



Driving  
Standards  
Agency

# New approval arrangements for drink-drive rehabilitation courses

Response to consultation report

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# NEW APPROVAL ARRANGEMENTS FOR DRINK-DRIVE REHABILITATION COURSES

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# NEW APPROVAL ARRANGEMENTS FOR DRINK-DRIVE REHABILITATION COURSES

## GLOSSARY

Item	Definition
DDRS	Drink-Drive Rehabilitation Scheme
DSA	Driving Standards Agency
DfT	Department for Transport
GB	Great Britain
HMCTS	Her Majesty's Courts and Tribunals Service
IA	Impact Assessment
NNC	Notice of Non-Completion
RSA 2006	Road Safety Act 2006
SoS	Secretary of State for Transport

# NEW APPROVAL ARRANGEMENTS FOR DRINK-DRIVE REHABILITATION COURSES

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# NEW APPROVAL ARRANGEMENTS FOR DRINK-DRIVE REHABILITATION COURSES

## REPORT ON PUBLIC CONSULTATION

### EXECUTIVE SUMMARY

1. The purpose of this package of proposals is to update the existing arrangements for administration of the Drink-Drive Rehabilitation Scheme (DDRS), under which drink-drivers are able to obtain a reduction in the length of their driving disqualification by successfully completing an approved drink-drive rehabilitation course. The package of proposals makes use of powers contained within the Road Safety Act 2006 (RSA 2006).
2. Between November 2011 and January 2012, the Driving Standards Agency (DSA) consulted on the arrangements for the new scheme. There was generally good support for the majority of the proposals, although some reservations were expressed by those currently delivering DDRS courses.
3. Ministers have decided to introduce the proposals as described in the Consultation Paper, with the exception of proposal 3D (per capita fee should be paid to DSA monthly) and proposal 6 (first class post to be used when issuing Notices of Non-Completion), both of which will be implemented slightly differently to the way in which they were originally proposed.

### INTRODUCTION

4. On 9 November 2011, DSA published a public Consultation Paper: *New Approval Arrangements for Drink-Drive Rehabilitation Courses*.
5. DSA wrote to all existing DDRS course providers, over 50 driver training associations, individuals, special interest groups and those associated with the police and judiciary system. The Consultation Paper was posted on the Department for Transport (DfT) website, and an e-mail alert was issued to all those who had previously requested notification of DSA consultations (over 20,000 people). The closing date for responding was 4 January 2012.
6. Since 1 January 2000, the courts throughout Great Britain (GB) have been able to offer to drivers, who have been disqualified for a period of at least 12 months for a relevant drink-driving offence, a referral to an approved DDRS course.
7. If an offender opts to take up the referral opportunity and satisfactorily completes a course, their period of disqualification will be reduced - this may be by as much as one quarter of the disqualification period.
8. This consultation looked at updating the arrangements for approving DDRS training courses, and moving the funding from general taxpayer funding to "user pays", i.e. the end user, for the purposes of administering the scheme. Modernisation of the scheme supports the Government's ambitions, as outlined in the 2011 Strategic Framework for Road Safety, and updates a scheme which has been identified, through audits, as requiring attention regarding the quality and consistency of courses.

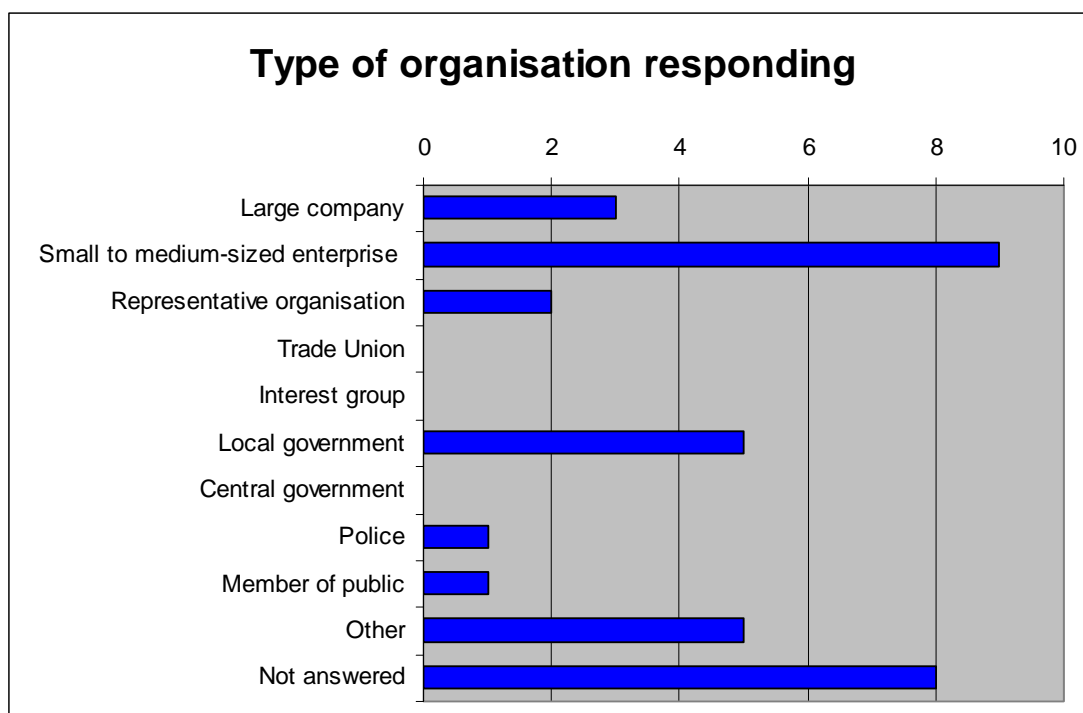
9. The intention is that these proposals will ultimately reduce re-offending rates, by raising the quality of courses and by opening up access to those who may previously have been discouraged from participating in the scheme, for example on the grounds of cost or location. The benefits of participation in a DDRS course were outlined in a research report conducted by the Transport Research Laboratory (TRL) – research report number 613 – which concluded that offenders were twice as likely to re-offend if they had not completed a DDRS course.

10. The proposals achieve better value for the taxpayer by changing the way that the public sector costs of administering the scheme are met. This involves transferring those costs from the general taxpayer to those who ultimately derive benefit from the service – i.e. the offender undertaking an approved DDRS course, consistent with the "user pays" principle.

11. Responsibility for managing DDRS was transferred from DfT to DSA in July 2009. As a Trading Fund, DSA is required to recover the cost of providing the services that it delivers and, in line with government policy, these costs must be recovered from beneficiaries – the "user pays" principle. In administering DDRS, we have, therefore, proposed a new fee structure that will enable DSA to recover its costs from course providers in a volume related manner, linked to the throughput of offenders completing courses which they provide i.e. providers will recover their costs from fees charged to offenders.

## RESPONSES TO THE CONSULTATION EXERCISE

12. 34 responses were received by DSA to the consultation paper, including ones from the Royal Society for the Prevention of Accidents (RoSPA), the Institute of Advanced Motorists (IAM), the Association of Drink Drive Approved Providers of Training (ADDAPT) and the Justices' Clerks Society.





13. Ministers would like to thank everyone who contributed to this consultation.

## **GENERAL OBSERVATIONS**

14. The proposals were widely supported in the main, with a large proportion of the replies having been submitted by existing course providers. There were also a number of responses from others interested in becoming course providers.

## **DISCLOSURE OF INFORMATION**

15. As part of the consultation, we made a commitment that, at the end of the consultation period, we would publish the responses received unless the respondents made clear their responses were to be treated as confidential.

16. 3 of the 34 respondents asked for their response to be treated as confidential. A copy of all the other responses has been posted on the DfT website at: <http://www.dft.gov.uk/consultations>

17. This Report summarises comments received and does not identify specific respondents. The statistical analysis includes replies from all respondents who indicated the strength of their support for each of the proposals. Not all respondents commented on every proposal or replied to every question. Some respondents only provided general comments and did not indicate the strength of their support or disagreement.

## **IMPACT ASSESSMENT**

18. The initial Impact Assessment (IA) to the Consultation Paper has been reviewed in light of comments received as part of the consultation process. The final document is being published separately from this report.

