



Home Office

The Government's response to the consultation on locally-set fees under the Licensing Act 2003

February 2015

The Government's response to the consultation on locally-set fees under the Licensing Act 2003

Introduction

- 1) This Government is committed to freeing up local communities to tackle alcohol-fuelled harms. That is why we took swift action in 2011¹ to overhaul the Licensing Act 2003² to give licensing authorities and the police more powers to deal with problem premises. We have also introduced the Late Night Levy, to enable local authorities to ensure that premises that sell alcohol late at night make a contribution to the costs of tackling alcohol-related crime and disorder.
- 2) But at the same time the Government does not want to penalise those who enjoy a drink responsibly. This Government strongly supports the vital contribution that local pubs, the wider hospitality industry, and community premises make to the economy and to communities. There is an important balance to be struck. We are committed to removing unnecessary burdens where we can whilst maintaining safeguards against alcohol harms. A robust, properly funded licensing regime is one of those safeguards.
- 3) Fees under the Licensing Act 2003 are intended to recover the costs of licensing authorities in administering the licensing system. As part of its major overhaul of the licensing framework, the Government legislated, through the Police Reform and Social Responsibility Act 2011, to introduce a power for the Home Secretary to prescribe that fees are set by each licensing authority to recover its costs. In principle, this approach should ensure that fee-payers do not pay too much or too little where the costs vary in different areas. Coupled with this, fees under the Licensing Act 2003 have remained the same since they were set in 2005, and in spite of efficiency savings in processes, many have called for an increase in fees levels.

Public consultation

- 4) The Government consulted on its proposals for locally-set licensing fees from 13 February to 10 April 2014. The consultation³ sought views on detailed aspects of locally-set fees, such as:
 - the maximum amount that can be charged for each fee-paying process (the “caps”);
 - whether and under what circumstances licensing authorities should be able to charge differing amounts for different types of premises, including whether the use of National Non-Domestic Rateable Value (NNDR) should be retained; and
 - the mechanisms designed to ensure transparency and cost-effectiveness in setting fees
- 5) Decisions that affect so many businesses and community organisations must be robust. Therefore, alongside the consultation, the Government sought evidence from licensing authorities on the costs they incur in delivering their different licensing functions.

1 Under the Police Reform and Social Responsibility Act 2011 – reforms brought into force via secondary legislation in April and October 2012.

2 The Licensing Act 2003 regulates the sale of alcohol, the provision of late night refreshment and regulated entertainment.

3 The consultation is available on [www.gov.uk](https://www.gov.uk/government/consultations/locally-set-licensing-fees) at <https://www.gov.uk/government/consultations/locally-set-licensing-fees>

- 6) As well as locally-set fees, the consultation sought views on whether there should be a single payment date for annual fees, which are currently payable on the anniversary of the day the licence was granted. This change was requested by representative organisations such as the British Beer and Pub Association and intended to simplify payment, particularly for companies that hold multiple licences, such as a chain of pubs.

The Government's decision

- 7) The Government has carefully considered the responses to the consultation, including the concerns of the licensed trade, and the evidence of costs provided by local government. The Government has decided not to introduce locally-set licensing fees at the present time. Instead, we will invite local government to provide evidence of its costs before proceeding.
- 8) On the the question of a single payment date, the Government has listened to the views of small businesses and local government, and decided to consider further an option under which licence holders can nominate their payment date by notifying the relevant licensing authority, rather than introducing a universal date.

Summary of consultation responses

- 9) There were 681 responses to the consultation. 573 of these were responses to the questions in the online questionnaires, with the remainder setting out their views on the topic in letters and emails. More than two-thirds of respondents were from a fee-payer perspective (for example, from individuals and small businesses in the licensed trade and representatives of community and village halls). Almost all of the remainder were from representatives of licensing authorities.

