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Government
Riaghaltas na h-Alba

Crime and Justice: Civil Justice

Review of Alcohol Licensing Fees



REVIEW OF ALCOHOL LICENSING FEES

4-consulting

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EXECUTIVE SUMMARY

Background

The Licensing (Scotland) Act 2005 s136 enabled Scottish Ministers to make provision for the charging of alcohol licensing fees by Licensing Boards. Since the fees regime came into effect, in 2009, a number of concerns have been raised by stakeholders who feel that the regime should be made fairer and that smaller businesses currently pay disproportionately large fees.

In 2010, the Regulatory Review Group (RRG) carried out a review of the Licensing (Scotland) Act 2005, which focused on fees and the cost of applications. One of the RRG's recommendations was that the Scottish Government review whether a fees regime based on rateable value was the best approach for calculating licensing fees for premises licences/annual fees, as well as consider other options that may be more suitable.

This research was commissioned by the Scottish Government to establish the current fees collected and costs incurred by Local Authorities, evaluate the current fees regime as well as potential alternative options, and consider stakeholder views on the current fee structures and possible other options, with the overall aim of informing policy decisions over whether and how to reform the alcohol licensing fee regime.

Methodology

The methodology involved legislative and document review, a survey of numerical and financial data collection from Licensing Boards, stakeholder consultation, and case study visits.

Responses to the survey were received from all 32 Licensing Boards, but in four cases only very minimal information was provided. The factual baseline was created using the data received.

Factual Baseline

There were 13,609 Premises Licences reported to be held as at 31st March 2012 in the areas of the 28 Boards that provided responses – this figure comprised 5,536 Off Sales Premises Licences; 6,571 On Sales Premises Licences and 1,502 Members' Clubs Premises Licences.

A total of 31,812 Personal Licences were reported as having been issued by the 28 responding Boards up to 31 March 2010.

A financial data collection spread sheet was issued in conjunction with the online survey. 18 respondents completed the income spreadsheet but only 15 completed the expenditure spread sheet, and the financial information supplied appeared in some cases to be unreliable.

The majority of Boards that submitted financial data were not covering their costs with fee income, and based on their data, which excludes some large Boards, the total deficit across the whole of Scotland was estimated to be in

the order of £2.6m, in the context of an estimated total spend of £9.5m. This represents recovery through fee income of about 72% of costs.

Findings

Individual Fees

The analysis has shown that the activity most frequently cited as the most resource intensive was Applications for Occasional Licences, which had the lowest fee attached. The vast majority (30 out of 31) of Licensing Board respondents thought that the Occasional Licence fee was too low and did not reflect costs incurred.

90% of Licensing Board respondents thought the Extended Hours Licence fee was too low, 77% thought the Minor Variation fee was too low, and 57% thought the Major Variation fee was too low. The other licence categories were thought to be „about right“ in terms of fee levels by the majority of respondents.

Stakeholder Views

The majority of stakeholders thought that most fees were about right. Stakeholders' views on whether the current system was fair and proportionate to all sections of the trade varied depending on stakeholder type. Within the current bands there was perceived unfairness and lack of proportionality especially where large supermarkets paid only notionally more than convenience stores.

There has been a trend over recent years towards much larger stores, and, whilst this has concentrated sales at the top end of the market, there was a view that this was not sufficiently reflected in the fee structure and that creating additional bands at the top of the scale would reflect this market trend.

Issues were identified with Members' Clubs licences, and a number of stakeholders felt that these needed to be rethought in order to allow bona fide Members' Clubs to operate, but to have a different system for those Members' Clubs that were operating on a commercial basis.

There was said to be a lack of consistency across the Licensing Boards – this led to frustration among multi-site businesses dealing with different systems in each area. A number of interviewees expressed support for a central administration or the central setting of fees and operational systems/processes. In particular, it was suggested that the administration of Personal Licences would benefit from centralisation.

Potential Alternative Fees Regimes

The research team considered three alternative fees options suggested by the steering group:

- A turnover based system
- A system based on the square footage of the premises

- Modification of the existing system by, for example, adding extra bands, adjusting the existing bands, introducing potential discounts for some licensees such as small businesses/tourist attractions, etc.

Some stakeholders were in favour of the turnover based system and the square footage based system, however both of these approaches were considered to be problematic and received more arguments against than in favour of their use.

The turnover based system was considered to be the fairest as it linked fees directly with sales, however this approach would increase the administrative burden both for Boards, who may not have appropriate staff to administer such a regime, and for premises, particularly off-sales businesses who were not currently obliged to gather this data. Furthermore, premises were reluctant to disclose commercially sensitive information.

The square footage based system was thought to be more proportionate and fairer to smaller businesses, however a system based on square footage was considered to be difficult for Licensing Boards to administer, while not necessarily equating to the amount of alcohol sold e.g. in the case of department stores.

Overall, a substantial majority of Licensing Board survey respondents and stakeholder interviewees favoured modification of the existing system based on rateable value.

1 INTRODUCTION

- 1.1 The Scottish Government commissioned this review of alcohol licensing fees to establish the current fees collected and costs incurred by Local Authorities, evaluate the current fees regime as well as potential alternative options, and consider stakeholder views on the current fee structures and possible other options.
- 1.2 The overall aim of the research was to inform policy decisions over whether and how to reform the alcohol licensing fee regime.

Origin of the Alcohol Licensing Fees

- 1.3 The Licensing (Scotland) Act 2005 s136 enabled Scottish Ministers to make provision for the charging of alcohol licensing fees by Licensing Boards in a range of situations such as applying for premises licences/paying annual fees, applying for personal licences, occasional licences, and transfer or variation of licences.
- 1.4 Licensing Boards are empowered to set their own fees as long as they do not exceed the maximum limits outlined in the Licensing (Fees) (Scotland) Regulations 2007. The fees are intended to reflect the Scottish Government's intention to make the system self-funding i.e. to cover both direct and indirect costs incurred by Licensing Boards. As stated in the Licensing (Fees) (Scotland) Regulations 2007 s13:

“a Board is to have regard to the desirability of ensuring that the total fees payable under these Regulations to that Board in respect of any period are likely to be broadly equivalent to the expenses incurred by the Board and the council for the area of that Board, in administering the Act generally during that period.”

- 1.5 Most of these fees, such as those charged for occasional licences or variations, are the same for all licensees regardless of the size of their business. Premises applications/annual fees are linked to the business's rateable value, with a number of exceptions such as Members' Clubs, visitor attractions etc., detailed in the Licensing (Fees) (Scotland) Regulations 2007 s4.
- 1.6 In addition to the initial payment for premises licence applications, personal licence holder qualification etc., it is a mandatory condition of the premises licence that holders pay an annual fee to ensure that the system is sufficiently resourced. Licensing Boards are empowered to set their own annual fees for premises licences, as long as they do not exceed the maximum limits outlined in the Licensing (Fees) (Scotland) Regulations 2007.

