areas.

Business

- 78) Option 2, by revising fees so that they recover average costs (and thus improving cost recovery within each fee category) will result in a reduction of cross-subsidisation between fee categories. Therefore, whilst there is an overall increase in fees, and thus cost to fee-payers, within this, some fee-payers are expected to experience a fall in fees due to the adjustment in fees. For example, preliminary evidence (Table 3 in Annex A) shows that premises within Band C-E are expected to pay up to 84% lower annual fees (from £1,050 to £164 for premises in the multiplier in Band E) and up to 77% less for club premises certificate annual fees (from £350 to £81 for premises in Band E).

Individuals

- 79) N/A

BENEFITS (OITO)

- 80) N/A

NET EFFECT

- 81) The purpose of adjusting fees is to enable LAs to achieve cost recovery, removing, as nearly as possible, unintended public subsidy of the costs of the administration of the 2003 Act by LAs (thus benefitting tax-payers). Under Option 2, unintended public subsidy will remain in areas with higher than average costs, and excess fee payments will occur in areas with lower than average costs. LAs will incur additional costs in providing information to enable centrally-set fees, which will be translated into higher fees for business. There will therefore be an overall cost to business of **£0.1m per annum**.

OITO NET EFFECT

- 82) This policy will be a net IN of **£0.1m per annum** due to the cost to LAs of providing information to enable centrally-set fees, which is translated into an increase in fees for fee-payers. NB: The Equivalent Annual Net Cost for the summary pages is in 2009 prices.

OPTION 3: enable locally-set licence fees (LSLF) but retain the NNDR band structure.

COSTS

Public Sector

Transition costs

- 83) None. We expect that LAs will incur the majority of the costs associated with setting fees locally in each financial year, and have assumed for the purposes of this IA that they are incurred in each year. However, in some years, the cost assessment process may reveal that the existing fees are correct and that no change is required.

Annual costs

- 84) The cost of administering LSLF is assumed to be the same each year (see General assumptions for detailed explanation). In practice the costs may vary depending on decisions made by LAs. This includes the cost of calculating fees (including the according of costs to NNDR bands), advertising, administrative and resource costs and the cost of any council hearing. It is estimated that the cost of administering LSLF is £4,300 per annum per LA (**£1.5m in total** for 350 LAs in England and Wales).

Business

Transition costs

- 85) A change in fee level should not lead to any significant cost to business in terms of processing the payment. Fee payers will need to check the correct fee level when paying fees. This is expected to be a negligible cost. All fee payers may choose to comment on proposed fee levels when they are published by the LA in which they operate but are expected to only do so when it is in their interests.

Annual costs

- 86) The direct cost of Option 3 is an overall rise in the total fees paid by fee payers estimated at **£14.5m** per year, which is an increase of 27% of current fee income (see General assumptions). The impact on individual fees is expected to vary. In particular, it is estimated that premises application and variation fees, except for premises in Band D and E, will rise by up to 524% (from £100 to £624 for premises in Band A) whilst annual fees will rise by up to 62% for premises in Band A (from £70 to £113). Likewise fees for club applications and variations are estimated to rise by up to 519% (from £100 to £619 for premises in Band A). The cost of a temporary event notice (TEN) is expected to rise by up to 280% (from £21 to £80). See Annex A Table 5 for full breakdown of estimated fee changes.

Individuals

- 87) Businesses may pass on the higher fees to customers through higher prices. It is not possible to know what the impact would be as it would depend on whether a business was already operating at competitive prices and whether they are in a position to pass on costs to customers. If there is a deterrent effect of a higher fee level this may result in the reduced availability of licensable activities for individuals.

COSTS (OITO)

- 88) Whilst setting fees in order to achieve cost recovery is out of scope for OITO, the cost of administering LSLF will be transferred to fee payers and be in scope. This policy therefore leads to an IN of **£1.5m per annum**.

BENEFITS

Public Sector

- 89) The purpose of adjusting fees is to ensure that they enable cost recovery. It is estimated that LAs will receive **£14.5m** more per year as a result of Option 3. Option 3 will remove, to a greater extent than Option 2, unintended public subsidy of the costs of the administration of the 2003 Act in each LA area (thus benefitting tax-payers) by taking account of variations in costs between different LAs in order to avoid significant under- and over-payments in certain areas.

Business

- 90) Option 3, by allowing LAs to set fee levels in order to achieve cost recovery, will result in some reduction of cross-subsidisation between fee categories. Therefore, whilst there is an overall increase in fees, and thus cost to fee-payers, within this, some fee-payers are expected to experience a fall in fees due to the move to LSLF. For example, Table 5 in Annex A shows that premises within Band C-E are expected to pay up to 84% lower annual fees (from £1,050 to £167 for premises in the multiplier in Band E) and up to 76% less for club premises certificate annual fees (from £350 to £83 for premises in Band E).

Individuals

- 91) N/A

BENEFITS (OITO)

- 92) N/A

NET EFFECT

- 93) The purpose of adjusting fees is to enable LAs to achieve cost recovery, removing, as nearly as possible, unintended public subsidy of the costs of the administration of the 2003 Act by LAs as a (thus benefitting tax-payers). LSLF will enable cost recovery in high cost areas without causing excess fee payments in lower cost areas. LAs will incur additional costs in the maintenance of LSLF which will be translated into higher fees for business. There will therefore be an overall cost to business of **£1.5m per annum**.

OITO NET EFFECT

- 94) This policy will be a net IN of **£1.5m per annum** due to the cost to LAs of maintaining LSLF which is translated into an increase in fees for fee-payers. NB: The Equivalent Annual Net Cost for the summary pages is in 2009 prices.

OPTION 4: LSLF with flat fees in each fee category**COSTS****Public Sector****Transition costs**

- 95) None. We expect that LAs will incur the majority of the costs associated with setting fees locally in each financial year, and have assumed for the purposes of this IA that they are incurred in each year. However, in some years, the cost assessment process may reveal that the existing fees are correct and that no change is required.

Annual costs

- 96) The cost of administering LSLF is assumed to be the same each year (see General assumptions for detailed explanation). In practice the costs may vary depending on decisions made by LAs. This includes the cost of calculating fees, advertising, administrative and resource costs and the cost of any council hearing. It is estimated that the cost of administering LSLF with flat fees is £3,990 per annum per LA (**£1.4m in total** for 350 LAs in England and Wales).

Business

Transition costs

97) A change in fee level should not lead to any significant cost to business in terms of processing the payment. Fee payers will need to check the correct fee level when paying fees. This is expected to be a negligible cost. All fee payers may choose to comment on proposed fee levels when they are published by the LA in which they operate but are expected to only do so when it is in their interests. Abandoning the use of NNDR bands would lead to a negligible saving for business in that they no longer have to check their NNDR.