19. Further information about IAs is available on the Department for Business, Innovation and Skills website at: <http://www.bis.gov.uk/ia>

## **NEXT STEPS**

20. The changes will be implemented by secondary legislation. New approvals will take effect from 24 June 2013, in England and Scotland, in line with the powers in RSA 2006. The provision of DDRS courses in Wales is devolved to the National Assembly for Wales. Subject to the outcome of its consultation, the Welsh Assembly plans to introduce a similar DDRS in Wales to coincide with the introduction of the revised scheme for England and Scotland. Liaison is being maintained between the Secretary of State for Transport and the Welsh Assembly regarding the operation of both schemes.

21. Further details of the new arrangements, including the updated guidance for course providers, will be available at [www.dft.gov.uk/publications/dsa-rehabilitation-scheme-drink-drive-offenders](http://www.dft.gov.uk/publications/dsa-rehabilitation-scheme-drink-drive-offenders) once the new legislation is in place.

## NEW APPROVAL ARRANGEMENTS FOR DRINK-DRIVE REHABILITATION COURSES

### THE DECISIONS

22. The majority of respondents supported most of the proposals.
23. Some of the commonly expressed views were:
- being given the opportunity to comment on the proposals was welcomed;
  - existing course providers may be adversely affected by the proposals and may have to withdraw from offering these courses; and
  - drink-drive courses are worthwhile and have a rehabilitative effect.
24. Ministers have decided to implement all of the proposals as detailed in the Consultation Paper, with the exception of proposal 3D (that the per capita fee should be paid to DSA on a monthly basis); and proposal 6 (that DDRS course providers are required to use first class post and obtain (and retain for inspection) a proof of posting receipt from the carrier for each Notice of Non-Completion (NNC) issued). Both of these proposals will be implemented slightly differently to the way in which they were proposed.

### APPLICATION PROCESS

25. In the Consultation Paper we invited organisations to express an interest in delivering DDRS courses and set out the dates for doing so. The Paper also explained that once the consultation ended, those organisations would then be invited by the Secretary of State (SoS) to apply to deliver DDRS courses by completing a formal application form. Organisations not invited to complete a formal application form would be given written feedback on their application. We explained that to start with all new approvals would begin from 1 October 2012; any further applications for approval would be considered after January 2013 and then on an on-going basis.
26. Since the consultation, we have had to revise these dates and the application process. We now aim to introduce the new course approvals with effect from 24 June 2013. We will still allow a transitional period for current course organisers to complete any existing training courses. The formal application details will be provided when we write to those that have lodged an expression of interest with us; they will also be publicised more widely to open up the application process to other potential providers, as we intend to accept applications for course approvals from potential providers who have not currently lodged an expression of interest.
27. Timetable for the new scheme:

Invitations to apply issued	7 January 2013
Closing date for receipt of applications	8 February 2013
New courses start on	24 June 2013
Existing courses approved until	18 August 2013

28. Applicants will need to demonstrate that they have suitable course delivery and administration arrangements in place and how they intend to meet the 'course approval criteria' outlined in Annex C of the Consultation Paper.

29. All applications must be in writing and accompanied by the non-refundable application fee of £1,000, which can be paid by cheque or credit/debit card. DSA will consider each application and decide whether or not to approve the course. Successful applicants will receive notification of course approval within 30 working days of receipt of application. Written feedback will be provided to unsuccessful applicants.

30. Once the new scheme has been introduced, anybody interested in becoming a course provider may simply apply for course approval at any time; an expression of interest will not be required. These applications should be made in line with the formal application details (which will be available on the DRS website [www.dft.gov.uk/publications/dsa-rehabilitation-scheme-drink-drive-offenders](http://www.dft.gov.uk/publications/dsa-rehabilitation-scheme-drink-drive-offenders)).

### **Proposal No. 1 - that course approvals are issued for specified geographical areas**

#### Breakdown of responses

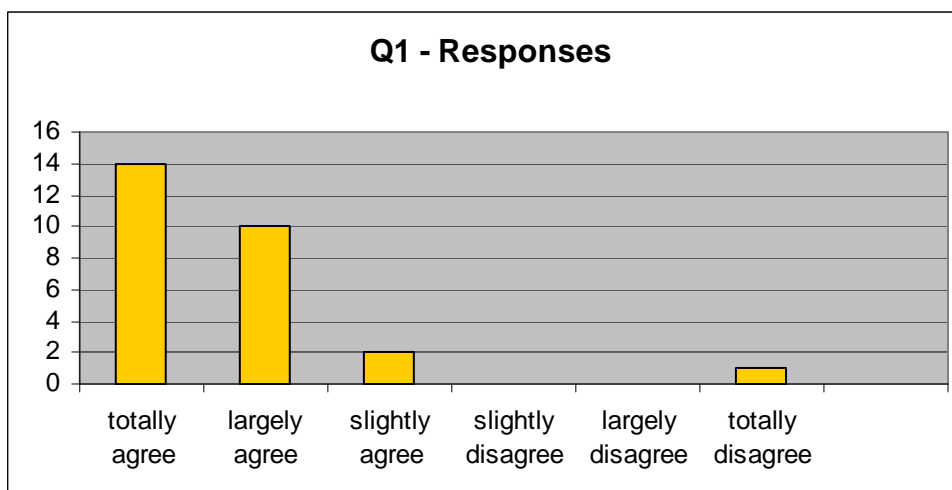
31. 27 respondents expressed an opinion on this proposal. 26 were in favour.

32. The majority were in favour of introducing course approvals for specified geographical areas: *"Totally agree. [Our organisation] agrees that course approvals can be issued for specific areas and that there should be no restriction on the number of course providers in each geographical area. This should lead to wider availability and promote competition."*

33. Despite the support for specified geographical areas there were still concerns about the difficulties that large areas could create: *"We agree that specified areas should apply but would prefer each area to be only covered by one provider to minimise confusion for courts and offenders as well as course providers."* and *"We agree that approvals should be issued for specified geographical areas but not the ones advocated in this consultation"*.

34. We do not believe that approving more than one course in a specified area would cause confusion for anyone involved in the process. Under the existing scheme many courts operate within areas where a choice of provider is available to the offender. We feel that extending choice in any given area will actually provide offenders with the opportunity to select the most appropriate course for their individual needs at a convenient location and is likely to encourage increased take-up of courses. In addition, it should encourage course providers to maintain high standards and ensure they are operating in an efficient manner. Her Majesty's Courts and Tribunals Service (HMCTS) have advised that they are content to work with more than one provider in a specified area, as they do now in some court areas.

35. Ministers have decided to implement the proposal that course approvals should be issued for specified geographical areas. Currently, approvals are not geographically specific meaning that no provider is under an obligation to offer an approved course in any particular area. As a consequence, DSA cannot ensure that each court in England and Scotland is able to offer an offender the option of a referral to a local DRS course.



**Proposal No. 1A - that the proposed specified geographical areas are as detailed in the Consultation Paper**

Breakdown of responses

36. This question was only asked of those who agreed that course approvals should be issued for specified geographical areas.

37. 26 respondents expressed an opinion on this proposal. 15 were in favour of, and 11 against, the specified areas as defined in the Consultation Paper - most of the objections were from current course providers, who felt that the proposed areas would be unworkable.

38. Despite the overall agreement with this proposal: *"The proposed areas seem appropriate"*, a number of respondents disagreed with the defined areas, mainly as it was felt that the size of the proposed areas was too large for individual training providers to adequately cover. It was felt that some of the current, smaller, providers might go out of business because they would not be able to supply courses over such large areas: *"Having agreed to the need for approval to be for specific geographical areas, we have serious reservations about how they have been created. Smaller businesses and local authorities like ourselves will be seriously disadvantaged through this proposal to the extent that they may no longer be viable. Among those who could be affected to the greatest extent are organizations who were involved at the inception of the scheme and part of the original pilot project in 1993. The loss of such organizations would be to the overall detriment of the scheme."*

39. Some of the local authorities also expressed concern that cross-border local authority areas would be difficult for them to manage: *"It is the size of the specified areas that is unacceptable. Specifying areas that are at least 4 County Council areas combined creates difficulties,(sic) if not impossibilities, for County Councils; Probation Services or locally based specialist charities."* DSA values the work undertaken by those course providers that currently operate only within specific localities and would encourage them to deploy their expertise over wider geographical areas, possibly by working in partnership with other current or potential providers.