Issues with the Alcohol Licensing Fees Regime

- 1.7 Since the fees regime came into effect, in 2009, a number of concerns have been raised by stakeholders who questioned how proportionate and fair the fees regime is. It has been suggested by some stakeholders that small and medium sized premises pay disproportionately high fees relative to larger

premises. However, others have proposed that the size of the premises should not impact on the premises licence fee, as applications arguably take a similar amount of resources to process regardless of the size of the premises.

- 1.8 In 2010, the Regulatory Review Group (RRG)¹ carried out a review of the Licensing (Scotland) Act 2005, which focused on fees and the cost of applications. One of the recommendations in this report was that the Scottish Government review whether a fees regime based on rateable value is the best scaling factor for the banding structure used for calculation of licensing fees for premises licences/annual fees, as well as consider other options that may be more suitable.

Review of the Alcohol Licensing Fees Regime

- 1.9 In response to these stakeholder concerns and the RRG recommendations, in October 2011, the Cabinet Secretary for Justice announced plans for an independent review of alcohol licensing fees. This research project was commissioned to provide independent analysis to support this review.
- 1.10 The remit of this research project was set by a steering group made up of representatives from the on and off trade as well as local authorities. The group's role is to set the parameters for research to be carried out by an independent contractor, to act as an advisory group to the contractors, and, based on the findings, to make recommendations to Scottish Ministers about the fees system and the level of fees.
- 1.11 The aim of the research was to evaluate the current alcohol licensing fees regime and consider the efficacy of other potential structures to inform the Scottish Government's proposed reform of the fees regime. The research had three main objectives:

Establish a factual baseline

How much income do Licensing Boards currently receive from the range of alcohol licensing fees? How much does it cost Licensing Boards to run the licensing regime? Do the boards achieve full cost recovery of direct and indirect costs? If additional funds are made, are these finances ring-fenced?

Evaluate the current fees regime

Do stakeholders feel that the current system is fair and proportionate to all sections of the trade? Which of the current fees are most/least appropriate? What are the advantages and disadvantages of the system?

¹ The Regulatory Review Group (RRG) was set up in December 2004 to examine the issue of regulation. This independent group is made up of representatives from all of the main business organisations in Scotland. The Group's work involves identifying regulations that are causing business concern, formulating a strategic approach and investigating areas for review.

Evaluate these potential alternative options for premises licence applications / annual fees

Are the proposed alternatives below workable? Do stakeholders feel that they are fair and proportionate to all sections of the trade? What are the advantages and disadvantages of the alternatives?

- A turnover-based system
- A system based on square footage of the premises (as well as considering whether this should reflect the size of the alcohol display area as a proportion of the total square footage of the premises)
- Revision of the existing system by, for example, adding extra bands, adjusting the existing bands, introducing potential discounts for some licensees such as small businesses/tourist attractions, etc.

Report Structure

1.12 The remainder of the report presents the study findings in the following chapters:

- Methodology;
- Legislative Review;
- Factual Baseline and views on the current system;
- Views on a Turnover Based Alcohol Licensing Fees System;
- Views on a Square Footage Based Alcohol Licensing Fees System;
- Views on the Alternative Alcohol Licensing Fees Systems;
- Conclusions.

2 METHODOLOGY

2.1 An approach was developed to meet all of the research aims and objectives stated in the study brief. The methodology is summarised below.

Legislative and Document Review

2.2 One of the first tasks was to carry out a review of relevant legislation and other significant research in the field. From this understanding of the operating context a scoping exercise was then undertaken with two local authority Licensing Board staff to ensure a full understanding of the types of data available and those datasets that would provide the most meaningful insight into current delivery and operation of alcohol licensing fees in Scotland.

Survey of Licensing Boards

2.3 The data collection phase crucial to the establishment of a factual baseline and a key tool in the methodology was an online survey of (and financial data collection from) licensing boards.

2.4 An online survey was sent to 47 email addresses for Licensing Boards provided by the Scottish Government. Two emails „bounced“ due to incorrect addresses. Survey responses were tracked and three email reminders sent encouraging respondents to complete the survey. After ten days all those within the survey population who had not yet accessed the survey were called by telephone to establish whether contact had been made with the most relevant person. This exercise and a number of calls from Licensing Board staff resulted in 11 email addresses being deleted and 4 email addresses being added. Further reminders were sent and extensions to the survey closing date were granted on a number of occasions. The survey ran from 28th February until 25th April 2013.

2.5 Survey responses were received from all 32 Local Authority areas. While a number of Licensing Board Subdivisions exist, survey responses were received from Local Authority boundaries rather than Licensing Board Subdivision boundaries.

2.6 Those people who completed the survey at the Licensing Boards covered a broad range of occupations including:

- Clerk to the Board/ Depute Clerk to the Board (8);
- Head of Legal Services/ Chief Legal Officer/ Legal Services Manager/ Legal Manager/ Legal and Procurement Manager (8)/ Chief Solicitor/ Principal Solicitor/ Senior Solicitor (6)/ Managing Solicitor – Licensing/ Solicitor Licensing/ Paralegal/ Legal Clerk;
- Regulatory Services Manager/ Principal General Services Officer;
- Service Manager Licensing/ Consumer Protection Manager/ Licensing Services Team Leader (2)/ Licensing Standards Officer;

- Development and Information Officer (2)/ Administrative Assistant/ Licensing Administrator (3).²
- 2.7 Those responding to the survey were, in the main, at a senior level within each Licensing function, with over two thirds of respondents being Clerk or Depute Clerk to the Licensing Board, Senior Solicitors or Senior Managers.
- 2.8 A financial data collection spread sheet was issued in conjunction with the online survey. 18 respondents completed the income spreadsheet but only 15 completed the expenditure spread sheet. Only Aberdeenshire provided any information at Licensing Board Subdivision level (though their expenditure information was at local authority level). All others reported at a local authority level.

Stakeholder Consultation

- 2.9 Semi-structured interviews were conducted with key stakeholders to gauge initial views on current provision of alcohol licensing services and fees. All interviewees were issued with a topic guide in advance of the interview and given the opportunity to review the notes recorded from the discussion. Stakeholders interviewed were:

- Alcohol Focus Scotland;
- Edinburgh Licensing Board;
- Renfrewshire Licensing Board;
- The Law Society of Scotland;
- Scottish Beer and Pub Association;
- Scottish Grocers Federation;
- Scottish Retail Consortium;
- Scottish Licensed Trade Association;
- Wine and Spirit Trade Association.

