

---

## **CONSULTATION ON FEE LEVELS - LICENSING ACT 2003**

### **1 SUMMARY**

- 1.1 This report introduces the consultative document published by the Department for Culture, Media and Sport (DCMS) upon which comment is invited by 23 December 2004.
- 1.2 The report summarises background information provided by DCMS and outlines the fee structure to be established by regulation under the Licensing Act 2003.
- 1.3 The report suggests responses, where invited, and seeks approval by Members for them to be forwarded to DCMS on behalf of the Council.

### **2 INTRODUCTION**

- 2.1 The consultative document consists of 8 chapters in which are set out costing assumptions and calculations, costs of the Licensing Act 2003 on a national basis for the transitional period and the 3 years following, average fees necessary to recover national costs, allocation of fees to individual premises and fee revenue arising from existing licensing regimes.
- 2.2 A copy of the consultation document has been deposited in the Members' Library for Members' information.
- 2.3 The mainstay of the Government's position is that the costs to local authorities in administering the new regime should be recoverable from fees. The DCMS do, however, differentiate between the costs intrinsic to licensing and those arising from other inspection and enforcement activity within the same premises.
- 2.4 The document places emphasis on the savings to the licensing industry (£2 billion) and police (£150 million) over a period of 10 years by the reduction in licensing processes in management, legal and administrative costs.
- 2.5 DCMS estimate a reduction from 16.6 million processes to 2 million and 2.4 million hearings to 40,000 in that 10-year period and it is against this lower level of activity that the fees have been set.
- 2.6 In recognition of national concerns by councils of their ability to recover costs through fees under the new regime, DCMS have agreed to a review of the costs by the Audit Commission after the regime has become fully operational.

**3 CONSULTATIVE DOCUMENT**

**Costing & Calculating Assumptions**

- 3.1 DCMS costing figures are based upon nationally informed estimates of the numbers of applications, representations, hearings, appeals, prosecutions and other likely activity arising from administering the new regime, including inspection and enforcement.
- 3.2 The figures are derived from the number of premises and/or types of activity that currently require a licence under the existing regimes, and the numbers of licensing applications made. Some account has been taken of predicted increases in licensing activity that has not previously been required, such as the need for personal licences.
- 3.3 Assumptions in respect of administration costs primarily include those relating to staff (salaries, etc.), legal and other central support services, recruitment, IT (including future development and running costs of a central licensing database), committees, advertising, report provision of and attendance at appeals, preparation and execution of prosecutions and preparation, consultation, review and publication of licensing policies.
- 3.4 Inspection and enforcement costs are expected to be marginal and, largely, ancillary to other inspection processes.
- 3.5 Account has been taken of the number of hearings anticipated for the transitional period and 3 years thereafter, which can only derive from applications to which representations are made.
- 3.6 There is an assumption that during the transitional period grants of personal licences and conversion and/or variation of licences will mainly consist of an administrative process only, to which there will be few challenges. The same assumption is based upon the relatively small number of objections that have generally been experienced to licensing applications under the existing 6 regimes.
- 3.7 DCMS have based their cost for the issue of a personal licence on assumptions of the number processed under grandfather rights and the number of new applications being made within that period and yearly thereafter.
- 3.8 Within the overall calculation DCMS have allowed for £5 from each application to fund establishment and maintenance of a central register. It is suggested, therefore, that it is almost certain that a central register will be created, in due course, and that each authority will have to contribute to its funding.
- 3.9 Whilst it is predicted that there will be few representations in respect of applications for personal licences and conversions of premises licences / club

premises certificates, it is suggested by officers that the same cannot be assumed in relation to applications to vary premises licences or club premises certificates.

3.10 Government research indicates that approximately 65% of applications for conversion of a licence will include an application for variation. This does not accord with the fact that: -

- all public houses, nightclubs and registered clubs will have to vary their licences to continue enjoying extended hours on Christmas and Bank Holidays and on Saint's Days,
- all restaurants will have to vary their licences to be able to sell hot food and drink after 11.00 pm and
- a number of convenience stores and newsagents holding off-licences will apply to extend their licensable hours to coincide with their trading hours.

3.11 Local research (and generally accepted opinion amongst Essex police and local authority licensing officers) indicates the percentage of premises that are likely to apply for variations is more than 90%.