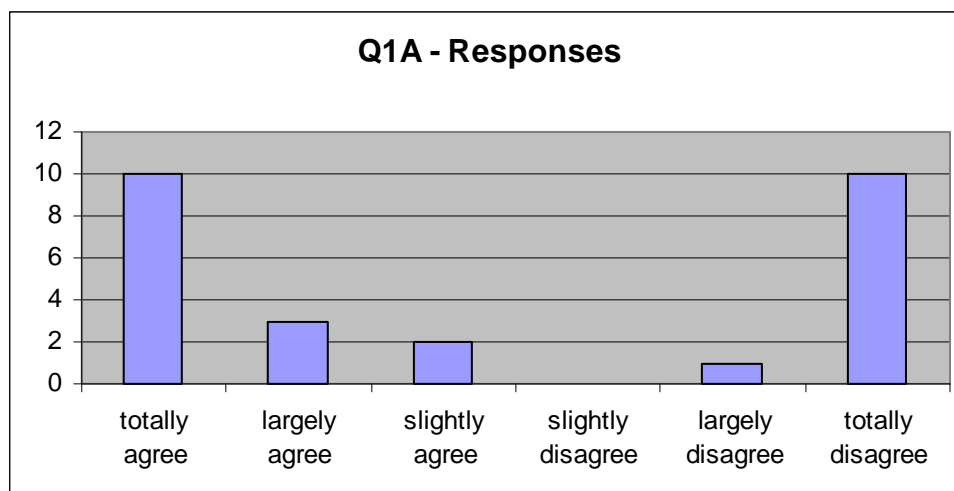
40. We have taken account of the issues raised by respondents but consider that the proposed specified geographical areas offer a reasonable compromise between meeting the interests of small and medium-sized enterprises and the need to ensure that each court in England and Scotland is able to offer an offender the option of a referral to a local DDRS course.

41. Some existing providers have also stated that there will be difficulties with granting approval for more than one provider in each court area as it will cause confusion for the courts: *"We believe that most of the areas are too large and would result in some of the quality provision currently available for DDRS clients being lost as we anticipate a number of smaller providers would not be able to move for example from covering one county to needing to cover up to five counties. We also believe that some court areas have been split even where they are covered by a single clerkship we believe this will add to the confusion."*

42. We believe that allowing more than one provider to operate in any given area will provide offenders with the opportunity to select the most appropriate course for their needs at a convenient location and is likely to encourage increased take-up of courses. It will also encourage course providers to maintain high standards and ensure they are operating in an efficient manner.

43. DSA has liaised with HMCTS throughout the development of these proposals. HMCTS are content to work with multiple providers in each court area, as they already do at some locations.

44. Ministers have decided to implement the specified geographical areas as detailed in the Consultation Paper. This structure will be kept under review to ensure that it continues to meet the needs of the DDRS.



**Proposal No. 2 - that the approval period for a Drink-Drive Rehabilitation course is seven years**

Breakdown of responses

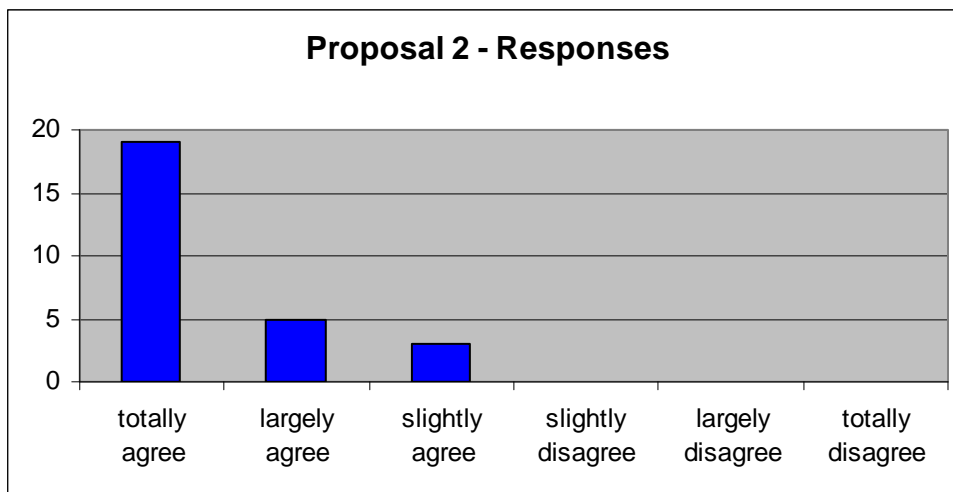
45. 27 respondents expressed an opinion on this proposal. All were in favour.

46. Whilst there was unanimous support for this proposal, there were some questions raised regarding whether the seven-year duration was a little too long and

some respondents asked whether the duration period would be reviewed at any point: “[Our organisation] supports the concept of fixed term approvals but believes that the seven year period may be too long. A fixed period of five years would allow the latest research into re educating drink drivers to be brought quickly into best practice in a consistent manner.” One provider commented: “The proposed approval period of seven years seems to strike a reasonable balance of providing a sufficient period of certainty and stability for course providers, giving them confidence to invest the necessary resources, without being so long that complacency on the part of a provider might set in, resulting in reduced quality and standards of course delivery.”

47. Whilst DDRS courses will be approved for a maximum period of seven years, that in itself should not represent an obstacle to progressive improvement of the course being made. The statutory guidance provides flexibility for course providers to respond to research findings that emerge during the period of approval. Indeed, the statutory guidance can be revised to reflect advances in knowledge and delivery without affecting individual course approvals. In addition, although courses will be approved for seven years, approvals may be withdrawn at any time during that period where the course provider is not adequately fulfilling their responsibilities. If approval is withdrawn, the course provider has the right of appeal to the First-tier Tribunal.

48. Ministers have decided to implement the proposal that course approvals should be of seven years’ duration.



**Proposal No. 3 - that the SoS’s costs of considering applications for approval are recovered by charging a flat rate fee**

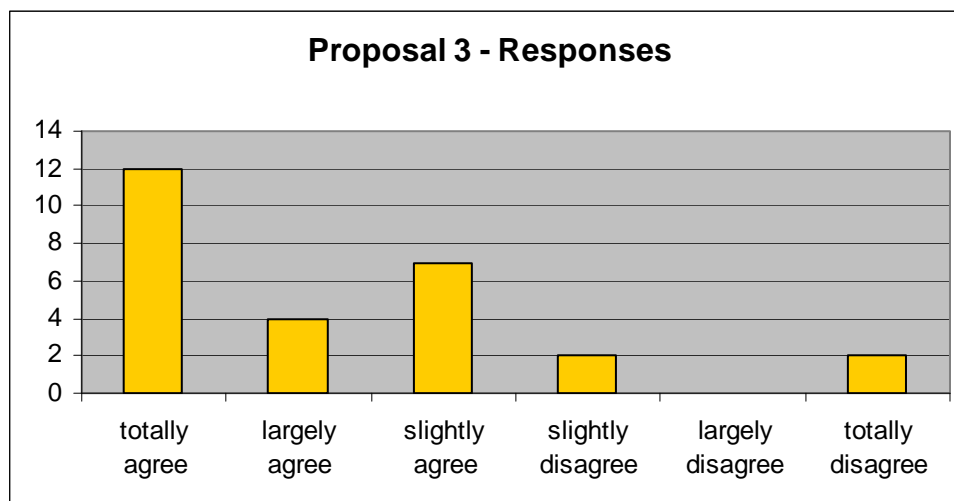
Breakdown of responses

49. 27 respondents expressed an opinion on this proposal. 23 were in favour.

50. Some respondents replied that alternatives could be considered, for example charging per geographical area or: “A rate that reflects the potential volume of clients would seem to give a fairer recovery of costs. Whatever figure is agreed it will presumably be recovered by the service provider from the course fees received from the clients, therefore a small volume service provider will see a greater pro-rata increase in the course fee than a larger volume service provider, and again this would create an unfair distribution of the recovery between clients.” The costs DSA

incurs in processing applications for course approval are not related to the number of geographical areas for which approval is being sought nor the number of course presentations intended to be delivered. A flat rate fee is, therefore, the most equitable way in which DSA can recover those costs.