Stakeholder Case Study Visits

- 2.10 The research team carried out case study visits to a selection of stakeholders to pursue some issues in more detail and to more fully understand how the current licensing system affects a variety of different licence holders as follows:

- Licensing Boards;
- A small pub in an urban area;
- Small pubs and a pub/restaurant in a small town in a rural area;
- An on trade operator with outlets across Scotland;
- A convenience store operator with outlets across Scotland;
- A major supermarket operator with outlets across Scotland.

² Numbers do not total 32 as some respondents provided more than one job title.

3 LEGISLATIVE REVIEW

3.1 The legislation that provides the framework for the licensing fee regime in Scotland is:

- The Licensing (Scotland) Act 2005;
- The Licensing (Fees) (Scotland) Regulations 2007.

3.2 This section sets out the key points from the legislation and discusses important issues in relation to the current and future Alcohol Licensing Fee Structure.

Licensing (Scotland) Act 2005

3.3 The Licensing (Scotland) Act 2005 received Royal Assent on 21st December 2005. The Act made provisions for the regulation of the sale of alcohol, and licensed premises and other premises from which alcohol is sold.

3.4 Licensing Boards are in place for each local authority, and in some cases there are separate Boards for subdivisions of a local authority. Boards must publish a Licensing Policy Statement to meet the requirements of the Act. The Licensing Boards have a duty to assess an overprovision of licensed premises in their area and also to keep a register of information relating to premises licences, personal licences and occasional licences issued by the Board. They must also maintain a record of decisions made in relation to applications and other Board decisions relating to licences.

3.5 The Act required that Local Licensing Forums be established and meet at least annually to keep under review the operation of the Act and functions of the Board locally. Each Council must also appoint a Licensing Standard Officer whose role is to provide information and guidance on the operation of the Act and to supervise premises and occasional licence holders' compliance with the Act.

3.6 In appointing members of a Forum, the relevant council must seek to ensure so far as possible that the membership of the Forum is representative of the interests of persons who have an interest that is relevant to the Forum's general functions, such as:

- holders of premises licences and personal licences;
- the chief constable for the police area in which the Forum's area is situated;
- persons having functions relating to health, education or social work;
- young people;
- persons resident within the Forum's area.

3.7 The Act described the variety of licences covered by the Act that may be issued by Licensing Boards, these are:

- Premises Licences – a licence issued by a Licensing Board under section 26(1) or 47(2) authorising the sale of alcohol on the premises;

- Occasional Licences – a licence issued to the holder of a premises licence, the holder of a personal licence, or a representative of any voluntary organisation ... in relation to any premises (other than licensed premises) ... authorising the sale of alcohol on the premises;
- Personal Licences – a licence authorising the individual to supervise or authorise the sale of alcohol

3.8 The Act also stated that Scottish Ministers may by regulation make provision for the fees to be charged in respect of these licences. These regulations are contained in Statutory Instrument No. 553 Licensing (Fees) (Scotland) Regulations 2007 as described below.

The Licensing (Fees) (Scotland) Regulations 2007 – Scottish Statutory Instruments No. 553

3.9 The Licensing (Fees) (Scotland) Regulations 2007 provided that licensing fees should be determined by the rateable value of the premises. The regulations set out six categories with a separate category for: premises with no rateable value, visitor attractions and clubs, and where the main function of the premises is to provide accommodation.

3.10 The first time a premises applies for a licence, a fee is applicable. Where a licence is in effect, the holder is required to pay an annual fee in respect of that licence. The annual fee payable is determined by the Licensing Board but must not exceed limits set out in the 2007 Regulations. Where a Board charges less than the maximum set out in the Regulations, each fee must be reduced by the same percentage. Each Board should publish appropriate details of fees in their area. The current fee structure is set out in Table 3.1.

Table 3.1 Current Alcohol Licensing Fee Structure

Category of Licence	Application Fee	Annual Fee
	Maximum	Maximum
Category 1 – not entered on valuation roll, no rateable value, nil rateable value, visitor attractions, clubs, provision of accommodation only	£200	£180
Category 2 – Rateable Value between £1 and £11,500	£800	£220
Category 3 – Rateable Value between £11,501 and £35,000	£1,100	£280
Category 4 – Rateable Value between £35,001 and £70,000	£1,300	£500
Category 5 – Rateable Value between £70,001 and £140,000	£1,700	£700
Category 6 – Rateable Value over £140,000	£2,000	£900
	Statutory	
Application to vary premises Licence under 31 (1)	£31	N/a
Application to vary premises Licence – minor	£20	N/a

Category of Licence	Application Fee	Annual Fee
variation		
Occasional Licence	£10	N/a
Extended Hours Licence	£10	N/a
Personal Licence	£50	N/a

Rateable Values

- 3.11 Alcohol licensing fees are based on a properties' rateable value. However not all licensed premises have their rateable values calculated in the same manner, for example some are based on a businesses' turnover whereas others are based on application of the comparative principle.
- 3.12 The following Practice Notes set out some of these bases of valuation and highlight the differences between the on trade and retail off trade.

Scottish Assessors Association – Revaluation 2010, Commercial Properties Committee, Practice Notes

Practice Note 16 Hotels

- 3.13 This Practice Note dealt with the valuation of all classes of Hotels and Country Inns by application of the comparative principle applying percentages to the hypothetical achievable turnover for the main elements of the hotel operation.

Practice Note 17 Valuation of Licensed Premises

- 3.14 This Practice Note dealt with the valuation of licensed premises with the character of Public Houses, Licensed Restaurants and Nightclubs by application of the comparative principle applying percentages of turnover to the adjusted hypothetical achievable turnover.

Practice Note 40 Valuation of Shops

- 3.15 This practice note applied to the valuation of standard shops and subjects occupying shop type premises in retail locations by application of the comparative principle using rates/m² derived from local rental evidence.

Practice Note 13 Valuation of Supermarkets and Superstores

- 3.16 This Practice Note provided guidance with regard to Supermarkets and Superstores by application of the comparative principle using rates/m² derived from the rentals of units of a similar size, character and location.

Review of the Licensing (Scotland) Act 2005 – Regulatory Review Group (June 2010)

- 3.17 The RRG undertook a review of the Licensing (Scotland) Act 2005 to consider the implementation of the legislation, its impact on business, the principles of regulation, and unintended consequences. The RRG recognised that the Act and elements of subordinate legislation were not operating as intended. The main causes for concern fell into three main categories:
- Fees and the cost of applications;

- Application paperwork and processes;
- Review and monitoring.