Annual costs

98) The direct cost of Option 4 is an overall rise in the total fees paid by business estimated at **£14.5m per year**, which is an increase of 27% of current fee income (see General assumptions). The impact on individual fees is expected to vary. In particular, premises licence application fees are expected to rise by 207% on average (from £222 to £683) whilst Club Premises Certificates are expected to rise by 220% (from £182 to £583). The cost of a temporary event notice (TEN) is expected to rise by up to 280% (from £21 to £80). See Annex A Table 6 for full breakdown of estimated fee changes.

Individuals

99) Businesses may pass on the higher fees to customers through higher prices. It is not possible to know what the impact would be as it would depend on whether a business was already operating at competitive prices and whether they are in a position to pass on costs to customers. If there is a deterrent effect of a higher fee level this may result in the reduced availability of licensable activities for individuals.

COSTS (OITO)

100) Whilst setting fees in order to achieve cost recovery is out of scope for OITO, the cost of administering LSLF will be transferred to businesses and be in scope. This policy therefore leads to an IN of **£1.4m per annum**.

BENEFITS

Public Sector

101) The purpose of adjusting fees is to ensure that they enable cost recovery. It is estimated that LAs will receive **£14.5m** more per year as a result of Option 4. Option 4 will remove, to a greater extent than Option 2, unintended public subsidy of the costs of the administration of the 2003 Act in each LA area (thus benefitting tax-payers) by taking account of variations in costs between different LAs in order to avoid significant under- and over-payments in certain areas.

Business

102) Option 4, by allowing LAs to set fees in order to achieve cost recovery and abandoning NNDR bands, will result in a reduction of cross-subsidisation between fee categories. Whilst there is an overall increase in fees, and thus cost to business, abandoning the use of NNDR bands may result in businesses with a higher NNDR experiencing reductions in fees. It is not possible to know exactly what the impact would be without more information on the current degree of cross-subsidisation between fees categories and, therefore, the extent to which LAs will alter the distribution of costs across fees to avoid it. For example, Table 6 in Annex A shows that premises licence and club premises certificate annual fees are expected to fall by 20% and 23% respectively, on average (from £202 (£159) to £161 (£121)).

Individuals

103) N/A

BENEFITS (OITO)

104) N/A

NET EFFECT

105) The purpose of adjusting fees is to enable LAs to achieve cost recovery, removing, as nearly as possible, unintended public subsidy of the costs of the administration of the 2003 Act by LAs (thus benefitting tax-payers). LSLF will enable cost recovery in high cost areas without causing excess fee payments in lower cost areas. LAs will incur additional costs in the maintenance of LSLF which will be translated into higher fees for business. There will therefore be an overall cost to business of **£1.4m per annum**. Unlike Option 2, Option 4 will allow for variations of costs between LAs.

OITO NET EFFECT

106) This policy will be a net IN of **£1.4m** due to the cost to LAs of maintaining LSLF which is translated into an increase in fees for fee-payers. NB: The Equivalent Annual Net Cost for the summary pages is in 2009 prices.

OPTION 5: LSLF with flat fees in each fee category with the option for licensing authorities (LAs) to charge variable fee amounts for the “main fees” on the basis of whether or not the premises is authorised to conduct licensable activities to a late terminal hour.

COSTS**Public Sector**Transition costs

107) None. We expect that LAs will incur the majority of the costs associated with setting fees locally in each financial year, and have assumed for the purposes of this IA that they are incurred in each year. However, in some years, the cost assessment process may reveal that the existing fees are correct and that no change is required.

Annual costs

108) The cost of administering LSLF is assumed to be the same each year (see General assumptions for detailed explanation). In practice the costs may vary depending on decisions made by LAs. This includes the cost of calculating fees, advertising, administrative and resource costs and the cost of any council hearing. It is estimated that the cost of administering LSLF with flat fees and a late terminal hour is £4,060 per annum per LA (**£1.4m in total** for 350 LAs in England and Wales).

BusinessTransition costs

109) A change in fee level should not lead to any significant cost to business in terms of processing the payment. Fee payers will need to check the correct fee level when paying fees. This is expected to be a negligible cost. All fee payers may choose to comment on proposed fee levels when they are published by the LA in which they operate but are expected to only do so when it is in their interests. Abandoning the use of NNDR bands would lead to a negligible saving for business in that they no longer have to check their NNDR.

Annual costs

110) The direct cost of Option 5 is an overall rise in the total fees paid by business estimated at £14.5m per year, which is an increase of 27% of current fee income (see General assumptions). The impact on individual fees is expected to vary. This will be highly dependent on the use of the variable fee amount for a late terminal hour. (See Table 6 in Annex A for estimates of average future fees).

111) It is assumed that premises subject to a higher fee amount due to their late terminal hour may be charged up to a maximum of double the fee compared to those not subject to it. The fee charged will depend on how much greater the costs incurred for LAs are for those open late. The

consultation will seek views on the extent to which average costs can vary in an area on the basis of this criterion. This will indicate the appropriate maximum degree of variation in fee amounts, and the likely average degree of variation that will be applied locally.

Individuals

- 112) Businesses may pass on the higher fees to customers through higher prices. It is not possible to know what the impact would be as it would depend on whether a business was already operating at competitive prices and whether they are in a position to pass on costs to customers. If there is a deterrent effect of a higher fee level this may result in the reduced availability of licensable activities for individuals. In particular, if a higher fee based on a late terminal hour is applied and businesses are deterred from opening beyond midnight this would lead to less availability for consumers.

COSTS (OITO)

- 113) Whilst setting fees in order to achieve cost recovery is out of scope for OITO, the cost of administering LSLF will be transferred to businesses and be in scope. This policy therefore leads to an IN of **£1.4m per annum**.

BENEFITS

Public Sector

- 114) The purpose of adjusting fees is to ensure that they enable cost recovery. It is estimated that LAs will receive **£14.5m** more per year as a result of Option 5. Option 5 will remove, to a greater extent than Option 2, unintended public subsidy of the costs of the administration of the 2003 Act in each LA area (thus benefitting tax-payers) by taking account of variations in costs between different LAs in order to avoid significant under- and over-payments in certain areas.