3.12 Further, it is assumed by DCMS that only 5% of that number would give rise to dispute, but this assumption takes little account of the potential for residents, in particular, to challenge those applications for extended hours and additional types of licensable activity. Early predictions circulating amongst LACORS, licensing solicitors and licensing officers in 2003 were that up to 75% of applications for variation would be contested and that of those up to 5% would result in appeals.

#### **Suggested Response:**

**Rochford District Council, whilst welcoming the assurance from Government that the start-up costs and administration costs have been included as assumptions in setting the basis for calculating fee levels, has concerns that little consideration has been given to the true cost and poses the question of how those assumptions were arrived at in the absence of any consultation with the Council.**

**The Council also questions the very low percentage figure used in calculating the number of applications to vary premises licences as the fact remains that all premises currently holding a justices on-licence or club registration certificate will have to apply for variation in order to continue enjoying extensions to hours, eg, for Bank Holidays, and that all restaurants will have to apply for variation in order to be able to sell hot food after 11.00 pm.**

**Whilst many of those variations, particularly with regard to restaurants, will go unchallenged, local indications are that residents may well make representations in respect of premises applying for licences to trade for a lot**

longer and to provide live music and dancing where previously there was none. In our view this would indicate that the potential for hearings is significantly higher than 5%.

The Council welcomes the fact that DCMS have in-built provision for funding a central register.

### **Calculating Costs**

- 3.13 The DCMS has assumed a capitation rate of £28 per hour for administering the Act, £60 per hour for inspections and appeal attendance and £45 per hour for enforcement. An assumption is made that up to 20% of applications will need correction.
- 3.14 They also assume 11250 hearings between 400 licensing authorities during transition, 4500 in the first year thereafter and 2990 in each of the second and third years.
- 3.15 It has been assumed that 10% of Licensing Authorities' determinations will be challenged and that nationally there will be a total of 1350 appeals during the transitional period, as the system is tested, but this will reduce to 540 in the first year and to 360 in subsequent years.
- 3.16 The figures above are based upon what are considered, by officers, to be flawed assumptions in paragraphs 3.9 and 3.10 above.
- 3.17 DCMS has estimated the average cost of an appeal at £1160.
- 3.18 There will be no prosecutions during the transitional period and DCMS estimate that there will be a total of 300 during each of the subsequent three years at a cost of £4000 per prosecution.

### **Suggested Response:**

**Rochford District Council has no further comment on the estimates.**

- 3.19 All fees payable in respect of other licensing applications have been based upon the estimated time taken to process the matter as a proportion of staff salaries.
- 3.20 The proposed fees are shown in the table below:

<b><u>Occasion on which fee may be payable</u></b>	<b><u>Fee</u></b>
Supply of copies of information contained in register	Set by relevant local authority
Application for copy of licence or summary on theft, loss, etc, of premises licence or summary	£10.50 in all cases

Notification of change of name or address (holder of premises licence)	£10.50 in all cases
Application to vary to specify individual as premises supervisor	£23.00
Application to transfer premises licence	£23.00
Interim authority notice	£23.00
Application for making of a provisional statement	£195.00
Application for copy of certificate or summary on theft, loss etc of certificate or summary	£10.50 in all cases
Notification of change of name or alteration of club rules	£10.50 in all cases
Change of relevant registered address of club	£10.50 in all cases
Temporary event notices	£21.00
Application for copy of notice on theft, loss etc of temporary event notice	£10.50
Application for copy of licence on theft, loss etc. of personal licence	£10.50
Notification of change of name or address (personal licence)	£10.50
Notice of interest in any premises	£21.00

**Suggested response:**

**Rochford District Council considers that an error rate of 20% will only be achieved if either the majority of applications are completed by legally qualified persons or if there is a significant amount of officer time spent in assisting applicants. If the latter proves to be the case, the costs to each authority will be increased, which should be reflected in increased fees.**

**Considerations in Respect of Allocating Fees**

3.21 DCMS considered various options on setting fee levels, ie, on a risk assessment based on the impact of the four licensing objectives; the aforementioned above plus capacity levels; a combination of the number of licensable activities carried out and by the lateness of closing.

