

**Home Office Circular No. 13/2000**  
**Public Entertainment Licensing - Fees And Conditions**

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Chief Executives of District Councils in England  
Chief Executives of Unitary Authorities in England and Wales  
Chief Executive of London Borough Councils  
Town Clerk of the City of London

1. This guidance is issued jointly by the Home Office and the Local Government Association. Its purpose is to inform local authorities of the basis on which fees should be set, and the purpose of any conditions imposed, for public entertainments and similar events licensed under the following legislation:

- Section 1, Schedule 1 Local Government (Miscellaneous Provisions) Act 1982
- Section 52, Schedule 12 London Government Act 1963
- Theatres Act 1968

2. Proposals for the longer-term reform of entertainment licensing are set out in the White Paper on licensing which has now been published. Local authorities should have regard to the guidance contained in this letter pending implementation of these wider reforms.

### **Background**

3. The Local Government Association and the Home Office have recently been in discussion about the level of fees charged by some local authorities for public entertainment licences and apparent inconsistencies between local authorities. Concerns have also been expressed about seemingly unreasonable conditions attached to some public entertainment licences, which add to the costs involved.

4. There are grounds for concern that particularly high fees and associated costs are deterring some organisers from offering entertainments, with knock on effects for performers, venues and the wider leisure industry. A thriving public entertainment sector has a key role in promoting tourism. It is therefore important to ensure that the burdens imposed by the necessary licensing of these events are justified.

5. The current legislation governing public entertainment licensing gives local authorities considerable discretion with regard to fees and conditions, given the mutual impact of local circumstances and the management of public events. Nevertheless, there are fundamental principles of fairness, transparency and consistency that should be applied to the administration of public entertainment licensing as they are to any other enforcement regime.

## Basis for licence fees

6. Existing legislation does not provide for any single fee structure. But case law has established that local authorities are entitled to recover the cost of administering a licensing scheme, provided that allowance is made for exemptions or reductions for charities (Rv Greater London Council ex parte Rank Organisation Ltd 1982). It has also been determined that local authorities are not empowered to raise revenue through a licensing scheme (Rv Manchester City Council, ex parte Donald King 1991).

7. Most local authorities seek to recover their costs by setting bands of fees for occasional and annual licences, either together or separately, based on the maximum capacity for the event or venue. This is usually in the form of one fee, according to band, or a flat rate for all applicants supplemented by a top up determined by capacity or actual cost recovery. In many cases the size of the event or venue is probably a **broad** reflection of the time and resources a local authority needs to devote to issuing a licence and can therefore provide a useful rule of thumb in establishing a fee structure. It should be recognised, however, that this has the potential to work unfairly in individual cases.

8. Submissions have been received by the Home Office from various bodies engaged in event management and performance which suggest that, irrespective of the fee structure, some authorities may be setting fees which are over and above the cost recovery criteria allowed for by the existing legislation. The evidence indicates significant inconsistencies between fees for events which appear to be similar in terms of their nature, venues, organisers and numbers of people attending. Differences of several thousands of pounds have been reported with a higher fee being charged even when the local authority input was minimal.

**9. Local authorities are therefore now asked to review their fee structure for entertainment licensing** to ensure that it is defensible and proportionate in the light of the principles outlined earlier in this letter. Local authorities are particularly urged to bear in mind the following:

**Cost recovery:** this relates to reasonable charges to cover administration, inspection, and enforcement in respect of **public entertainment licensing** only. Anything over and above that which is included in the calculation of public entertainment licence fees would be *ultra vires*.

**Reasonableness:** local authorities should review their procedures to ensure that the expenditure they currently incur in administering various aspects of the licensing regime is always necessary to meet the requirements for licensing events in their area. In considering whether charges are reasonable the need for specific actions, and the resources devoted to them, should be addressed as well as the basic fee structure.

**Charities:** reductions or exemptions for charities in terms of entertainment licence fees must be discounted against the cost of administering the licence system. Any attempt to include these in the estimate of the overall expenditure on entertainment licensing would have the effect of transferring the expenditure to other licence fee payers and, again, would be *ultra vires*.

**Flexibility:** local authorities should be prepared to charge *lower* fees than those proposed in their fee structure where this is justified. This is particularly relevant to **repeat events** where knowledge of the organisers and venue is good and little work is required of the local authority. In those cases especially they should keep in mind the potential impact on venues and performers of high fee levels.

**Benchmarking:** local authorities should have regard to the charges levied in other areas. This can be pursued both through national and regional licensing fora, and individually. The purpose of this exercise is to keep fees as low as possible, rather than raise them. There may be valid reasons for some differences between areas but local authorities are asked to investigate when comparable fees are lower and consider whether there are lessons to be learned from the experience of others.

10. In the next few months a sample of fees will be studied to help the Home Office and LGA in assessing the impact of this guidance.

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### **Conditions**

11. The purpose of licence conditions is to ensure safety, minimise nuisance and prevent crime and disorder. The nature of any conditions that are attached to a licence inevitably varies according to the venue, the event and local considerations. But there are concerns that some conditions are excessive, that they replicate other regulations or are inappropriate to the premises or event. Compliance with conditions clearly adds to the cost of the licence and it is therefore important that local authorities ensure that they are reasonable.

12. All local authorities are urged to review their licence conditions to ensure that they are relevant for each application and that they achieve the objectives of public entertainment licensing without adding unnecessary burdens for the applicant. Local authorities are specifically asked to review the application of any 'standard' conditions and consider whether they are appropriate. Each application should be treated on its own merit and have conditions attached accordingly. Care should also be taken that conditions do not unnecessarily duplicate or overlap with existing regulation where this is adequate for the purpose of the licence.

13. By way of example, the Home Office has received complaints that some licensing authorities have insisted on a condition that all electrical wiring equipment must conform to current building regulations, even though there is no question of its safety and adequacy. In the Home Office's view such conditions are excessive.

14. The Local Government Association recently invited a working group of the Local Government Licensing Forum to examine public entertainment licensing conditions and recommend some reasonable model conditions that could be utilised by local authorities. A consultation draft of the Working Group's findings is available on the Local Government Association's website ([www.lga.gov.uk/lga/publicprotection/index.htm](http://www.lga.gov.uk/lga/publicprotection/index.htm))

### **Conclusion**

15. This Guidance is not intended to detract from the efforts of local authorities to manage the administration and enforcement of the public entertainment licensing regime in full accord with the spirit and letter of the law. But transparency is required in the business of local government together with a need to show that decisions and actions are fair. The implementation of Best Value, and impending Government consultation on the future of licensing provide a timely opportunity for all authorities to review this service.

16. We shall continue to monitor the situation with licence fees and conditions and the Home Office will write again to local authorities in six months time for information about the action they have taken as a result of their review of their current arrangements. The Home Office and LGA will also be discussing the processes and procedures for dealing with entertainment

licences in the light of other concerns that have been expressed with a view to issuing guidance on that in due course.

ELLIOT GRANT, Head of LGDP, Unit Home Office

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