Business

- 115) Option 5, by allowing LAs to set fees in order to achieve cost recovery, abandoning NNDR bands and prescribing additional classes in which LAs can charge variable fee amounts for the “main fees”, will result in a significant reduction of cross-subsidisation between fee categories and classes of fee payer. Therefore, whilst there is an overall increase in fees, and thus cost to business, abandoning the use of NNDR bands may result in businesses with a higher NNDR experiencing reductions in fees. It is not possible to know exactly what the impact would be without more information on the current degree of cross-subsidisation between fees categories and, therefore, the extent to which LAs will alter the distribution of costs across fees to avoid it, including the extent of the use of the variable fee amounts for late terminal hour. By charging premises more if they have a late terminal hour this policy may lead to those premises not in scope for the higher fee amount facing lower fees than estimated. As explained above, it is not possible to know the exact impact. (See Table 6 in Annex A for estimates of average future fees). The availability of additional classes means that Option 5 should better reflect the costs incurred for each class of fee payer in comparison to Option 2-3 and, potentially, Option 4.

Individuals

- 116) Any indirect deterrent on premises operating with a late terminal hour could be a benefit to individuals in the area who may experience reductions in alcohol-related crime and disturbance.

BENEFITS (OITO)

- 117) N/A

NET EFFECT

- 118) The purpose of adjusting fees is to enable LAs to achieve cost recovery, removing, as nearly as possible, unintended public subsidy of the costs of the administration of the 2003 Act by LAs (thus

benefitting tax-payers). LSLF will enable cost recovery in high cost areas without causing excess fee payments in lower cost areas. LAs will incur additional costs in the maintenance of LSLF which will be translated into higher fees for business. There will therefore be an overall cost to business of **£1.4m per annum**. NB: The Equivalent Annual Net Cost for the summary pages is in 2009 prices. Unlike Option 2, Option 5 will allow for variations of costs between LAs and should also better reflect the costs incurred for each class of fee payer compared to Options 2-3 and, potentially, Option 4.

OITO NET EFFECT

119) This policy will be a net IN of **£1.4m per annum** due to the cost to LAs of maintaining LSLF which is translated into an increase in fees for fee-payers.

OPTION 6: LSLF with flat fees in each fee category with the option for LAs to charge variable fee amounts for the “main fees” on the basis of whether or not the premises is primarily used for the sale of alcohol for consumption on the premises.

COSTS

Public Sector

Transition costs

120) None. We expect that LAs will incur the majority of the costs associated with setting fees locally in each financial year, and have assumed for the purposes of this IA that they are incurred in each year. However, in some years, the cost assessment process may reveal that the existing fees are correct and that no change is required.

Annual costs

121) The cost of administering LSLF is assumed to be the same each year (see General assumptions for detailed explanation). In practice the costs may vary depending on decisions made by LAs. This includes the cost of calculating fees, advertising, administrative and resource costs and the cost of any council hearing. It is estimated that the cost of administering LSLF with flat fees and a variable fee amount on the basis of whether or not premises are subject to a higher fee amount because they are primarily used for the sale of alcohol for consumption on the premises is £4,060 per annum per LA (**£1.4m in total** for 350 LAs in England and Wales).

Business

Transition costs

122) A change in fee level should not lead to any significant cost to business in terms of processing the payment. Fee payers will need to check the correct fee level when paying fees. This is expected to be a negligible cost. All fee payers may choose to comment on proposed fee levels when they are published by the LA in which they operate but are expected to only do so when it is in their interests. We have not attempted to estimate these costs. Abandoning the use of NNDR bands would lead to a negligible saving for business in that they no longer have to check their NNDR.

Annual costs

123) The direct cost of Option 6 is an overall rise in the total fees paid by business estimated at **£14.5m per year**, which is an increase of 27% of current fee income. The impact on individual fees is expected to vary (see General assumptions). This will be highly dependent on the use of the variable fee amounts. (See Table 6 in Annex A for estimates of average future fees).

124) It is assumed that premises subject to a higher fee amount because they are primarily used for the sale of alcohol for consumption on the premises may be charged up to a maximum of double the fee compared to those not subject to it. The higher fee charged will depend on how much greater the costs incurred for LAs are for those in that class. The consultation will seek views on the extent to which average costs can vary in an area on the basis of this criterion. This will indicate the appropriate maximum degree of variation in fee amounts, and the likely average degree of variation that will be applied locally.

Individuals

- 125) Businesses may pass on the higher fees to customers through higher prices. It is not possible to know what the impact would be as it would depend on whether a business was already operating at competitive prices and whether they are in a position to pass on costs to customers. If there is a deterrent effect of a higher fee level this may result in the reduced availability of licensable activities for individuals.

COSTS (OITO)

- 126) Whilst setting fees in order to achieve cost recovery is out of scope for OITO, the cost of administering LSLF will be transferred to businesses and be in scope. This policy therefore leads to an IN of **£1.4m per annum**.

BENEFITS**Public Sector**

- 127) The purpose of adjusting fees is to ensure that they enable cost recovery. It is estimated that LAs will receive **£14.5** more per year as a result of Option 6. Option 6 will remove, to a greater extent than Option 2, unintended public subsidy of the costs of the administration of the 2003 Act in each LA area (thus benefitting tax-payers) by taking account of variations in costs between different LAs in order to avoid significant under- and over-payments in certain areas.

Business

- 128) Option 6, by allowing LAs to set fees in order to achieve cost recovery, abandoning NNDR bands and prescribing additional classes in which LAs can charge variable fee amounts for the “main fees”, will result in a significant reduction of cross-subsidisation between fee categories and classes of fee payer. Therefore, whilst there is an overall increase in fees, and thus cost to business, abandoning the use of NNDR bands may result in businesses with a higher NNDR experiencing reductions in fees. It is not possible to know exactly what the impact would be without more information on the current degree of cross-subsidisation between fees categories and, therefore, the extent to which LAs will alter the distribution of costs across fees to avoid it, including the extent of the use of variable fee amounts for the “main fees”. In addition charging premises a higher fee amount because they are primarily used for the sale of alcohol for consumption on the premises may lead to those premises not in scope for the higher fee amount facing lower fees than estimated. As explained above, it is not possible to know the exact impact due to the discretionary nature of the policy. (See Table 6 in Annex A for estimates of average future fees). The availability of additional classes means that Option 6 should better reflect the costs incurred for each class of fee payer in comparison to Option 2-3 and, potentially, Option 4.

Individuals

- 129) N/A

BENEFITS (OITO)

- 130) N/A

NET EFFECT

- 131) The purpose of adjusting fees is to enable LAs to achieve cost recovery, removing, as nearly as possible, unintended public subsidy of the costs of the administration of the 2003 Act by LAs (thus benefitting tax-payers). LSLF will enable cost recovery in high cost areas without causing excess fee payments in lower cost areas. LAs will incur additional costs in the administration of LSLF which will be translated into higher fees for business. There will therefore be an overall cost to business of **£1.4m per annum**. Unlike Option 2, Option 6 will allow for variations of costs between LAs and should also better reflect the costs incurred for each class of fee payer compared to Options 2-3 and, potentially, Option 4.

