

# TONBRIDGE & MALLING BOROUGH COUNCIL

## LICENSING & APPEALS COMMITTEE

19 March 2014

### Report of the Director of Central Services

#### Part 1- Public

#### Delegated

### 1 HOME OFFICE CONSULTATION ON LICENSING ACT 2003 FEES

#### 1.1 Background

- 1.1.1 The fee regime for licensing under the Licensing Act 2003 (the “2003 Act”) was set nationally by Regulations produced in 2005 and has not been amended since then.
- 1.1.2 The government is revisiting the basis upon which fees are set and is proposing to introduce locally-set fees, subject to a national maximum cap. It has issued a consultation, attached at Annex 1 to this report, seeking views on a number of areas.
- 1.1.3 The consultation sets out a number of principles that Government sees as fundamental to any locally set fee:
- It should achieve cost recovery;
  - The regime should avoid cross-subsidisation, excessive cost or “gold plating”;
  - There will be a maximum nationally set cap which “*should not prevent licensing authorities in areas with the highest actual costs from recovering these costs*”; and
  - Any locally set fee should be based on evidence
- 1.1.4 The consultation seeks views, primarily from licensing authorities and licensees, on the following areas:
- Whether there is any evidence to support the continued use of non-domestic rateable value as a means for setting fees (the government seems opposed to this basis of assessment);
  - Whether there is any evidence linking premises authorised to provide licensable activities to a late terminal hour and/or used exclusively or

primarily for the sale of alcohol for consumption on the premises to increased cost, and the practicality of using this as a criterion for setting a variable fee;

- Whether there are any alternative options which should be available for the setting of fees which would satisfy the principles outlined above;
- Whether the proposed maximum cap would be sufficient to enable cost recovery (as to the amount of that proposed cap, see the table at page 25 of the consultation document annexed to this report);
- Whether, prior to setting fees, a licensing authority should be required to publish the proposed fee levels, basis of calculation, measures taken to keep costs down and to invite comments from interested parties;
- Whether the proposed changes present any risk of excessive costs or “gold plating” (i.e. activities which go beyond the duties on licensing authorities under the 2003 Act); and
- Whether there should be a single national payment date for annual fees

1.1.5 The consultation deadline closes on 10<sup>th</sup> April 2014

## **1.2 Legal Implications**

1.2.1 The Government plans to introduce new Regulations which will change the way in which licensing fees for activities under the 2003 Act will be set.

1.2.2 The way in which government envisages this coming forward is with locally-set fees. This will enable TMBC to set fees which are more appropriate locally.

1.2.3 The precise details of the Regulations are not known so it is difficult at this stage to advise whether there will be any specific legal implications of the new Regulations.

1.2.4 It seems likely that new policies will be required for the setting of fees (see “Policy Implications” section below), and that some level of public consultation on those fees would likely be necessary also.

## **1.3 Financial and Value for Money Considerations**

1.3.1 The proposed locally-set fees regime is aimed at achieving “cost recovery”.

1.3.2 The projected income for the year 2013/14 is £97,400 for fees under the Licensing Act 2003.

## 1.4 Risk Assessment

1.4.1 No specific risks are identified arising from the consultation document.

## 1.5 Equality Impact Assessment

1.5.1 See 'Screening for equality impacts' table at end of report

## 1.6 Policy Considerations

1.6.1 Setting the Council's own fees is likely to require new policies to be put in place. The consultation envisages that any locally set fees will be based on evidence, and therefore it is likely that an evidence gathering exercise will need to be carried out before any such policy is put into place.

## 1.7 Recommendations

1.7.1 That the Director of Central Services be authorised to prepare and submit a response to the consultation.

Background papers:

"A Consultation on fees under the Licensing Act 2003",  
Home Office, February 2014

contact: Anthony Garnett  
Kevin Toogood

Adrian Stanfield  
Director of Central Services

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The government is seeking responses to its consultation on how licensing fees will be set. Whilst the Council's response to the consultation may have some influence, any impact which may arise will be a consequence of new Government Regulation (which in itself will have to go through a consideration of equality impacts) and not the Council's response.

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	[Please explain your answer]
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?	N/A	

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*