51. Ministers have decided to implement the proposal to introduce a flat rate fee to recover DSA's costs in processing applications for course approval.



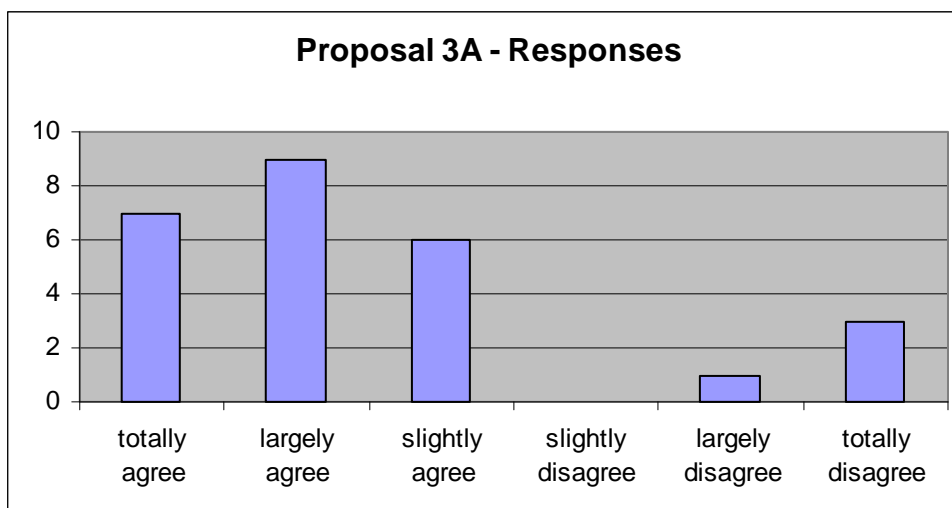
**Proposal No. 3A - that the flat rate fee is £1,000 for each application submitted**

Breakdown of responses

52. 26 respondents expressed an opinion on this proposal. 22 were in favour.

53. In spite of the strong support for the introduction of an application fee, there was some disagreement about the way this should be calculated. Again, some expressed their opinion that the fee should be proportionate to the number of areas for which approval was being sought, or to the number of potential attendees the course might attract whilst others agreed completely with the proposal: *"We agree with the amount of £1000 per provider application as it seems a fair amount which allows companies or individuals to enter this marketplace, irrespective of the number of geographical areas covered."* We believe that the fee of £1,000 is proportionate considering that all providers should be able to recoup this cost within a relatively short time. It has been set at a level that covers DSA's administration costs for the initial assessment of the application and one compliance visit.

54. Ministers have decided to implement the proposal to charge a fee of £1,000 per application for course approval, irrespective of the number of specified geographical areas covered by the application.



**Proposal No. 3B - that the SoS's ongoing costs of managing and quality assuring DDRS courses is recovered by charging a per capita fee per offender who completes a course**

Breakdown of responses

55. 27 respondents expressed an opinion on this proposal. 26 were in favour.

56. In spite of the strong support, some were still concerned that, as the per capita fee would inevitably be passed to the offender attending the course, it may result in increased course fees that could discourage some offenders from taking up the offer of a course.

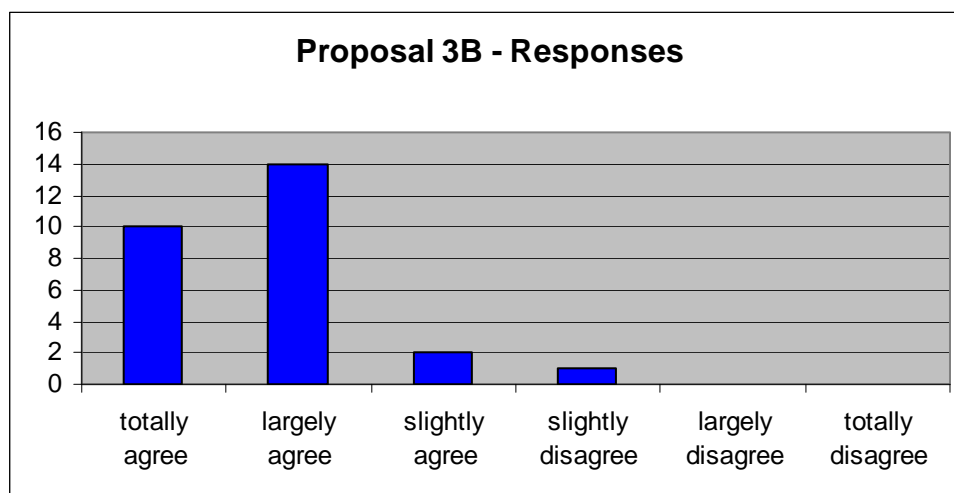
57. The one respondent disagreeing with this proposal felt that a better way of recovering the costs DSA incurs in administering DDRS could be through increasing the fines levied on those offenders who do not take up the court's offer of referral to a DDRS course provider: *"This would have the advantage of keeping course attendance fees lower and making the option of not taking the course more expensive and so encouraging more offenders to take, and complete, the course."* Although this is an innovative suggestion, it is impractical as payments for court fines are passed to HM Treasury. As a Trading Fund, DSA is required to recover its costs from its customers rather than being funded by central government. Even if that were not the case, the proposal would require administrative arrangements to be put in place to monitor drivers to ensure that someone who had received a lower fine actually completed a DDRS course. That would add complexity and additional cost.

58. Of those agreeing with the proposal, there was support that the per capita fee would be used to fund ongoing quality assurance and compliance work: *"We agree with this structure as it ensures the funds are available to maintain standards and drive quality within the DDRC."*

59. Ministers have decided to implement the proposal for a per capita fee for each offender who completes a DDRS course. Structuring the cost recovery arrangements in this way, rather than requiring a much higher single fee on application, assists training providers (particularly small and medium-sized enterprises) as the overall financial burden is spread over a seven-year period and is largely related to the volume of work undertaken, thus not over-burdening smaller



businesses. In particular, the per capita fee is only payable after the course provider has received payment for the course from the offender. We do not feel that the inclusion of this within the overall charge made to the offender should have any significant impact on course completion rates.



**Proposal No. 3C - that the per capita fee paid per offender who completes a course is £7**

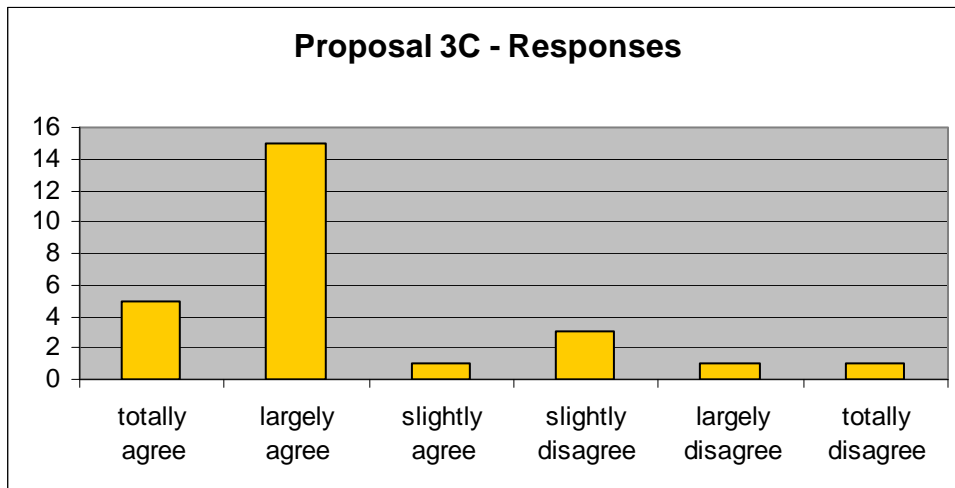
Breakdown of responses

60. 26 respondents expressed an opinion on this proposal. 21 were in favour.