OITO NET EFFECT

- 132) This policy will be a net IN of **£1.4m per annum** due to the cost to LAs of maintaining LSLF which is translated into an increase in fees for fee-payers. NB: The Equivalent Annual Net Cost for the summary pages is in 2009 prices.

OPTION 7: LSLF with flat fees with the option for LAs to charge variable fee amounts on the basis of both late terminal hour and whether the premises are primarily used for alcohol sales.

COSTS**Public Sector**Transition costs

- 133) None. We expect that LAs will incur the majority of the costs associated with setting fees locally in each financial year, and have assumed for the purposes of this IA that they are incurred in each year. However, in some years, the cost assessment process may reveal that the existing fees are correct and that no change is required.

Annual costs

- 134) The cost of administering LSLF is assumed to be the same each year (see General assumptions for detailed explanation). In practice the costs may vary depending on decisions made by LAs. This includes the cost of calculating fees, advertising, administrative and resource cost and the cost of any council hearing. It is estimated that the cost of administering LSLF with flat fees and the option of variable fee amounts on the basis of both late terminal hour and whether they are primarily used for the sale of alcohol for consumption on the premises is £4,110 per LA per annum (**£1.4m in total** for 350 LAs in England and Wales).

BusinessTransition costs

- 135) A change in fee level should not lead to any significant cost to business in terms of processing the payment. Fee payers will need to check the correct fee level when paying fees. This is expected to be a negligible cost. All fee payers may choose to comment on proposed fee levels when they are published by the LA in which they operate but are expected to only do so when it is in their interests. Abandoning the use of NNDR bands will lead to a negligible saving for business in that they no longer have to check their NNDR.

Annual costs

- 136) The direct cost of Option 7 is an overall rise in the total fees paid by business estimated at **£14.5m per year**, which is an increase of 27% of current fee income (see General assumptions). The impact on individual fees is expected to vary. This will be highly dependent on the use of the different classes of variable fee amounts. (See Table 6 in Annex A for estimates of average future fees).
- 137) It is assumed that those subject to a higher fee amount due to late terminal hour or due to being used primarily for the sale of alcohol for consumption on the premises may be charged up to a maximum of double the fee compared to those not subject to them. Those who are subject to both may be charged up to three times the fee of those not subject to either. The amounts charged will depend on how much greater the costs incurred by LAs are for those in those classes. The consultation will seek views on the extent to which average costs can vary in an area on the basis of this criterion. This will indicate the appropriate maximum degree of variation in fee amounts, and the likely average degree of variation that will be applied locally.
- 138) It is not known how many premises would be subject to higher fee amount because they have a late terminal hour and are primarily used for the sale of alcohol for consumption on the premises. Some LAs may choose to apply one class and not the other and vice versa, based on local evidence.

Individuals

- 139) Businesses may pass on the higher fees to customers through higher prices. It is not possible to know what the impact would be as it would depend on whether a business was already operating at competitive prices and whether they are in a position to pass on costs to customers. If there is a deterrent effect of a higher fee level this may mean a reduced availability of licensable activities for individuals. In particular, if a higher amount were charged for late night provision and premises were deterred from opening beyond midnight this would lead to less availability for consumers.

COSTS (OITO)

- 140) Whilst setting fees in order to achieve cost recovery is out of scope for OITO, the cost of administering LSLF will be transferred to businesses and be in scope. This policy therefore leads to an IN of **£1.4m per annum**.

BENEFITS**Public Sector**

- 141) The purpose of adjusting fees is to allow LAs to charge fees that enable cost recovery. It is estimated that LAs will receive **£14.5m more per year** as a result of this change. LSLF is intended to remove, to a greater extent than Option 2, public subsidy of the costs of the administration of the 2003 Act by LAs (thus benefitting tax-payers) by taking account of variations in costs between different LAs in order to avoid significant under- and over-payments in certain areas.

Business

- 142) Option 7, by allowing LAs to set fees in order to achieve cost recovery, abandoning NNDR and prescribing additional classes in which LAs can charge variable fee amounts for the “main fees”, will result in a significant reduction of cross-subsidisation between fee categories and classes of fee payer. Therefore, whilst there is an overall increase in fees, and thus cost to business, abandoning the use of NNDR bands may result in businesses with a higher NNDR experiencing reductions in fees. It is not possible to know exactly what the impact would be without more information on the current degree of cross-subsidisation between fees categories and, therefore, the extent to which LAs will alter the distribution of costs across fees to avoid it, including the extent of the use of the variable fee amounts for the “main fees”. In addition, charging a higher fee amount for premises for (i) with a late terminal hour and/or (ii) primarily used for the sale of alcohol for consumption on the premises may lead to those premises not subject to higher fees facing lower fees than estimated. As explained above, it is not possible to know the exact impact. (See Table 6 in Annex A for estimates of average future fees). The availability of additional classes means that Option 7 should better reflect the costs incurred by each class of fee payer in comparison to Option 2-3 and, potentially, Option 4.

Individuals

- 143) Any indirect deterrent on premises operating with a late terminal hour could be a benefit to individuals in the area who may experience reductions in alcohol-related crime and disturbance.

BENEFITS (OITO)

- 144) N/A

NET EFFECT

- 145) The purpose of adjusting fees is to enable LAs to achieve cost recovery, removing, as nearly as possible, unintended public subsidy of the costs of the administration of the 2003 Act by LAs (thus benefitting tax-payers). LSLF will enable cost recovery in high cost areas without causing excess fee payments in lower cost areas. LAs will incur additional costs in the maintenance of LSLF which will be translated into higher fees for business. There will therefore be an overall cost to business of **£1.4m per annum**. Unlike Option 2, Option 7 will allow for variations of costs

between LAs and should also better reflect the costs incurred for each class of fee payer compared to Options 2-3 and potentially Option 4.

OITO NET EFFECT

- 146) This policy will be a net IN of **£1.4m per annum** due to the cost to LAs of maintaining LSLF which is translated into an increase in fees for fee-payers. NB: The Equivalent Annual Net Cost for the summary pages is in 2009 prices.