3.18 The recommendations of the RRG in relation to fees and the cost of applications were:

- The Scottish Government should review whether rateable value is the best scaling factor for the banding structure used for calculating licensing fees for licensed premises;
- Councils should develop a transparent system which allows an examination of the cost of running the Licensing Board and services;
- A high level Alcohol and Licensing Forum should be reintroduced to look at the more strategic and longer term issues around fees, etc.;
- There should be more consistency and transparency in issues around full cost recovery.

4 FACTUAL BASELINE

- 4.1 This section sets out some of the key findings that form the factual baseline. The majority of findings in this section come from the online survey of Licensing Boards.

Premises Licences

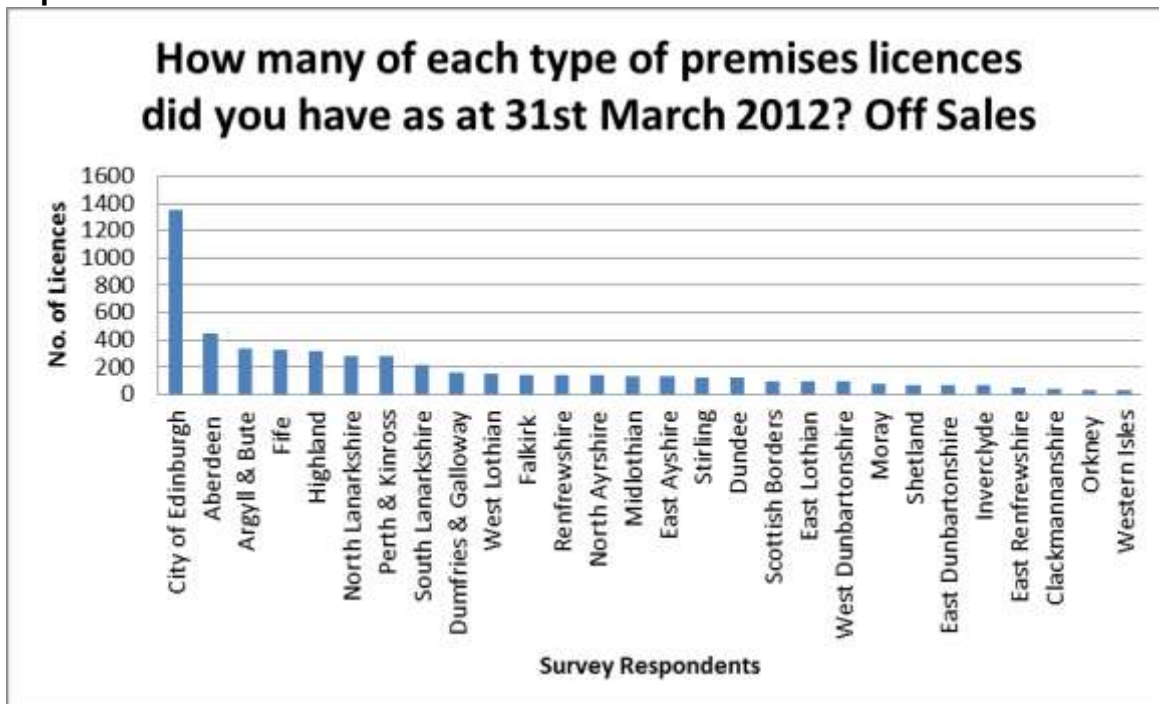
- 4.2 From the survey of Licensing Boards the total number of Premises Licences held (as at 31st March 2012 in the areas of the 28 Boards that provided responses to this question) was 13,609 – this figure comprised 5,536 Off Sales Premises Licences; 6,571 On Sales Premises Licences and 1,502 Members’ Clubs Premises Licences. The average number of each type of Licence across each local authority area was: 198 Off Sales Premises Licences; 235 On Sales Premises Licences and 54 Members’ Clubs Premises Licences (28 responses)³.
- 4.3 Liquor licensing statistics (Scotland): 2011-12 (a National Statistics publication – <http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/PubLiquor>) stated that there were 16,391 premises licences in force on 31 March 2012. This is the total for all Boards across all 32 local authority areas in Scotland and is thus higher than the figure reported in paragraph 4.2.

Off Sales

- 4.4 Graph 4.1 shows the number of Premises Licences for Off Sales ranging from 33 in the Western Isles to 1,351 in the City of Edinburgh (28 responses). If Glasgow had submitted a response, it is likely that its figures would have been similarly high.

³ No response received from Aberdeenshire, Angus, City of Glasgow or South Ayrshire.

Graph 4.1

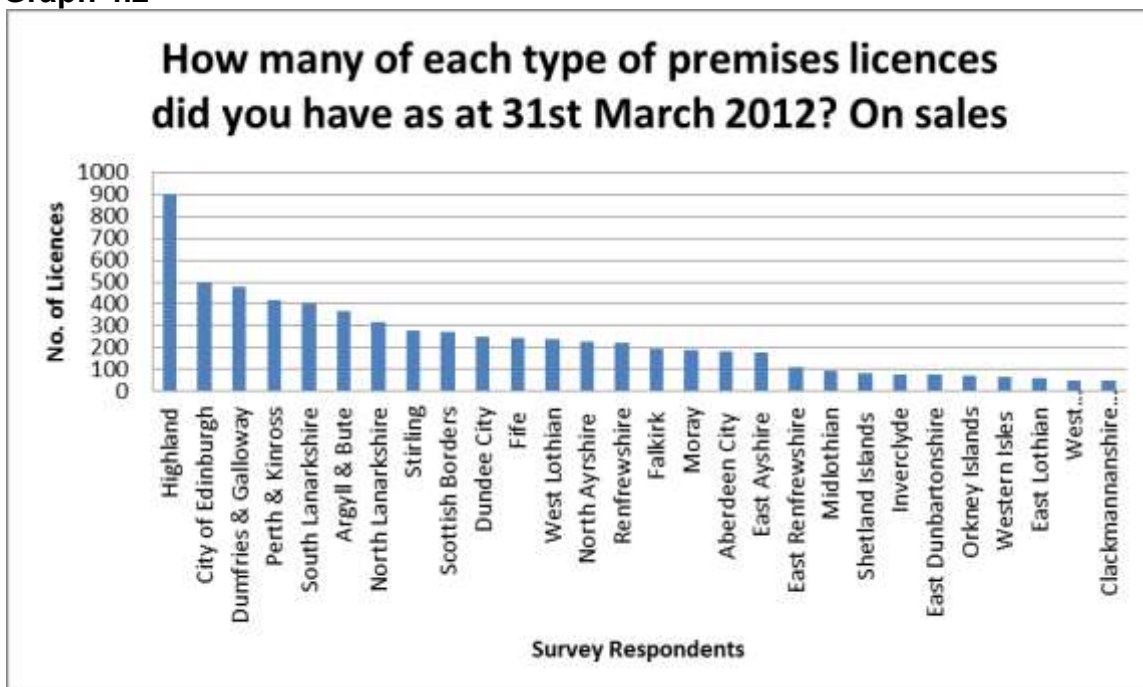


Source: Survey Question 2

On Sales

4.5 Graph 4.2 shows the number of Premises Licences for On Sales ranging from 51 in Clackmannanshire to 902 in Highland (28 responses).