61. In spite of the strong support for the proposal that the course provider should pay DSA a per capita fee for each offender completing the course, there was some concern that this fee would be increased by DSA over time resulting in higher course fees: *"Would like a guarantee that this cost will not increase annually in light of decreasing number of course completions. Cost will have to be passed on to clients who are already stating they do not complete course due to financial issues."*

62. Concerns were expressed that the £7 per capita fee had been calculated on the basis of DDRS statistics that were out of date: *"We are aware that completions are falling and the calculations of the per capita revenue generated are based on figures that are 18 months old. In the interests of quality, the scheme must be adequately governed and to enable this to happen, the per capita fee obviously must be sufficient to generate realistic funds to monitor the scheme appropriately, even if this means raising the per capita payment above £7."* The fee has been set at a level to recover the estimated cost of DSA's administration of DDRS. Should it be necessary to seek an increase in the fee at some time in the future, DSA would be required to consult upon the proposal and to justify it via an Impact Assessment. DSA accepts that more recent data on DDRS course completions is now available and the IA which accompanied the Consultation Paper has, in light of this, been updated and is being published separately from this report.

63. Ministers have decided to implement the proposed course completion fee of £7 per offender. This fee will be payable to DSA within 14 days of (i) the end of the calendar quarter (i.e. 31 March, 30 June, 30 September or 31 December) in which the offender completed the course or (ii) the date on which the course ceased to be approved, whichever is the earlier.



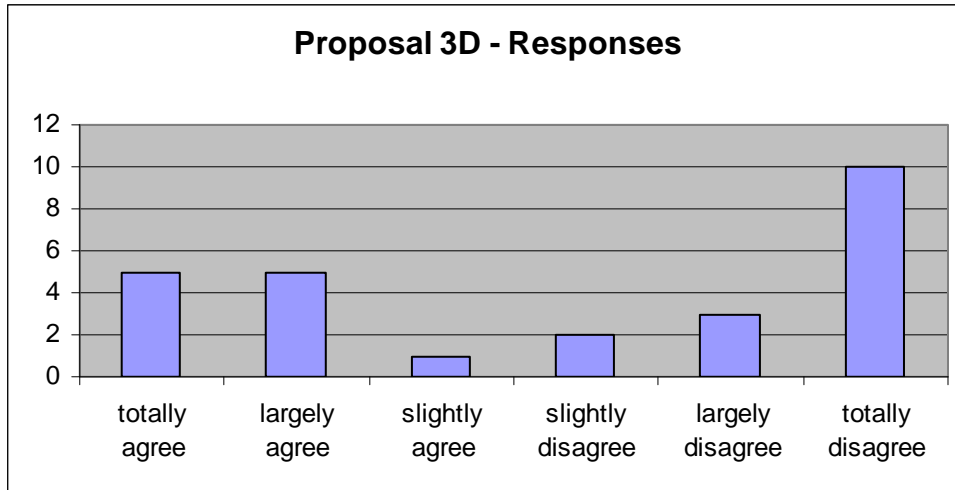
**Proposal No. 3D - that the per capita fee is paid to DSA monthly**

Breakdown of responses

64. 26 respondents expressed an opinion on this proposal. 11 were in favour; 15 were not in favour of this proposal.

65. There was some support for this proposal: *"Yes we agree monthly. We would like a strict audit to be carried out on providers on the number of attendees"* but most respondents felt that making the payments to DSA monthly would be too onerous on the provider and would involve much more administration: *"The collection of monthly fees will increase the administration cost for both the training provider and the DSA. These are costs that many providers are likely to pass on to the offender. We would prefer to see a quarterly collection of per capita fees in much the same way that VAT is collected."* Many respondents preferred a quarterly fee collection point: *"Course providers currently provide statistical data on a quarterly basis. It will be administratively simpler and more cost effective to pay the per capita charge at the same time."*

66. After carefully considering the points raised by respondents, Ministers have decided that the per capita fee should be paid quarterly. This will align the payment of the per capita fee with the existing quarterly reporting arrangements for DDRS course providers.



**Proposal No. 4 - that the maximum fee that can be charged for a DDRS course remains at £250**

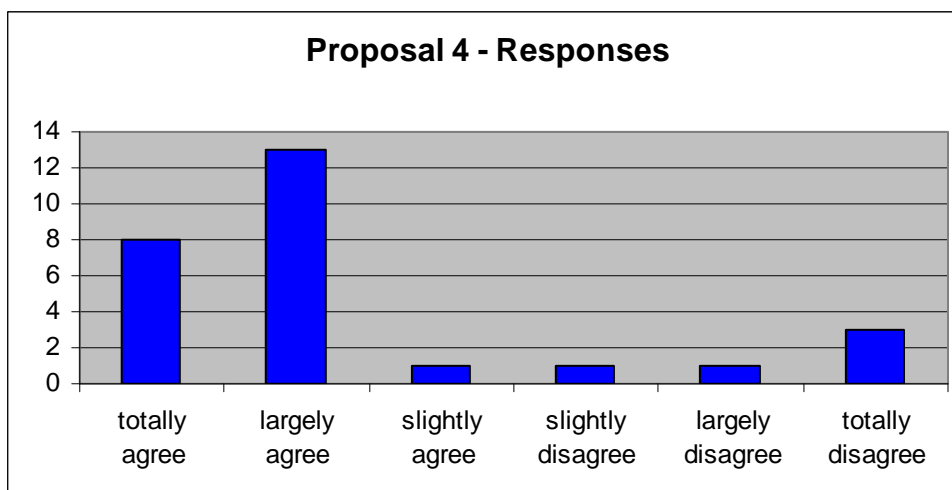
Breakdown of responses

67. 27 respondents expressed an opinion on this proposal. 22 were in favour.

68. Whilst there was good support for this proposal, there were also concerns raised about whether this amount would remain at £250 or be reviewed from time to time: *"Subject to annual review as within 7 years the scheme will become unaffordable."* and *"We agree, subject to an annual review, allowing for the maximum fee to be revised upwards if necessary. We would expect the maximum course fee (and minimum fee if one is in place) to increase in line with any rise in the per capita fee."*

69. The maximum course fee of £250 has not changed since the scheme began. It is still seen as reasonable as current course fees are, on average, between £150 and £200. However, it may need to be revised in light of experience gained as a result of operating the new DDRS arrangements. In those circumstances, DSA would need to consult on the proposed new maximum course fee prior to amending the relevant legislation.

70. Ministers have decided to retain the current maximum fee of £250 that can be charged for a DDRS course, as proposed.



**Proposal No. 4A - that the minimum fee (currently £150) for a DDRS course is abolished**

Breakdown of responses

71. 27 respondents expressed an opinion on this proposal. Nine were in favour; 18 disagreed with this proposal.

72. Most of those objecting were current course providers who felt that smaller organisations would be unable to compete with larger ones able to offer courses at lower rates: *"We are concerned that if there is price competition within an area, the quality of the courses may suffer.*

73. Although some respondents favoured removal of the minimum course fee, there was a concern that price competition could adversely impact on the quality of courses provided and resource constraints could restrict DSA's ability to address this risk: *"[Our organisation] agrees that a minimum fee is unnecessary, provided that the DSA's course application assessment, ongoing monitoring and quality assurance procedures are robust enough to identify whether any provider is sacrificing the quality and effective delivery of their courses in order to achieve a lower price and consequent competitive advantage. However, there is a risk, especially in times of reduced public spending, that the DSA may not be able to devote sufficient resources to quality assurance and that some providers may be tempted to sacrifice course standards to achieve competitive low prices."*

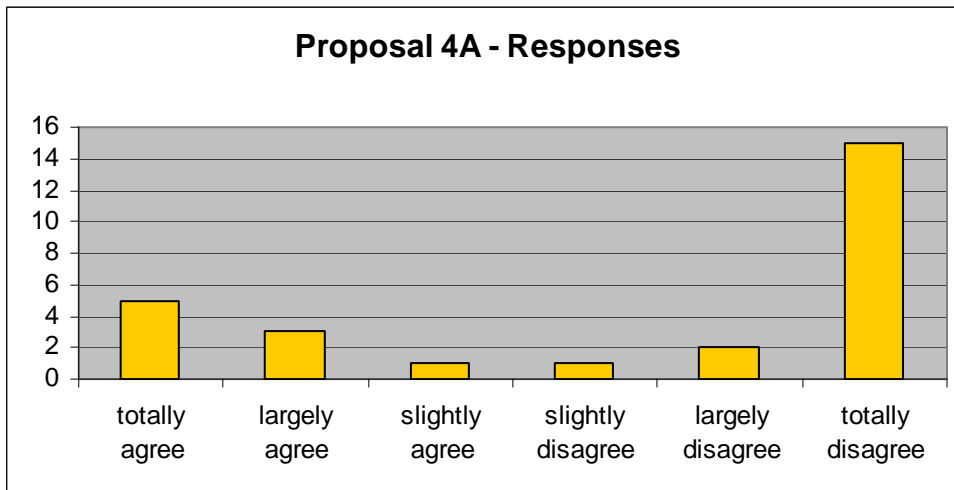
74. The fee charged for a particular course should not be seen as the key indicator of its quality. However, DSA recognises the concerns expressed. The revised scheme introduces quality assurance and compliance arrangements which will cover all aspects of DDRS course provision. Any concerns DSA has regarding the ability of a course provider to deliver the course to the requisite standard will affect its assessment of the risk posed by that provider and will be reflected in the Agency's compliance assurance programme.