F. Risks

- 147) Due to a number of uncertainties, the overall estimates in this IA may be either overestimates or underestimates. These estimates will be updated in the post-consultation IA and therefore are subject to change. In particular, sources of uncertainty include:
- a. Under Options 3-7, LAs will reflect local circumstances in setting fees to achieve cost recovery. This will result in considerable local variation in fee levels. The estimates of current income and costs in respect of 2011/12 have been updated to 2013-14 figures on the assumption that activity levels and costs will be broadly similar in the future. However, we consider that the estimate of overall change to fee income is made using the best available information and therefore is viewed as our best estimate (as described in paragraphs 35-56).
 - b. Estimated changes to the balance of fee income between fee categories and fee-payers, and the cost variations between LAs, have been obtained from a relatively small number of LAs. However, we consider that they have been made using the best available information (as described in paragraphs 36-44).
 - c. A number of assumptions have been made about the future costs of the duty to determine fees. For example, it was assumed that the process will be the same in each year, and that the costs of local consultation and decision-making will be similar to those reported by LAs when increasing taxi licensing fees. The small sample of LAs that provided estimates may not be representative of LAs in England and Wales. However, we consider that the estimates and assumptions (as described in paragraphs 45-56) are reasonable and they will be considered further through the consultation process.
 - d. There is a risk that the local implementation of variable fee amounts depending on whether or not premises are used exclusively or primarily for the sale of alcohol for consumption on the premises (Options 6 and 7) will lead to dispute about whether or not this category is applicable to certain premises, and, therefore, to costs to LAs and fee-payers. We will explore this question further during the consultation process.
 - e. An increase in some fee levels may lead to some businesses being deterred from applying for or continuing to hold a licence; or from issuing a notice, deterring economic activity. An increase in fee levels may deter those who make applications or issue notices speculatively, despite the likelihood of refusal or objection notices, and have the unintended consequence of reducing net LA costs. There is therefore a risk that this IA underestimates the benefits of options 3-7. It is assumed that the maximum loss of profit would be equal to the rise in fee level otherwise there would still be an economic incentive to make an application, issue a notice, or continue to hold an authorisation (as described in paragraphs 66-69).
 - f. We expect the duty to set fees to result in a demand on LAs to show that they are working efficiently and setting fees appropriately. There is a risk that this may lead to costs to LAs. Alternatively, this may result in efficiency savings. There is therefore a risk that this IA overestimates or underestimates the benefits of proposals 3-7.

G. Enforcement

- 148) Local implementation of the Licensing Act 2003 is conducted by LAs, the police, and other Responsible Authorities. Fees must be paid for applications and notices to be validly made. In the

case of annual fees, LAs must suspend licences and certificates if they are not paid. Therefore, there are expected to be no enforcement costs caused by changes to fee levels.

H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

Table H.1 Costs and Benefits		
Option	Costs	Benefits
2	The increase in fees is estimated to cost business £114m (PV over 10 years). It is estimated to cost LAs £0.1m per annum due to the cost of providing information to enable centrally-set fees	The increase in fees will enable cost recovery. This will lead to an increase in revenue of £114m (PV over 10 years). Some fee-payers are expected to experience lower fees as a result of the adjustment in fees. For example, annual fees are expected to fall for most fee-payers.
3-7	The increase in fees as a result of LSLF is estimated to cost business £125m (PV over 10 years). It is estimated to cost LAs £1.4m-£1.5m per annum due to the cost of administering LSLF.	LSLF will enable LAs to charge fees based on cost recovery. This will lead to an increase in revenue of £125m (PV over 10 years). Some fee-payers are expected to experience lower fees as a result of a move to LSLF. For example, annual fees are expected to fall for most fee-payers.
3-7	Some fees (especially fees for new applications or notices) expected to rise relatively more. Fee payers will need to ascertain the correct fee in their LA area and whether they are subject to a higher or lower fee amount. Some may be deterred from licensable activities if the relevant fee increases.	Annual fees expected to fall for some premises and certificate holders. Enabling LAs to (as nearly as possible) achieve cost recovery without cross-subsidisation will mean that the administration of the 2003 Act is funded in a more equitable way. We estimate that annual fees paid by the existing population of club premises certificate holders are particularly likely to be subject to lower relative increases or reductions.
3	Slightly higher costs in setting fees compared with Options 4-7.	
4		Slightly lower costs of setting fees compared with options 3, 5, 6 and 7.
5		Enable LAs to more closely achieve the objective of the avoidance of cross-subsidisation in their areas.
6		Enable LAs to more closely achieve the objective of the avoidance of cross-subsidisation in their areas.
7	Slightly higher costs in setting fees compared with Options 4, 5 and 6.	Enable LAs to more closely achieve the objective of the avoidance of cross-subsidisation in their areas.
Source:		

- 149) Options 5-7 are considered the more likely and preferred options at this stage. However, we will seek further views through the consultation process before proceeding.

I. Implementation

- 150) Options 3-7 require secondary legislation and guidance.

J. Monitoring and Evaluation

- 151) The Government will consider the appropriate review process through the forthcoming consultation.

K. Feedback

152) In order to accurately assess the effectiveness of Options 3-7, the Government will seek views from those who will be most affected by the policy. The Home Office will therefore seek feedback from fee-payers, LAs and other Government departments when considering these measures.

Annex A

Table 1

Current fees (2011/12)

	Band A	Band B	Band C	Band D	Band D x	Band E	Band E x
Premises licence applications	£100	£190	£315	£450	£900	£635	£1,905
Premises licence variations	£100	£190	£315	£450	£900	£635	£1,905
Premises licence annual fee	£70	£180	£295	£320	£640	£350	£1,050
Club Premises Certificate applications	£100	£190	£315	£450	£450	£635	£635
Club Premises Certificate variations	£100	£190	£315	£450	£450	£635	£635
Club Premises Certificate annual fee	£70	£180	£295	£320	£320	£350	£350

Table 2

Other fees in the Act (2011/12)

Application for the grant or renewal of a personal licence	£37
Temporary event notice	£21
Theft, loss, etc. of premises licence or summary	£10.50
Application for a provisional statement where premises being built etc.	£315
Notification of change of name or address	£10.50
Application to vary licence to specify individual as premises supervisor	£23
Application for transfer of premises licence	£23
Interim authority notice following death etc. of licence holder	£23
Theft, loss etc. of certificate or summary	£10.50
Notification of change of name or alteration of rules of club	£10.50
Change of relevant registered address of club	£10.50
Theft, loss etc. of temporary event notice	£10.50
Theft, loss etc. of personal licence	£10.50
Application to vary premises licence to include alternative licence condition	£23
Application for a minor variation to a licence or certificate.	£89
Duty to notify change of name or address	£10.50
Right of freeholder etc. to be notified of licensing matters	£21

Table 3

Estimated future fees (Option 2) (% change)