3.22 DCMS decided that, in setting the fee structure equitably for all premises, the Non Domestic Rateable Value (NDRV) would form the basis for calculating licensing costs as the NDRV:

- Is an indicator of business size and turnover
- Takes into account location
- Reflects variation of overheads
- Is reviewed regularly
- Is a known quantity
- Has its own appeals mechanisms

**Suggested response:**

**Rochford District Council considers that the NDRV provides the most equitable and predictable method of setting the fee structure.**

3.23 In considering the Regulatory Impact Assessment, fees within the Licensing Bill (as it was) were estimated to be between £100 and £500 for grant of premises licences/club premises certificates, with an annual charge of between £100 and £150.

3.24 Based on the numbers of projected applications, calculations of fee levels by band are now proposed to be:

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
£80	£150	£250	£350	£500

3.25 The Secretary of State proposes that the fees relating to the annual charges payable by those holding premises licences and club premises certificates should be:

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
£40	£125	£175	£200	£225

3.26 The Secretary of State also proposes that the various non-domestic rateable values should be allocated to bands in the following way:

<b>Band</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
<b>Non-domestic rateable value</b>	£0 - £4300	£4,301 - £33,000	£33,001- £87,000	£87,001- £125,000	£125,001 and over

3.27 On the basis of research conducted by DCMS it is estimated that an average fee of £191 for premises licences / club premises certificates and an average fee of £126 annually, together with fees for other licensing applications, will provide for local authorities to recover costs.

**Suggested Response:**

**Rochford District Council considers the fees per band to be set too low. Using the DCMS average fee of £191 per premises, £37 per personal licence and fees for other projected licensing applications during the transitional period, it is estimated that the revenue for this District will amount to less than 50% of the costs incurred.**

3.28 It is proposed that exemptions from fees will apply to church halls and premises of similar nature, parish and community halls and premises of a similar nature for licences in respect of regulated entertainment only. It is also proposed that schools and sixth form colleges will be exempt from fees under the same circumstances. Fees for these exemptions will be met by Central Government.

3.29 It has been assumed that properties that are exempt from NDRV will fall within band A above and that hereditaments situated in an enterprise zone will pay a fee based on the national average of about £195.

**Suggested Response:**

**Rochford District Council considers the proposals to be reasonable and accord with local policy in discounting licensing fees for that type of premises.**

3.30 Fee levels have also been set to take account of exceptionally large events that, although temporary in nature, cannot be licensed under a temporary event notice. Additional fees are proposed to license major events of this nature

3.31 The proposed fees as shown in the table below were produced following discussion between DCMS and Local Government Association. It is proposed that the fees will be reviewed and adjusted in light of experience.

---

<b>Number of persons</b>	<b>Additional fee £</b>
6000 - 9999	5000
10000 - 19999	7500
20000 - 29999	10000
30000 – 39999	15000
40000 – 49999	20000
50000 – 74999	30000
75000 and over	50000

- 3.32 It is also proposed that where a permanent premises licence applies to a particular site, the additional element would be charged at half the rate shown.
- 3.33 Where an application is made for a premises licence in respect of premises under development it is proposed that in the absence of an NDRV that such premises will be allocated to band C with subsequent annual fees reverting to the appropriate NDRV band.

**Suggested Response:**

**Rochford District Council considers that the proposed fee structure provides a means for Local authorities to recoup costs incurred in administering such events.**

**4 RISK IMPLICATIONS**

**4.1 Operational Risk**

There is no risk in not commenting on the consultative document, other than losing an opportunity for Members to influence aspects of proposed regulation that directly affect the finances of the Council.

**5 LEGAL IMPLICATIONS**

- 5.1 If the consultative process is inadequate, corrections and amendments to the proposed fees will not be made.

**6 RECOMMENDATION**

- 6.1 It is proposed that the Committee **RESOLVES**



That, subject to Member comments, the officer responses, as outlined in the report, be agreed.

G Woolhouse

Head of Housing, Health & Community Care

---

**Background Papers: -**

None

For further information please contact Kevin Doyland on: -

Tel: - 01702 318036

E-mail: - [kevin.doyland@rochford.gov.uk](mailto:kevin.doyland@rochford.gov.uk)