Graph 4.2

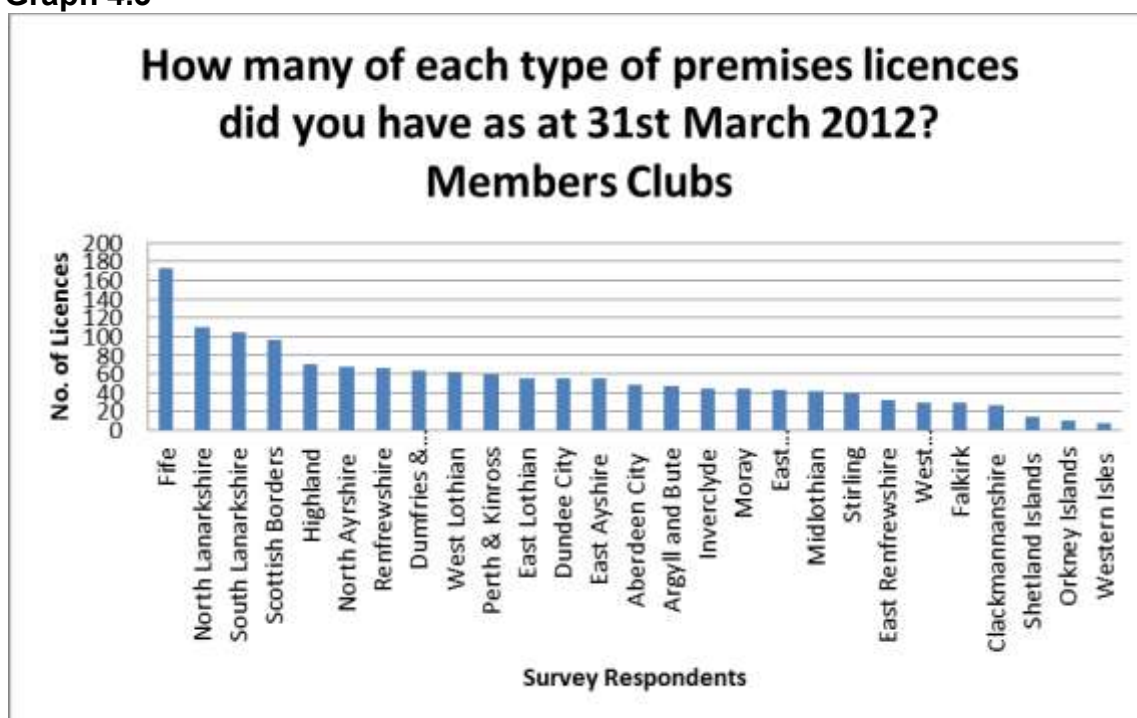


Source: Survey Question 2

Members' Clubs

- 4.6 Graph 4.3 shows the number of Members' Clubs Premises licences ranging from 7 in the Western Isles to 173 in Fife (27 responses).

Graph 4.3



Source: Survey Question 2

Case Study about Members' Clubs

Members' Clubs do not incur any greater use of resources than other types of licence application, but issues have arisen due to the reduced fees paid by Members' Clubs.

An issue raised at the two case study visits and in the scoping exercise visit, and by a number of survey respondents, was that some Clubs have been marketing their premises through press advertising as function venues, something that the Licensing Boards are trying to discourage. Members' Clubs can decide on the content of their own constitution and set out how many visitors each member may sign in – this could be 100 or 200 members, if they so wished. Cases like this mean that Members' Clubs are sometimes perceived to be operating on a commercial basis, some with turnover arguably higher than some pubs.

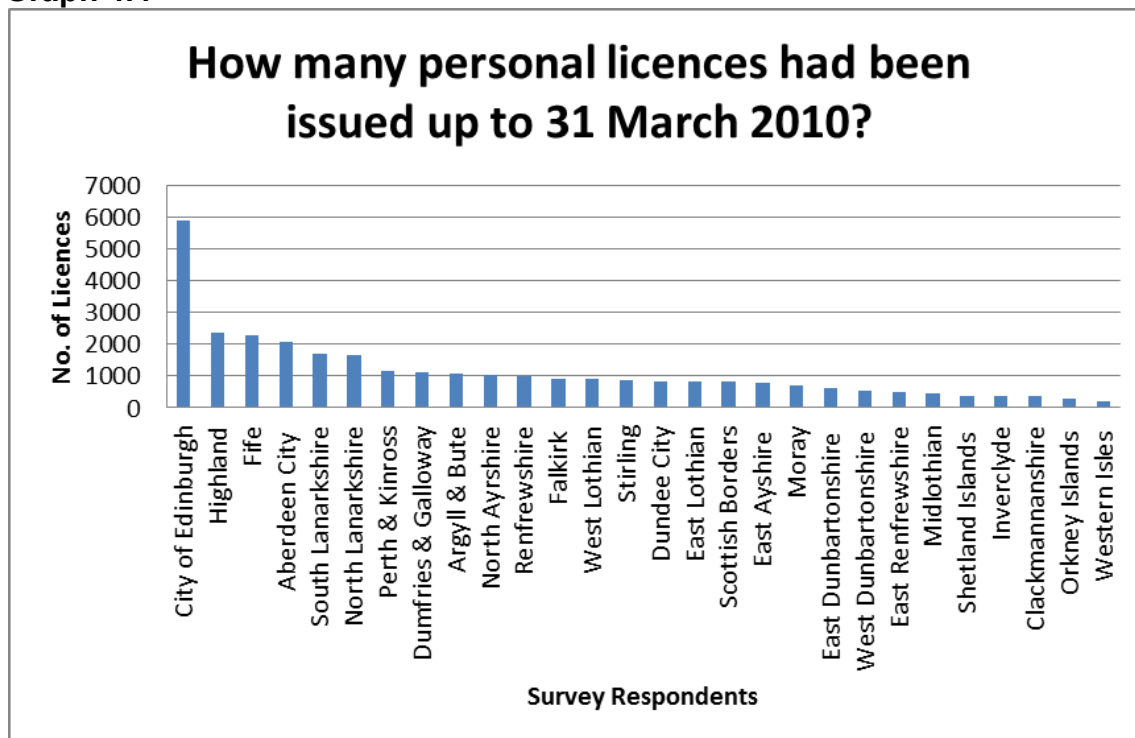
Members' Clubs pay reduced fees and this is seen by some as unfair when they are generating considerable income. The licence fee is disproportionate to the income in these cases, although some Members' Clubs will not operate in this manner.