	Band A	Band B	Band C	Band D	Band D x	Band E	Band E x
Premises licence applications	£612	£654	£862	£541	£541	£618	£618
	512%	244%	174%	20%	-40%	-3%	-68%
Premises licence variations	£612	£654	£862	£541	£638	£618	£595
	512%	244%	174%	20%	-29%	-3%	-69%
Premises licence annual fee	£111	£176	£183	£128	£182	£128	£164
	58%	-2%	-38%	-60%	-72%	-63%	-84%
Club Premises Certificate applications(i)	£607	£633					
	507%	233%					
Club Premises Certificate variations(ii)	£607	£633					
	507%	233%					
Club Premises Certificate annual fee	£98	£134	£85	£104	£104	£81	£81
	40%	-26%	-71%	-68%	-68%	-77%	-77%

Table 4

Estimated future fees (Option 2) (% change)

	Average
Temporary Event Notices	£78 272%
Application for a minor variation to licence or certificate	£179 101.32%
Application to vary DPS	£75 228%
Application for grant or renewal of a personal licence	£97 161%

Table 5

Estimated future fees (Option 3) (% change)

	Band A	Band B	Band C	Band D	Band D x	Band E	Band E x
Premises licence applications	£624 524%	£667 251%	£879 179%	£551 23%	£551 -39%	£630 -1%	£630 -67%
Premises licence variations	£624 524%	£667 251%	£879 179%	£551 23%	£651 -28%	£630 -1%	£607 -68%
Premises licence annual fee	£113 62%	£180 0%	£187 -37%	£131 -59%	£186 -71%	£131 -63%	£167 -84%
Club Premises Certificate applications(i)	£619 519%	£645 240%					
Club Premises Certificate variations(ii)	£619 519%	£645 240%					
Club Premises Certificate annual fee	£100 43%	£136 -24%	£87 -70%	£106 -67%	£106 -67%	£83 -76%	£83 -76%

(i) Insufficient data on club premises certificate applications/variations from premises in Bands C, D and E to estimate the average fee.

Table 6**Estimated future fees (Options 4-7) (% change)**

	Average
Premises licence applications	£683 207%
Premises licence variations	£678 168%
Premises licence annual fee	£161 -20%
Club Premises Certificate applications	£582 220%
Club Premises Certificate variations	£583 220%
Club Premises Certificate annual fee	£121 -23%

Table 7**Estimated future fees (Options 3-7) (% change)**

	Average
Temporary Event Notices	£80 280%
Application for a minor variation to licence or certificate	£183 105%
Application to vary DPS	£77 234%
Application for grant or renewal of a personal licence	£99 167%

Table 8**Estimated current total fee income (£m) (2011/12)**

	£m	% share
Premises licence applications	2.3	4.3%
Premises licence variations	1.8	3.4%
Premises licence annual fee	40.0	75.2%
Club Premises Certificate applications	0.0	0.1%
Club Premises Certificate variations	0.0	0.1%
Club Premises Certificate annual fee	2.5	4.7%
TENs	2.8	5.3%
Minor Variations to licence/certificate	0.6	1.1%
Application to vary DPS	1.1	2.1%
Application for a personal licence	0.8	1.5%
Other processes	1.2	2.2%
Total	53.2	100%

Table 9

**Estimated future total fee income (Option 2) (£m)
(2013/14) based on Elton**

	£m	% share	% change
Premises licence applications	7.0	10.5%	201%
Premises licence variations	4.8	7.3%	163%
Premises licence annual fee	31.4	47.3%	-21%
Club Premises Certificate applications	0.1	0.1%	214%
Club Premises Certificate variations	0.1	0.2%	214%
Club Premises Certificate annual fee	1.9	2.9%	-25%
TENs	10.4	15.7%	272%
Minor Variations to licence/certificate	1.2	1.7%	101%
Application to vary DPS	3.6	5.4%	228%
Application for a personal licence	2.2	3.2%	161%
Other processes	3.8	5.7%	224%
Total	66.4	100.0%	25%

Table 10

**Estimated future total fee income (Options 3-7) (£m)
(2013/14) based on Elton**

	£m	% share	% change
Premises licence applications	7.1	10.5%	207%
Premises licence variations	4.9	7.3%	168%
Premises licence annual fee	32.0	47.3%	-20%
Club Premises Certificate applications	0.1	0.1%	220%
Club Premises Certificate variations	0.1	0.2%	220%
Club Premises Certificate annual fee	1.9	2.9%	-23%
TENs	10.6	15.7%	280%
Minor Variations to licence/certificate	1.2	1.7%	105%
Application to vary DPS	3.6	5.4%	234%
Application for a personal licence	2.2	3.2%	167%
Other processes	3.9	5.7%	231%
Total	67.8	100.0%	27%

Table 11 Descriptive Statistics of the Average Costs Associated with Different Fees from LA Sample Survey (excl. outlier)*

	Premises licences applications and variations	Premises licence annual fees	Club premises certificates applications and variations	Club premises certificates annual fees
Mean**	£455	£119	£455	£89
Minimum	£79	£40	£39	£24
Maximum	£897	£431	£1580	£252
Standard Deviation***	£264	£98	£494	£77

*Based on 19 out of a potential 350 LAs

**This does not reflect estimated average fees as the estimates do not include (for example) the cost of additional licensing functions that will need to be recovered through fees.

*** Standard deviation shows the average amount that LA's costs differed from the mean

ANNEX B: Powers in the Act to prescribe fees

Application or notice	Power
Application for the grant of a licence	Section 17*
Application to replace stolen, lost etc. licence	Section 25*
Application for a provisional statement	Section 29
Notification of change of name or address of licence holder	Section 33
Application to vary a licence	Section 34*
Application to vary licence to specify designated premises supervisor	Section 37*
Application for minor variation of a licence	Section 41A*
Application to vary a licence to remove requirement for a designated premises supervisor	Section 41D*
Application for the transfer of a premises licence	Section 42*
Interim authority notice following death etc. of licence holder	Section 47*
Annual fee payable by premises licence holder	Section 55
Application for the grant of a certificate	Section 71**
Application to replace stolen, lost etc. certificate	Section 79**
Notification of change of name or change of rules of club	Section 82**
Notification of change of address of club	Section 83**
Application to vary a certificate	Section 84**
Application for minor variation of a certificate	Section 86A**
Annual fee payable by club premises certificate holder	Section 92
Temporary event notice	Section 100
Application to replace stolen, lost etc. temporary event notice	Section 110
Application for grant or renewal of a personal licence	Section 117***
Application to replace stolen, lost etc. personal licence	Section 126***
Notification of change of name or address of personal licence holder	Section 127***
Notification of interest of freeholder etc. in premises	Section 178

* denotes power conferred by section 55

** denotes power conferred by section 92

*** denotes power conferred by section 133

Section 8(5) also confers a power of a licensing authority to charge a reasonable fee for providing a copy of an entry from the authority's register, but the level of such a fee is not prescribed by regulations.