Locally-set fees

- 10) Fee-payers were, in general, strongly opposed to the introduction of locally-set fees. They were also concerned about key details of our proposals. In particular, many of them argued that the proposed caps on fees should be lower and were worried that fees would rise to the level of the caps. Three-quarters of those who responded to the question disagreed with the abandonment of NNDR as a factor in fee levels. The same proportion disagreed with the use of "late terminal hour" as an alternative. Many fee-payers were particularly concerned about the evidence base.
- 11) Licensing authorities were generally more content with the proposals. For example, they generally considered that the proposed caps would be sufficient for them to recover costs and, in common with fee payers, they tended to approve of the mechanisms that were proposed to ensure transparency and cost effectiveness. In contrast to fee-payers, they agreed that the use of NNDR should be abandoned and showed a clear preference for a local discretion to use "late terminal hour" as an alternative mechanism.
- 12) Alongside the consultation, we encouraged licensing authorities to complete a survey of their costs for each fee-paying process. Only 20 of 350 licensing authorities responded to the request. This followed a similar, pre-consultation cost survey to which 17 authorities provided full responses.

- 13) The responses to the surveys present a limited and inconsistent picture of the relationship between licensing authority costs and income. They do not enable the Government to make evidence-based decisions on the details of the new regime with confidence or offer reassurance to fee-payers, many of whom are small businesses or community premises, on the consequences of moving to locally-set fees.
- 14) For example, the responses make it difficult to set the caps, as the responses are not sufficient to indicate the extent to which authorities reporting higher costs are outliers or not. Likewise, various estimates have been made of the overall relationship between costs and income⁴, but the responses to the surveys do not provide clarity as to whether licensing authorities are experiencing a deficit overall. Therefore, they do not support the development of a credible impact assessment of the introduction of locally-set fees. The Government is committed to ensuring a vibrant community sector and avoiding undue burdens on business. Therefore, the impact on community groups and businesses in the licensed trade, many of whom are small operators, must be properly assessed.
- 15) Additionally, the limited response from local government implies that not all licensing authorities have the necessary capacity to estimate their costs, which is a pre-requisite for setting fees.
- 16) For these reasons, the Government has decided not to introduce locally-set licensing fees at the present time. The Government is, however, now inviting local government, through the Local Government Association, to provide representative and up-to-date evidence of licensing authorities' costs in delivering licensing functions, and their capacity to measure them. The Home Office will work with the Local Government Association to ensure that local government is clear about what sort of evidence is required.

Single payment date for annual fees

- 17) Respondents to the consultation did not support the introduction of a single payment date for annual fees in England and Wales. 56% of fee-payers who answered this question in the online survey opposed the proposal and only 31% supported it. The majority of responses from local government also disagreed with the proposal.
- 18) Therefore, the Government has decided not to impose a single payment date. Nevertheless, the Government sees merit in allowing licence holders who wish to nominate a date of their choice to do so by notifying the relevant licensing authority. This would remove a significant administrative burden from businesses that hold multiple licences without enforcing change on those who do not want it.
- 19) This measure will require a change to the Licensing Act 2003 and the Government will explore the legislative options with a view to implementation when possible. As with any legislative change, this will involve discussion with colleagues in local government and the licensed trade.

⁴ E.g. the Local Government Association estimates a deficit of just under £17m a year in England and Wales.

Acknowledgements

20) The Government thanks all those who took the time to respond to the consultation. Respondents included many small businesses and employees in the hospitality sector, medium-sized enterprises, representatives of community premises such as village halls, and a significant proportion of licensing authorities. The Government values the support of our partners in developing a robust and proportionate licensing regime that supports responsible businesses whilst maintaining safeguards against alcohol harm.

Further information

21) The Government has published a further document setting out the responses the public consultation in full. “The Government’s response to the consultation on locally-set fees under the Licensing Act 2003: Annex - summary of consultation responses” is available at <https://www.gov.uk/government/consultations/locally-set-licensing-fees>