Another point raised was that Members' Clubs are not required to have a Premises Manager. This can mean that there is no responsible individual who can be held accountable if problems arise with the operation of the Club.

Personal Licences

- 4.7 A total of 31,812 Personal Licences had been issued up to 31 March 2010, an average of 1,136 per local authority area. Graph 4.4 shows the range stretching from a low of 217 in the Western Isles to a high of 5,881 in City of Edinburgh (28 responses).

Graph 4.4



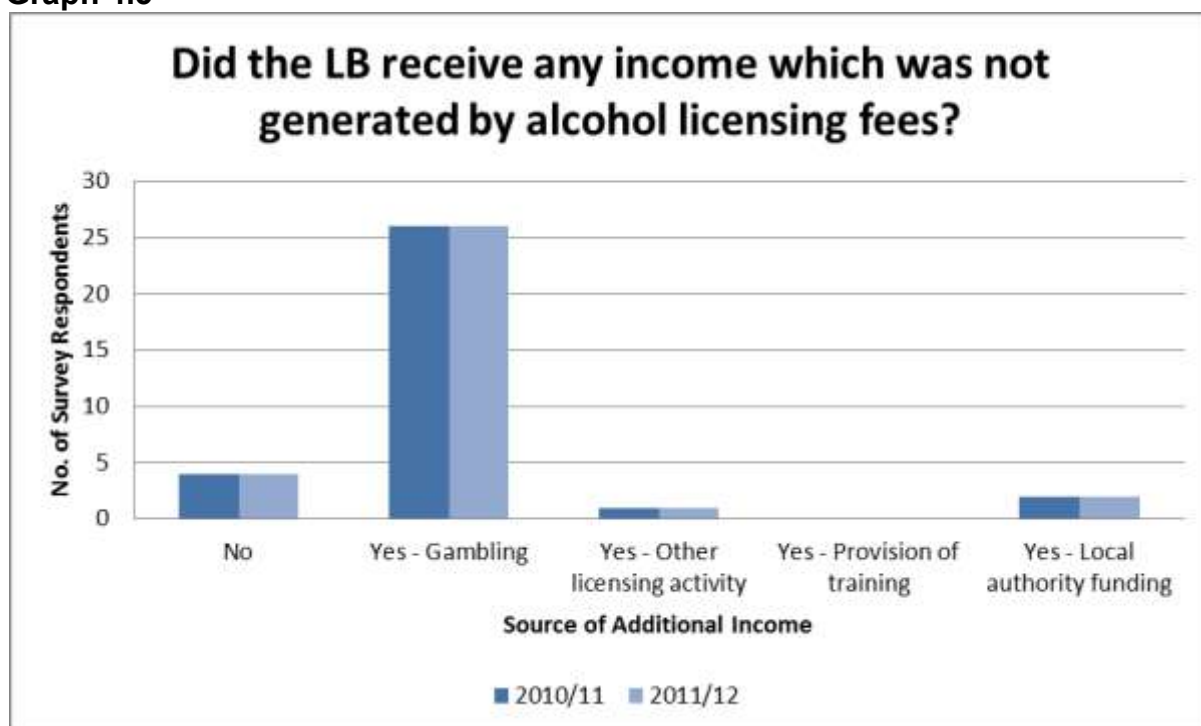
Source: Survey Question 3

- 4.8 The survey asked for numbers of personal licences as at 31 March 2010 because personal licence holders are required to undertake training every five years and produce to the Board evidence of having done so. In the financial year 2014-15, Licensing Boards will experience a peak in workload in connection with collecting this evidence for all those who gained a personal licence in the first year of operation of the new system, 2009-10.
- 4.9 Liquor licensing statistics (Scotland): 2011-12 stated that there were 46,701 personal licences in force on 31 March 2012. However, as there is a relatively high turnover of staff in the licensed trade, the number of active personal licence holders is likely to be substantially smaller than this. Licences last for 10 years irrespective of whether they are in use.

Licensing Board Income

- 4.10 Graph 4.5 shows income received by Licensing Boards in addition to that generated through Alcohol Licensing Fees during 2010/11 and 2011/12. During both years, 26 authorities collected income from Gambling, two received local authority funding, while one collected income from „other licensing activity“ (30 responses).

Graph 4.5



Source: Survey Question 4

- 4.11 Income generated from Alcohol Licensing Fees for the 18 Boards that submitted an income spreadsheet totalled £4.66m in 2011/12. About 71% was from annual fees, 18% from variations, transfers and substitutions, 5% from applications, 3% from personal licences, 2% from occasional licences and 1% from other types of licence.
- 4.12 Of the 18 Boards that returned income spreadsheets, 11 charged the maximum fee for applications and for annual fees, one charged the maximum for applications but less for annual fees, three charged less than the maximum for applications but charged the maximum for annual fees, and three charged less than the maximum for both applications and annual fees. Where less than the maximum was charged, the range was from 65% to 85%.
- 4.13 Of the seven Boards that did not charge the maximum for application fees and/or annual fees, six made a deficit and one made a surplus.

Staffing

- 4.14 Respondents were asked to provide an analysis of their budgets in a format that included separate identification of staffing costs. They were also asked whether this budget included all the costs of staff who were involved in any way in the operation of alcohol licensing. If there were staffing costs over and above those in the budget, respondents were asked to provide information that would enable us to estimate these.
- 4.15 11 of 28 survey respondents stated that their budgets did include the costs of all staff, although four of these gave information about staff involved in alcohol licensing whose costs were not included in the budget. It would seem

therefore that the budgets of seven of the 28 respondents include all staff costs but that in the other 21 (75% of respondents) there are staff costs over and above those included in the budget.

- 4.16 Within the smaller group of respondents who provided sufficient information to allow staff costs to be analysed (13) there were three with no additional costs, i.e. their budgets included all staff costs. Across the other 10, including the additional staff costs resulted in an uplift of staffing costs of 125%. Across all of the 13 analysed responses, these „hidden“ staff costs amounted to 42% of total resources.
- 4.17 According to Liquor licensing statistics (Scotland) 2011-12 there were 63.6 full-time equivalent licensing standards officers employed in Scotland at 31 March 2012.