Annex C

Cost of assessing appropriate levels for each fee: Options 2-7

- 153) Completion of the “sample survey” was a comprehensive exercise to accord costs to each class of fee-payers across all fee-processes and therefore reflects the work that will be required by LAs to estimate costs. Licensing officers who had completed the survey provided estimates of the resource costs and expenses required. The average figure was around **£860**.
- 154) Most officers considered that this task was made considerably more complicated by the need to calculate costs in respect of each element of the current “fee band” structure based on NNDR. We therefore invited views on what proportion of the work had derived from the need to accord costs for the “main fees” to NNDR fee bands. The average cost of this aspect of the task was around 30% of the total cost. We therefore estimate that the average cost to LAs of according them to fee processes without NNDR bands is approximately **£580**.
- 155) Under Options 5-7, additional work will be required by LAs. It is assumed that this will be a cost equivalent to that caused by the inclusion of one NNDR fee band, or around 20% of the cost of calculating fees for all of the current NNDR bands ($20\% \times (30\% \times £860)$), increasing the estimated average cost to £630. Under Option 6, we estimate an average cost of **£680** (an additional $2 \times (20\% \times (30\% \times £860))$).
- 156) There is a risk that this method may underestimate the cost of considering variable fee amounts in some areas (for example, those that have many premises in the classes to which higher fees may apply) and includes costs that will not arise in some areas (such as those that do not have many premises in those classes). Discussions with licensing officers have indicated considerable variation on these points, and this subject will be considered further in the consultation. Also, LAs who chose to complete the sample survey may have been better prepared to estimate costs and the estimates may therefore be an underestimate of average costs nationally.

Costs of local transparency, consideration of responses, and democratic processes

- 157) Taxi licensing fee are currently set by local authorities after public consultation. We intend that a similar process will apply to LSLF, with further consideration of the detailed requirements through the consultation process. To estimate the costs of meeting the public transparency and internal consideration processes, views were therefore obtained from a small sample of LAs on the costs of conducting these processes when taxi licensing fees are increased¹⁴. It should be noted that there is a risk that these estimates may not be nationally representative. Additionally, there is a risk that costs associated with consultation on taxi licensing fees may be higher or lower than the costs of publishing fees under the 2003 Act and inviting comment. However, we consider that the processes will be broadly similar (in terms of, in particular, advertisement, consideration of responses, and final consideration by the council) and that these are therefore reasonable estimates on the best available evidence.

Advertising proposed fee levels

- 158) On average the cost of the newspaper advert to advertise proposed changes to taxi licensing fees was £690. The purpose of the advertisement is to invite responses from fee-payers on the proposed changes. This generates further administrative work including (potentially) the consideration of responses, discussion with stakeholders, and drafting reports for internal democratic purposes. LAs estimated that on average this part of the process costed £1,450. A final determination will need to be made by the council, at an estimated average cost of £980.

¹⁴ Costs associated with notifying each taxi driver by post have been excluded, as (subject to consultation) we do not expect postal notification of fee-payers to be a requirement for fees under the 2003 Act. However, we have incorporated costs for other forms of communication with fee-payers, including advertisement of proposed fees in a local newspaper and discussions with representatives of fee-payers.

Consultation Question 1:

Do you agree or disagree that the use of national non-domestic rateable value bands as a criterion for variable fee amounts should be abandoned?

Agree

Consultation Question 2:

If you disagree, please provide evidence that higher national non-domestic rateable value is consistently linked to higher average costs to the licensing authority within individual licensing authority areas, keeping your views to a maximum of 200 words.

n/a

Consultation Question 3:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is linked to costs?

Agree

Consultation Question 4:

If you agree, please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

Premises operating later tend to require additional monitoring/have greater potential for public nuisance due to customers consuming further alcohol.

Consultation Question 5:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is sufficiently practical to implement?

Agree

Consultation Question 6:

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

n/a

Consultation Question 7:

Do you agree or disagree that the licensing authority should be able to determine the hours during which the higher fee is payable within the boundaries of midnight to 6am?

Agree

Consultation Question 8:

If you disagree, please state the hours during which you think licensing authorities should be able to determine that a higher fee is payable.

n/a

Consultation Question 9:

Do you agree or disagree that licensing authorities that impose higher fees for premises which open later should have discretion to exclude premises that are authorised to open late only on certain nights per year?

Disagree

Consultation Question 10:

Please state your reasons, keeping your views to a maximum of 200 words

There should be a consistent approach to “certain nights” or clear guidance as to what is a “special occasion”.

Consultation Question 11:

Do you agree or disagree that the criterion of whether or not a premises is used primarily for the sale of alcohol for consumption on the premises is linked to costs?

Disagree

Consultation Question 12:

Please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

The style, location and licensable activities available can all contribute towards the time spent by the Licensing Authority dealing with a premises. For instance in this Borough a small take away at band A operating until midnight has occupied far more Officer time than a band E hotel, with function facility with 24 hours drinking for residents/guests.

Consultation Question 13:

Do you agree or disagree that the criterion of whether or not premises are exclusively or primarily used for the sale of alcohol for consumption on the premises is sufficiently practical to implement?

Disagree.

Consultation Question 14:

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

New premises often volunteer or conditions are attached requiring them to be food led. In reality, come the weekend the premises operate as a bar where the sale of alcohol becomes primary.

Consultation Question 15:

Do you agree or disagree that there should be discretion to apply higher fee amounts only where both criteria apply in combination?

Don't know

Consultation Question 16:

Do you agree or disagree that, if a licensing authority has determined that different fee amounts should apply, it should have discretion to exclude certain types of premises from that higher fee amount?

Disagree

Consultation Question 17:

If discretion to exclude certain types of premises from a higher fee amount were available, what types of premises should be specified in the regulations as potentially excluded classes? Please give reasons for your answer, keeping your views to a maximum of 200 words.

There should be consistency based upon true cost recovery. Exempting certain premises for certain types of activities may cause significant inconsistencies from Borough to Borough.

Consultation Question 18:

Are there alternative options that should be available to licensing authorities to apply different fee amounts in their area? Please specify and set out your evidence in the box below, keeping your views to a maximum of 200 words.

Consultation Question 19:

Do you agree or disagree that the proposed cap levels will enable your licensing authority to recover costs?

Agree

Consultation Question 20:

Do you have any other comments on the proposed cap levels? Please specify them in the box below, keeping your views to a maximum of 200 words.