75. Those in agreement with the proposal were generally not existing providers. One stated that: *"A rigorous quality control system will ensure that the issue of a minimum fee is no longer relevant as providers would not be able to charge extremely low prices and still maintain the required standards. Another wrote: "Quality assurance checks should determine if each approved course and provider*

are giving true value for the fee charged. This could be confirmed with a further TRL study of re-conviction rates.”

76. We acknowledge the concerns, expressed by existing course providers in particular, that removal of the minimum fee could encourage a “race to the bottom” in terms of DDRS course quality. However, we are also aware that cost is a major determinant as to whether an offender completes a course. DSA is confident that the quality assurance and compliance arrangements it will operate, largely funded by the per capita course completion fee, will be sufficiently robust to address the risk posed by low cost, poor quality training. Where evidence is found of courses not meeting the required standards, whether due to low fees or for any other reason, DSA will consider withdrawal of the course approval.

77. Ministers have decided to implement the proposed removal of the minimum course fee. A minimum fee is considered to be unnecessary and may discourage course providers from passing on efficiency savings through lower course fees. In addition, the retention of a £150 fee may prevent healthy competitive behaviours in driving cost-effectiveness and innovation in course delivery.



**Proposal No. 4B - that course providers are permitted to recover course fees from the offender in advance of the course or in instalments, provided that full payment is made before completion of the course**

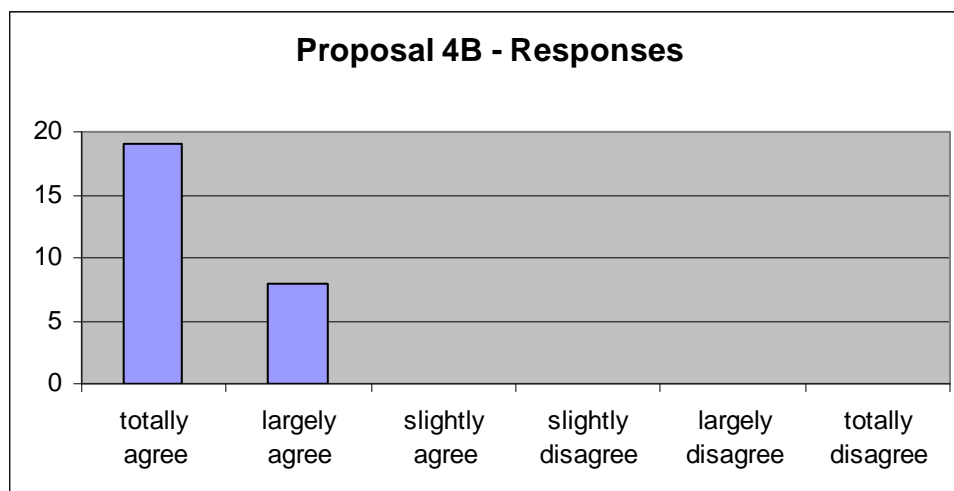
Breakdown of responses

78. 27 respondents expressed an opinion on this proposal. All were in favour.

79. Comments in support of this proposal were: “Service providers must be encouraged to be as flexible as possible to maximize the throughput of clients. The Service Provider should be able to decide on their own financial management, risks and policies, so long as the fee is paid in full by the end of the course.” and: “We fully support this change to the existing rules and believe it offers offenders greater chance of completing the course.”

80. Ministers have decided to implement the proposal that course providers should be permitted to recover course fees before commencement of the course or in instalments, subject to the full fee being paid prior to the conclusion of the course. This change will give course providers more flexibility regarding charging for courses

and allows them the opportunity to pass on this flexibility to the offender, which could improve participation rates.



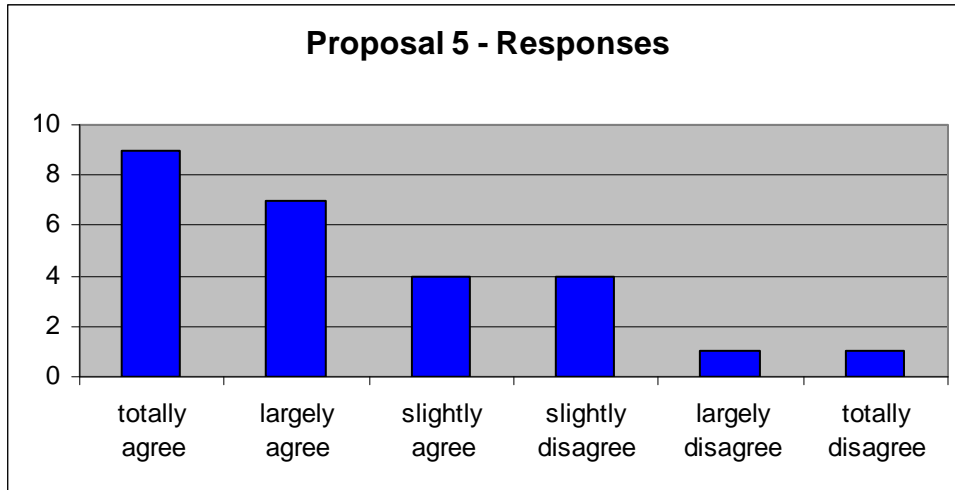
**Proposal No. 5 - that the proposed transitional arrangements are sufficient to allow course providers adequate time in which to discharge existing commitments and to put the new arrangements in place**

Breakdown of responses

81. 26 respondents expressed an opinion on this proposal. 20 were in favour. Most of the existing course providers favoured a longer transitional period.

82. Some respondents favoured delaying the introduction of the new courses from October 2012 to January 2013. It was thought that this would allow current course providers more time to wind down their operations and complete all outstanding courses. Others felt a start date of January 2013 would be more logical and better administratively as it is the start of a new calendar year: *"Transitional arrangements are sufficient but why not start the new provision from January 2nd 2013 which will make administration, data collection and annual submissions much easier for new and existing providers."* A respondent in favour of the proposal stated: *"[Our organisation] agrees that the proposed transitional arrangements allow course providers adequate time to discharge existing commitments and put new arrangements in place. Course providers will be aware of these proposals already and can start some planning, even though the proposals are not yet confirmed."*

83. Ministers have decided to implement the transitional arrangements, but with dates which differ to those published in the Consultation Paper. Providers will be notified that they have been approved for the new scheme twelve weeks before it is due to commence. These transitional arrangements will also involve the withdrawal of all existing DDRS course approvals eight weeks after the introduction of the new approved courses. The dates for these transitional arrangements will be published as soon as they are confirmed. From the introduction of the new scheme the courts will be able to refer offenders only to training courses approved under the new arrangements. Running the old and new courses concurrently is necessary in order to allow current providers to discharge any existing commitments to offenders.



**Proposal No. 6 - that DDRS course providers are required to use first class post and obtain (and retain for inspection) a proof of posting receipt from the carrier for each Notice of Non-Completion (NNC) issued**

Breakdown of responses

84. 26 respondents expressed an opinion on this proposal. 18 were in favour; eight were not in favour.