Licensing Board Surplus and Deficit

- 4.18 Five local authorities reported a surplus on their licensing fees account as at 1st April 2012. In two cases this was held as ring-fenced for the Board, in two others it was used by the local authority. The fifth respondent did not know how the surplus was used. The two respondents whose surpluses were ring-fenced reported that they were to be used for the on-going administration of the licensing scheme, especially where staff costs were increasing when fees were fixed. One respondent specifically identified the purchase of an improved IT system.
- 4.19 Seven local authorities reported a deficit, nine stated that the balance was zero and seven respondents did not know. One noted that, if there were a surplus, it would be ring-fenced and would be used on Licensing Policy Statement Consultation, participation in local initiatives, and promoting Licensing Objectives.
- 4.20 Of the 15 authorities that supplied both income and expenditure spread sheets, 10 did not cover the costs shown in the expenditure spread sheet with fee income, while five appeared to make a surplus. After estimating „hidden“ staff costs, two of these five appeared to have made a surplus overall and another was close to breaking even. One of those that made a surplus charged the maximum for annual fees but less than the maximum for application fees. The others that appeared to be in, or close to, surplus charged the maximum for both applications and annual fees.
- 4.21 In addition to evidence provided through the spreadsheets, which demonstrates that the majority of those Boards were not covering their costs with their fee income, the results of an internal exercise carried out by a Council that was not one of the 15 to provide expenditure data were also submitted. This demonstrated that their income from alcohol licensing fees covered just 56% of the associated costs.
- 4.22 To develop an approximate overall deficit figure for Boards across Scotland an estimate of the hidden staff costs was first added to the reported figures for the 15 Boards. This brought the total expenditure of the 15 Boards to £6.1m, which equates to an average of about £673 per premises licence, with a range

from £271 to over £1,200. Multiplying this average by the total number of premises licences in Scotland would indicate that total expenditure, across Scotland, was about £9.5m. This compares with a similarly estimated fee income of about £6.9m. Fee income therefore covered about 72% of costs and the overall deficit incurred was in the order of £2.6m.

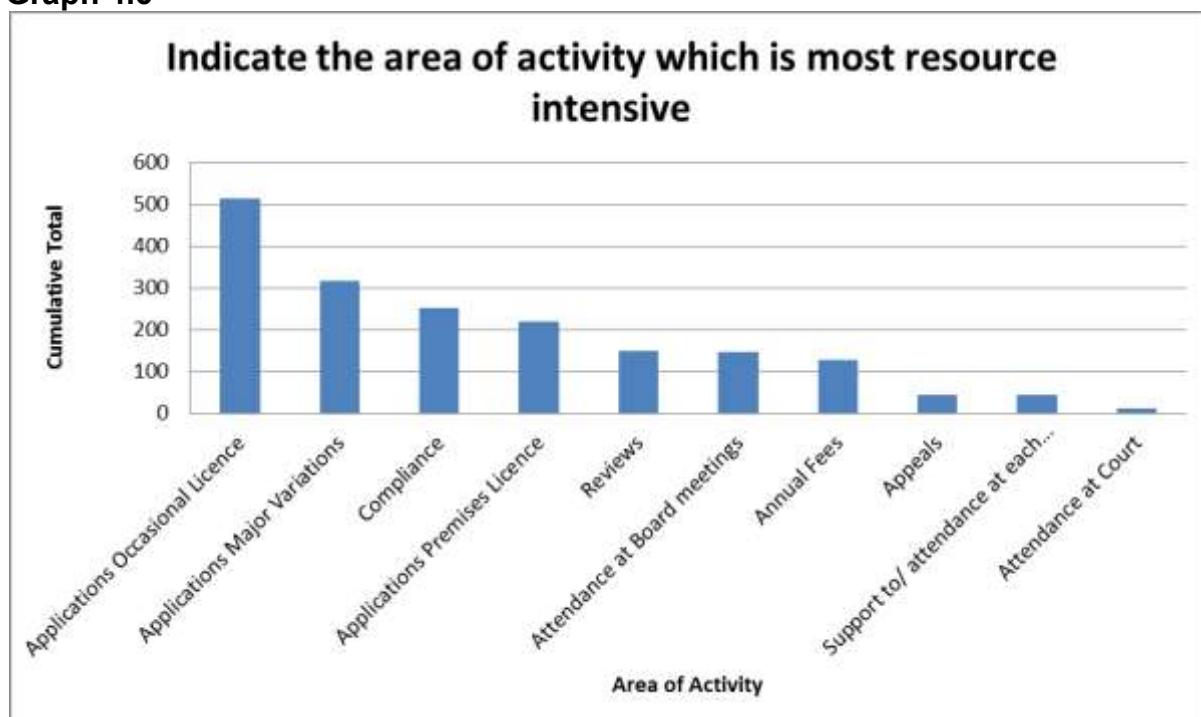
- 4.23 Because premises licenses are only part of the work of Boards this method of grossing up is not accurate but it provides an indication of the order of magnitude of the deficit across Scotland. There are also other reasons why these figures have to be treated with some caution. Treatment of overheads such as property costs, IT and other support services varied between Boards. Although they were asked to include an estimate, some Boards were not able to and others expressed some concern about the accuracy of the estimates they had provided. Having fewer than 15 sets of information, some of which were not reliable, did not provide a robust basis for estimating support service costs across other Boards.
- 4.24 Critically, basing a grossed up estimate for the whole of Scotland on just 15 sets of information, even if those 15 had been entirely reliable, could be open to challenge, especially since some of the larger authorities have not submitted data and have therefore not influenced the results.

Most Resource Intensive Activity

- 4.25 Survey respondents were asked to indicate which areas of activity were most resource intensive. Each respondent allocated a percentage of overall activity to each of the following categories:
- Applications Premises Licence;
 - Applications Personal Licence;
 - Applications Major Variations;
 - Applications Minor Variations;
 - Applications Occasional Licence;
 - Applications – all other;
 - Annual Fees;
 - Compliance;
 - Reviews;
 - Appeals;
 - Attendance at Board meetings;
 - Attendance at Court;
 - Support to/ attendance at each Local Licensing Forum.

The analysis has shown that the activity most frequently cited as the most resource intensive was Applications for Occasional Licences. This can be demonstrated through the use of cumulative totals as shown in Graph 4.6.