No

Consultation Question 21:

Do you agree or disagree that the proposed cap of £100 will enable your licensing authority to recover costs?

Yes

Consultation Question 22:

Please set evidence for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 23:

Do you agree or disagree that licensing authorities be required, before locally-set fees are implemented, to:

23a: publish their proposed fee levels?;

Agree

23b: publish the basis on which they have been calculated?

Disagree

23c: publish the measures they have taken to keep costs down?

Disagree

23d: invite comments from interested parties?

Disagree

Consultation Question 24:

What practical steps can licensing authorities take to secure efficiency? Please state and give reasons for your answer in the box below, keeping your views to a maximum of 200 words.

The above would prove to an additional financial burden. Fees will be based upon cost recovery and the information available if challenged. Comments from interested parties are unlikely to be constructive. Furthermore, we are continuously striving to make efficiencies – requirements for Local Authorities to perhaps place Public Notices in newspapers will increase cost and reduce efficiency.

Consultation Question 25:

Do you agree or disagree that the Guidance should suggest that these areas present a particular risk of excessive costs or gold-plating?

25a: Notification of residents individually of licensing applications in their area by letter (given that the existing duties to advertise on the premises and on the licensing authorities' website enable the involvement of local residents, and that more cost efficient methods of further engagement may be available);

Agree

25b: Central re-charges, such as payments from the licensing budget to legal services or external communications. These should relate to costs actually incurred in the delivery of functions under the 2003 Act and not, for example, a standard percentage of central costs.

Don't know – it is correct that costs should relate to actual costs but this are difficult to envisage at the start of any revised process. Therefore in reality the year 1 costs would be based on assumptions, year 2 calculating the actual true costs of the services in year 1 and year 3 would be the application of the true cost from year 1.

25c: The costs of discharging the statutory functions of licensing authorities that arise under other legislation, such as the duties arising under the Environmental Protection Act 1990.

Don't know but the principle of 25b applies.

Consultation Question 26:

Do you think that there are other activities that may present a particular risk of excessive costs or gold-plating? Please state and give reasons for your answer in the box below, keeping your views to a maximum of 200 words.

Don't know

Consultation Question 27:

Do you agree or disagree that there should be a single national payment date for annual fees in England and Wales?

Disagree – under the Public Entertainment Licence all renewals were the same date leading to a peak when payment made. Payments spread throughout the year would ensure continuity of the service.

Consultation Question 28:

Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposal to move to locally-set fees (including, in particular, the costs of setting fees locally)?

Don't Know

Consultation Question 29:

Do you have any comments on the methodologies or assumptions used in the impact assessment? If so, please detail them in the box below, referencing the page in the impact assessment to which you refer. Please keep your views to a maximum of 200 words.

No

REPORT

REPORT OF	MEETING	DATE
RESOURCES DIRECTORATE	LICENSING COMMITTEE	1 st APRIL 2014

LICENSING ACT 2003 UPDATE

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The Members of the Committee will be informed of the current numbers of licensed premises in the Borough and advised of forthcoming changes to the Licensing Act 2003.

RECOMMENDATION

That the Committee note the report.

CABINET PORTFOLIO

This item falls within the following cabinet portfolio(s):

Social Wellbeing - Councillor Cheryl Little

SUMMARY OF PREVIOUS DECISIONS

There are no previous decisions in this matter.

REPORT

1. Since the Licensing Act 2003 came into force in 2005, the total number of licenses issued by the Authority are as follows:

354 Premises Licences (alcohol) – 267 are currently in force, the others being either surrendered, lapsed, time limited or revoked.

53 Premises licenses (non – alcohol) – 48 currently in force

33 Club premises Certificates – 28 currently in force (unchanged from 2013-14)

1468 Temporary event notices

950 Personal Licences

2. For the financial year April 2013 to March 2014, the following applications were received and processed (2013-13 figures in brackets):

21	(19)	New Premises Licence Applications
1	(14)	Variations
14	(6)	Minor Variations
196	(224)	Temporary Event Notices
69	(56)	Personal Licences
11	(9)	Applications referred to Licensing Panel
32	(31)	Transfer applications
81	(68)	Designated Premises Supervisor Variation
11	(17)	Licences suspended for non-payment of fees

3. For the information of Members, a number of additional changes are also proposed which will have a bearing upon the Licensing Act 2003.

4. The Deregulation Bill is currently passing through Parliament. Should the Bill receive Royal Assent, the impact may be as follows

- i) The current limit of 12 Temporary event notices per calendar year for a particular premises would be increased to 15.
- ii) Currently Personal Licences are valid for 10 years with the first renewals due in March 2015. The Bill proposes that that the Licence should have "effect indefinitely."
- iii) The offence under S148 of the Licensing Act 2003 relating to the sale of liqueur confectionery to children shall be repealed.
- iv) The Licensing Authority would have the opportunity to exempt the requirement for a licence for the provision of late night refreshment at premises which satisfy the requirements of Regulations yet to be published.
- v) The removal of requirement to report loss or theft of licence etc. to the Police.
- vi) The exhibition of films in community premises would be exempted providing 5 criteria could be satisfied as follows: prior written consent for the entertainment has been obtained, by a person concerned in the organisation or management of the entertainment, that the entertainment is not provided with view to profit, that the entertainment takes place in the presence of an audience of no more than 500 persons, that the entertainment takes place between 8am and 11pm on the same day and the fifth relating to the classification of the film.

5. In February 2014 the Home Office released "Guidance on banning the sale of alcohol below the cost of duty plus VAT" which may be accessed at www.gov.uk/government/publications/banning-the-sale-of-alcohol-below-the-cost-of-duty-plus-vat . Legislation is anticipated during April 2014 to introduce the ban as a new mandatory licensing condition. The Guidance comments that "The ban will prevent retailers from selling alcohol at heavily discounted prices and aims to reduce excessive alcohol consumption and its associated impact on alcohol related crime and health harms."

6. The Committee are therefore requested to note the report.

IMPLICATIONS	
Finance	No direct implications
Legal	No direct implications.
Community Safety	No direct implications.
Human Rights and Equalities	No direct implications.
Sustainability and Environmental Impact	No direct implications.
Health & Safety and Risk Management	No direct implications.

REPORT AUTHOR	TEL	DATE	DOC ID
Chris Hambly	01253 658422	19 th March 2014	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Guidance on banning the sale of alcohol below the cost of duty plus VAT	February 2014	www.gov.uk/government/publications/banning-the-sale-of-alcohol-below-the-cost-of-duty-plus-vat
Deregulation Bill	23/1/14	http://services.parliament.uk/bills/2013-14/deregulation.html

Attached documents

None