85. Those in favour expressed comments such as: *"Can see no reason why this proposal should not be implemented"* and: *"Yes we agree to the notice by first class post as Magistrates advise of disqualification to defendants who fail to turn up at court."*

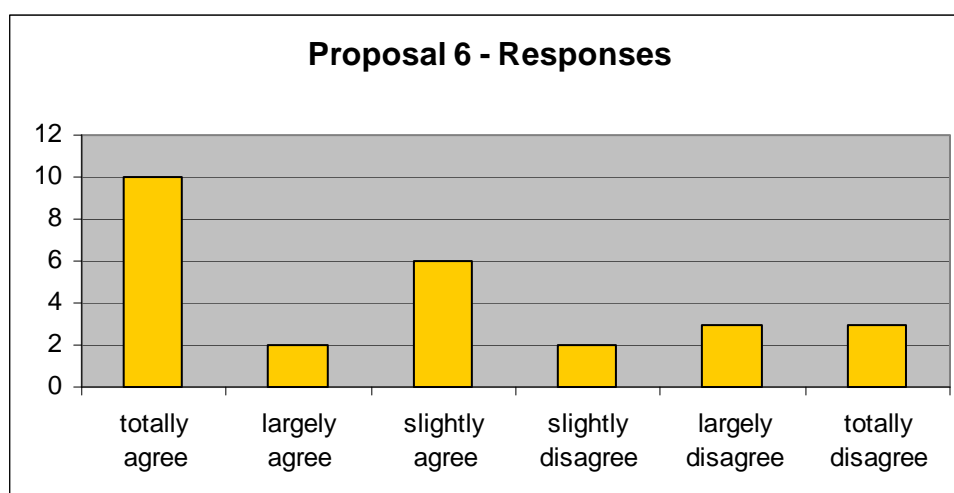
86. Of those not in favour of this proposal, some expressed a view that second-class postage is adequate and first class postage too expensive. The Road Traffic (Courses for Drink-Drive Offenders) Regulations 1992, which will be revoked as part of the process of moving to new DDRS course approval arrangements, permit a NNC to be considered as given if it was sent by registered post or recorded delivery to the last known address of the offender. This proposal seeks to reduce the financial burden on providers by replacing this requirement with a lesser one of using first class post supported by a certificate of posting. Other comments made were that this proposal would also require additional resources in staff time: *"To achieve certificates of posting means staff have to physically attend a post office and queue on a daily basis at a time when we are all doing our utmost to manage costs so that the fees charged to offenders remain reasonable."*

87. Currently, offenders can apply to the supervising court to effectively claim the reduction in the period of their disqualification on the basis that the course provider has failed to issue a NNC within 14 days of the date specified in the referral order. It is important, therefore, for the reputation of both DDRS and the course provider that the latter can supply the court with evidence of having complied with the requirements applying to the issuing of NNCs. It is a current legislative requirement that the NNCs are sent by either recorded delivery or registered post as these delivery arrangements provide evidence to refute a claim that a NNC was not issued or was not issued within the specified timeframe.

88. The proposal seeks to retain certification by the postal carrier that the NNC has been sent to the offender on a specified date but removes the additional cost imposed by recorded delivery or registered post (now referred to by Royal Mail as *special delivery* and *Signed-for* respectively). Royal Mail supplies blank certificates of posting (both individual and bulk) free of charge. These can be receipted at a post office counter or by the relevant postal worker where mail is collected from a business for onward delivery. As course providers have up to 14 days after the date specified in the referral order in which to issue the NNC, it is difficult to envisage a situation where it was necessary for course provider staff to attend a post office on a daily basis to obtain receipted certificates of posting.

89. DSA is confident that this proposal reduces the costs associated with the issuing of NNCs by recorded delivery or registered post. However, we have considered the points made by respondents and provided a receipted certificate of posting is obtained and retained, there is no reason why the provider cannot have a choice of using either first or second class post for issuing the notices.

90. Ministers have decided to implement the proposal subject to the amendment that the class of post used for issuing NNCs will be left to the discretion of the course provider. The current methods are expensive ways of issuing the NNCs. The replacement offers a more cost-effective method which will cost providers considerably less whether they use first or second class post.



**Proposal No. 7 - that, in the case of course withdrawals (for all cases except those of serious misconduct) the notice takes effect not less than 14 days after the date on which it was served**

Breakdown of responses

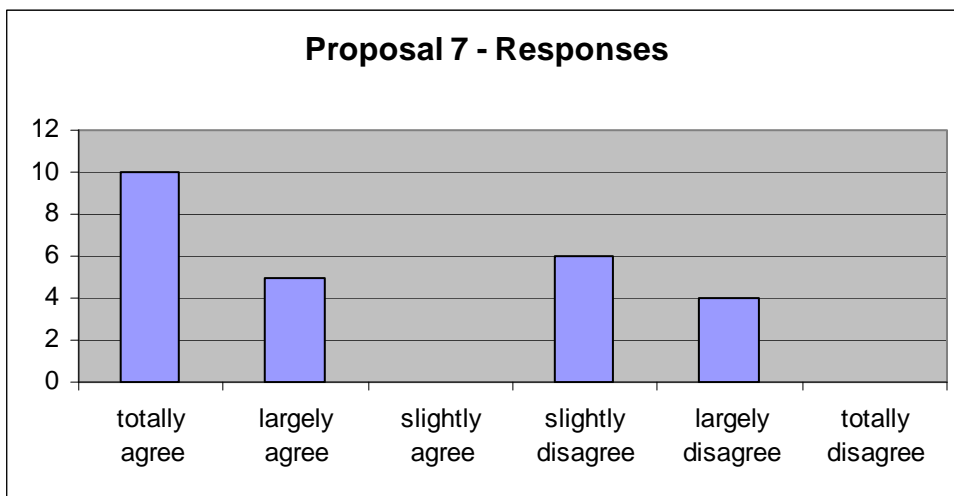
91. 25 respondents expressed an opinion on this proposal. 15 were in favour.

92. Most respondents were in favour of this proposal and felt that 14 days was sufficient: *"The 14 day notice period following course withdrawals is fair. It offers the opportunity to appeal or respond as required."* However, there were concerns from some existing providers that 14 days would not be quite long enough and that 21 or 28 days might be better. Some providers' courses are run over 3 to 4 weeks and this would allow more time for courses to be completed, it was stated: *"28 days is more*



realistic. A shorter notice period disrupts courses already planned/commenced and will have a detrimental effect on clients."

93. Ministers have decided to implement the proposal that in the case of course withdrawals (for all cases except those of serious misconduct) the notice takes effect not less than 14 days after the date on which it was served. At least 28 days before confirming that a course approval was to be withdrawn (other than in cases of serious misconduct) the Secretary of State would have written to the course provider informing the latter that he was minded to withdraw the approval and inviting representations. If the SoS then decided, after taking account of any representations received, that approval should be withdrawn, the earliest date that the withdrawal could take effect would be 14 days later. We believe this timeframe strikes a reasonable balance between the need to facilitate an orderly rundown of the course provider's operations whilst taking effective action to protect the interest of offenders who may otherwise commence courses that did not meet the requisite standards.



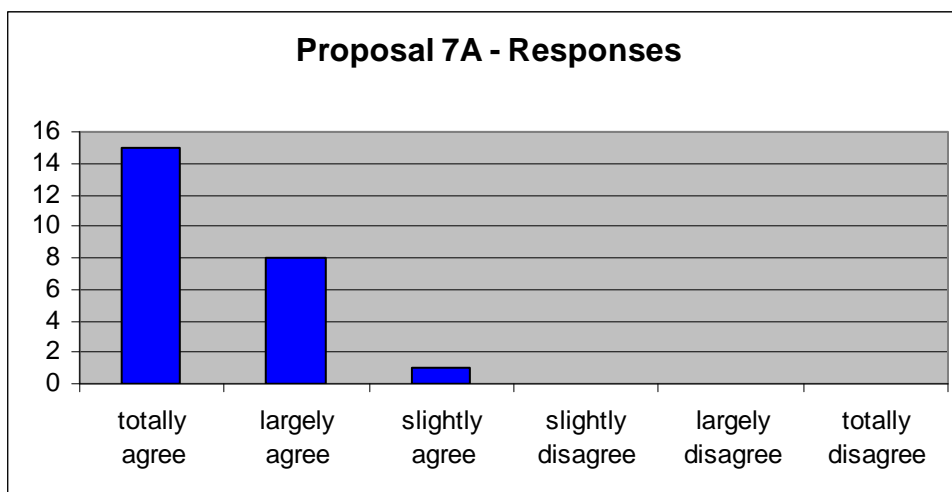
**Proposal No. 7A - that the General Regulatory Chamber Rules are suitable for the handling, as 'transport cases', of DDRS appeals against decisions by the SoS**

Breakdown of responses

94. 24 respondents expressed an opinion on this proposal. All were in favour.

