



Derby City Council

GENERAL LICENSING COMMITTEE

31 March 2014

Report of the Strategic Director of
Neighbourhoods

ITEM 4

A consultation on fees under the Licensing Act 2003

SUMMARY

- 1.1 The Government are consulting on fees under the Licensing Act 2013 and have produced a consultation document.
- 1.2 The deadline for responses is 10 April 2014.
- 1.3 The report contains information about the consultation process, details of the consultation questions being asked and a proposed response for consideration.

RECOMMENDATION

- 2.1 To consider the information in the report regarding the request for views on the consultation document and the proposed responses provided by officers.
- 2.2 To respond to the consultation questions on behalf of the Council.

REASONS FOR RECOMMENDATION

- 3.1 To ensure a response to the consultation is provided by the deadline.

SUPPORTING INFORMATION

- 4.1 The Government are seeking views 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.
- 4.2 There are twenty-nine questions in total where views are being sought.
- 4.3 The deadline for responses is 10 April 2014.
- 4.4 The consultation document is attached at Appendix 2 for information and is also available electronically from the Home Office website at <https://www.gov.uk/government/consultations/locally-set-licensing-fees>.

- 4.5 A proposed response to the consultation questions from officers is set out for consideration at Appendix 3.
- 4.6 The 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.
 - 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.

OTHER OPTIONS CONSIDERED

- 5.1 Do not provide a response to the consultation. It is important to submit a response so the Council’s views are taken in to account.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Olu Idowu - - - John Tomlinson -
For more information contact: Background papers: List of appendices:	Michael Kay 01332 641940 michael.kay@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Government Consultation Document on Fees under the Licensing Act 2003 Appendix 3 – Proposed Response from Officers

IMPLICATIONS

Financial and Value for Money

- 1.1 None related to the consultation process itself but there will be financial implications for the Council depending on what changes are made.

Legal

- 2.1 The power to make fees regulations is set out in primary legislation. 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.

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. Fees levels were set nationally in 2005, but have not been revised since then. 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.

Personnel

- 3.1 None directly arising from the report.

Equalities Impact

- 4.1 Any proposed changes will apply equally to all groups within the community and no particular group(s) will be disadvantaged.

Health and Safety

- 5.1 None directly arising from the report.

Environmental Sustainability

- 6.1 None directly arising from the report.

Property and Asset Management

- 7.1 None directly arising from the report.

Risk Management

- 8.1 None directly arising from the report.

Corporate objectives and priorities for change

- 9.1 The information set out in this report supports the corporate priorities that the Council provides **good quality services that meet local needs**.