95. Comments expressed no strong opinion either way on this matter, which was asked on behalf of HMCTS' Tribunal Procedure Committee. One respondent commented: *"We feel it is very important for there to be a robust appeal process which is transparent to the public and independent of the provider."*

96. Details of the responses have been passed to HMCTS and the Senior President of Tribunals has provided confirmation that DDRS appeals will, under the new scheme, be made to the General Regulatory Chamber of the First-tier Tribunal.



## CONSULTATION PROPOSALS - GENERAL COMMENTS

97. The responses received regarding the proposals were varied and frequently reflected earlier comments made by the respondents; the following comment summarised some of the common points raised: *"[Our organisation] is committed to delivering effective services of the highest possible quality and at the same time ensure that services, such as DDR, are self-financing and not subsidised by the public purse. We welcome steps to introduce greater consistency, monitoring of standards, approvals and the raising of standards. All of these steps must collectively contribute towards enhanced quality and encouraging a greater number of clients to attend DDR across the land, and benefitting for the education that they receive, however the large geographical areas may well prohibit smaller service providers from continuing to deliver a product that is well received and effective – they will cease to deliver DDR."*

98. Several existing course providers reiterated their concerns regarding some of the individual proposals.

### Response to comments

99. DSA is grateful for the comments submitted, all of which were carefully considered when assessing the overall response to the consultation.

## IMPACT ASSESSMENT (IA)

100. Respondents were asked if they thought any of the estimated costs referred to in the initial IA were incorrect and, if they believed that to be the case, to supply alternative costings. Respondents were also asked if they had any further comments about the initial IA.

### Response to comments

101. There were a number of comments relating to how up-to-date the statistics were in the initial IA and therefore how correct the new per capita fee could be. It was felt that this might impact on course providers who would have to increase their course costs as a result, i.e. to meet increased fees, which in turn would affect take-up rates: *"The historical data used is too old to use as a forecast, and with the rates*

*of both breath testing and convictions already reducing, is unlikely to produce sufficient income to DSA using the stated per capita fee. This causes concern as it seems likely this rate will need to increase quite steeply to cover the expenses, which will also be likely to cause a reduction in take-up rates, further exacerbating the problem.”*

102. The figures used in the drafting of the initial IA are based on referral and completion figures from 2010. Since then, more recent figures have become available and these are reflected in the revised IA.

103. Some respondents were concerned that, with the new scheme covering England and Scotland only, the number of referrals to courses conducted in Wales had not been taken account of. We are aware that with Wales introducing its own scheme, this may have some impact upon the number of referrals but we cannot anticipate the extent of this. We have, therefore, assumed that the rate will remain similar to its current levels on the basis that the modernised scheme will be more accessible and, as a result, should experience an increased take-up.

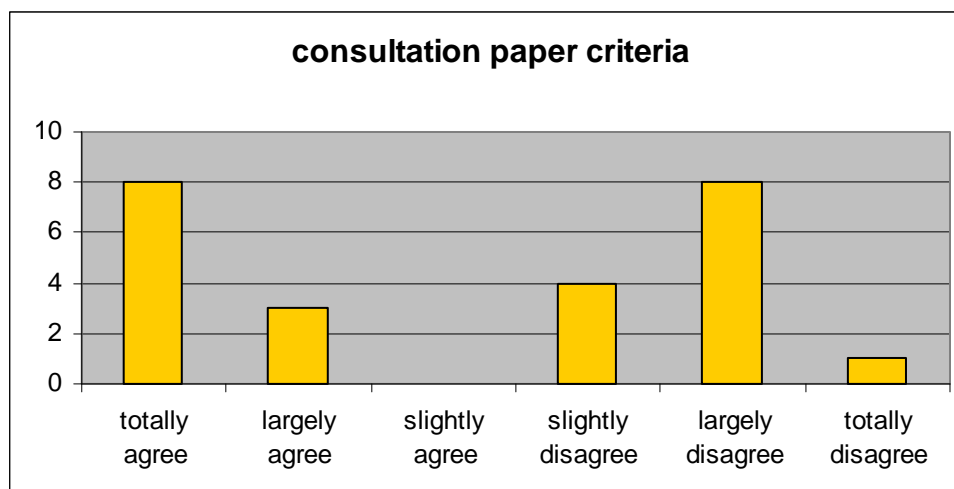
104. The fees have been set at a level that will enable DSA to recover the costs it incurs in administering and assuring DDRS. They will be specified in legislation and could only be increased following consultation. The final IA has been updated following responses received to the Consultation Paper and is being published separately from this report.

## **CONSULTATION CRITERIA**

### Breakdown of responses

105. We asked respondents if they thought that the Consultation Paper had been carried out in accordance with the Consultation Criteria, which was set out in Annex B to the Consultation Paper.

106. 26 of the respondents expressed an opinion. 11 felt that the consultation had been conducted in accordance with the Consultation Criteria. 13 disagreed with this statement.



107. Those disagreeing felt that the consultation period should have been 12 weeks as eight weeks did not allow them sufficient time in which to respond fully: *“To undertake a thorough, inclusive response to the consultation document there should have been the good practice period of 12 weeks. Not only has the DSA taken an 8 week period but in effect reduced it to 6 weeks in practice given the holiday period.”*

108. The shortened consultation was conducted in line with the Government's Code of Practice on Consultation. Since the Consultation was undertaken this Code has been replaced by the Consultation Principles. Further information on these Principles can be found at: <https://update.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

109. In general, formal public consultation would last at least 12 weeks, however, lesser periods were allowed for in certain circumstances, subject to ministerial agreement. Ministers decided that, for the DDRS consultation, a reduced period of eight weeks was appropriate due to the limited nature of the consultation and the fact that some of the current providers, and ADDAPT, had taken the opportunity to be involved in the development of some of the proposals that were ultimately contained in the Consultation Paper.

110. The new Consultation Principles build on this flexibility and actively encourage a range of timescales for consultation instead of just defaulting to the 12-week period, particularly where extensive engagement has already occurred.

## **FORMAT OF THE CONSULTATION PAPER**

111. We asked respondents if there was anything they particularly liked or disliked about the format of the Consultation Paper.

112. A variety of opinions were expressed about the format of the Consultation Paper, including: *“We feel the consultation paper is a user-friendly document with clearly labelled annexes.”* and *“I found it clear, concise and easy to follow”*.

113. There were some more negative comments, such as: *“We feel it should have been written in plain English. In it's current style we've found in consultation with other providers that it's been too open to different interpretations of points - provision of various models would have been helpful to clarify intentions.”*

114. One respondent also remarked: *“[we] only became aware of this important consultation, and opportunity to register an interest in the provision of DDRS course, some time after it had been circulated to other road safety bodies. This has given us a very limited amount of time to complete our response compounded by the timing over Christmas. We would urge the DSA to recheck its consultation address list to ensure that all interested bodies, including those who do not currently provide DDRS course have been included. It would appear that some consultations are now being placed by letter to selected bodies rather than by an open process on the DSA or DfT websites - this practice should be urgently reviewed.”*

### Response to comments

115. The Consultation Paper was written with the intention that the main points and proposals should be quite clear and the full background should be available for those seeking further details. The key pre-requisite was that it must be easy to understand.

116. DSA encourages the active participation of all those persons, groups and organisations that have an interest in any topic upon which the Agency is consulting. Anyone can sign-up to the free DSA email notification alert system via the DfT website and request to be advised of live DSA consultations. For this particular consultation, the Agency issued an email alert to all those who had previously requested notification of DSA consultations (over 20,000 people) and also wrote to all the existing DDRS course providers, over 50 driver training associations, individuals, special interest groups and those associated with the police and judiciary system. In addition, the Consultation Paper was posted on the DfT website.

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