Graph 4.6



Source: Survey Question 17

- 4.26 The second most resource intensive activity as shown by cumulative totals was Applications for Major Variations. While no respondents indicated that this was the outright most resource intensive activity, seven respondents indicated it was first equal to another activity.
- 4.27 The third most resource intensive activity was indicated to be „Compliance“⁴. Six respondents thought that this was the most resource intensive activity, while two thought it was the second most resource intensive. The remainder of respondents ranked compliance far lower in this respect.
- 4.28 Those areas that respondents indicated were the least resource intensive were: Attendance at Court, Support to/ Attendance at each Licensing Forum; and Appeals (30 responses).

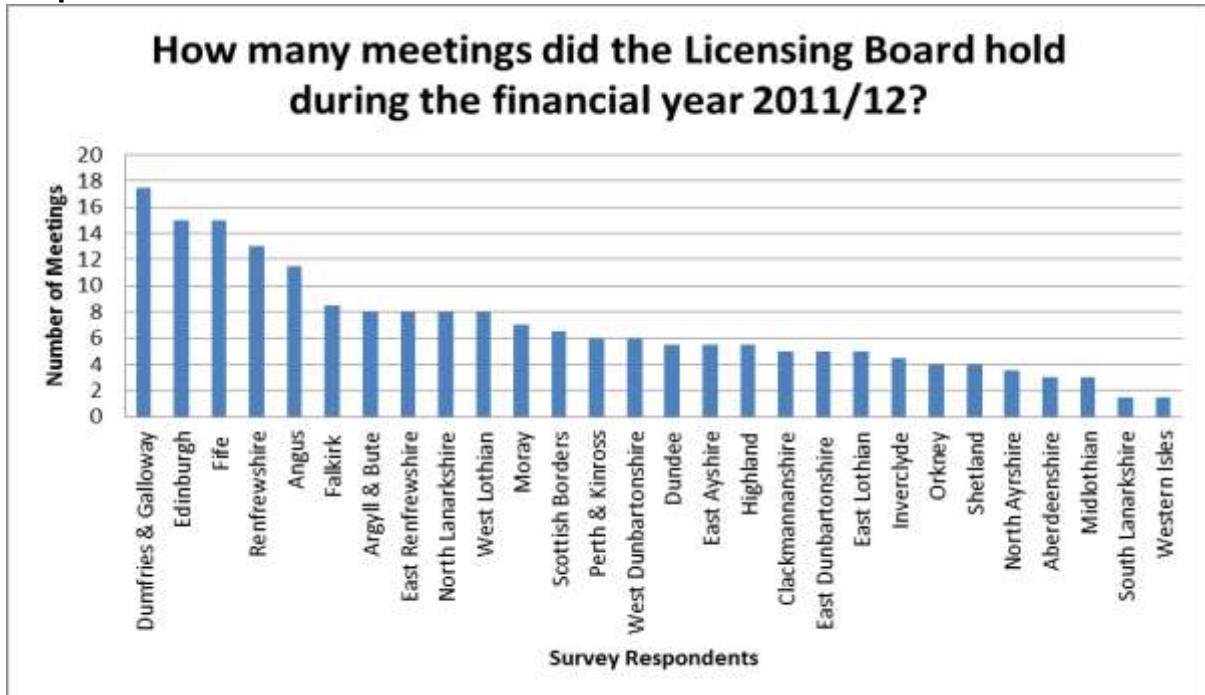
Meetings of the Licensing Board

- 4.29 An average of 15 full days each year was said to be spent by each Licensing Board in attending Licensing Board meetings each year. This ranged from 1.5 days in the Western Isles and South Lanarkshire to 15 in both Edinburgh and Fife, and 17.5 in Dumfries and Galloway. Three respondents (Argyll & Bute, Moray and Renfrewshire) only held full day meetings and these ranged from seven to 13 meetings per year; 16 respondents only had half day meetings and these ranged from three (Western Isles) to 35 (Dumfries & Galloway) meetings per year; nine had both half day and full day meetings and the number of meetings ranged from two (South Lanarkshire) to 19 (Edinburgh)

⁴ 2005 Act s14: supervising the compliance by the holders of (i) premises licences, or (ii) occasional licences, in respect of premises in the area with the conditions of their licences and other requirements of this Act.

per year. There was no evidence of correlation between the number of premises licences issued and the number of Licensing Board meetings held (30 responses).

Graph 4.7



Source: Survey Question 18

Forward Planning – Workload

4.30 Respondents were asked if they made any future projections of workload – 57% did, 33% did not and 10% did not know (30 responses).

Forward Planning – Financial

4.31 Less than one third of respondents (26%) had a forward financial plan beyond the 2013/14 budget, 54% did not have such a plan, while 20% did not know if such a plan was in place (30 responses).

4.32 Those respondents who did have forward financial planning were asked what they thought the additional workload and costs associated with the five-yearly Personal Licence Holder (PLH) refresher would be. There is no fee for this process so these will be additional costs for Licensing Boards. Five responses were provided covering the following impacts:

- A large urban authority suggested that there would be an additional burden on the Licensing Section because there would be at least 800 PLHs who will be required to notify the Board that they have undertaken refresher training by December 2014.
- Another large urban authority reported that the PLH refresher may involve the use of agency staff and increased costs associated with postage and reminders.

- While one large, mixed urban/ rural authority had a three-year budget plan, the detail for 2014/15 and 2015/16 had not yet been agreed. They were unable to estimate precise costs of letters to 2,200 licence holders but expected the costs to be absorbed in overall running costs.
- One rural authority indicated that tasks will include: statutory notification to licence holders of refreshment requirement, receiving and checking training certificates, updating training records on internal records and national databases, reissue of amended licence.
- An influx of further grant applications for licence holders who do not meet the requirements for refresher training was expected by one rural authority.

Local Licensing Forum Costs

- 4.33 When asked about annual costs of the Local Licensing Forum (see paragraph 3.5) during 2011/12, 30 respondents completed the question and 29 completed the question for 2010/11. For 2011/12, 15 of the 30 respondents said that this information was „not known“, „not applicable“ or did not enter meaningful data. Of the 15 who were able to provide Licensing Forum costs five were estimates or approximate figures. Licensing Forum costs were shown to range between £261 in a large Board and £24,500 in a smaller Board. Similar levels of responses were provided for 2010/11 and the figures during this year ranged from £322 to £21,000. Based on this data it was not possible to extrapolate total costs across Scotland (29 responses 2010/11; 30 responses 2011/12).
- 4.34 Of the 15 expenditure spread sheets returned, five stated that their expenditure figures included local forum costs, six stated that they did not, one stated that local forum costs were zero, while one stated that they did not have the information and two respondents did not provide the information.

5 CURRENT ALCOHOL LICENSING FEE STRUCTURE

5.1 This section sets out the key findings in relation to Stakeholder and Licensing Board staff views on the current alcohol licensing fee structure.

Important Elements of Any Licensing Fee Structure

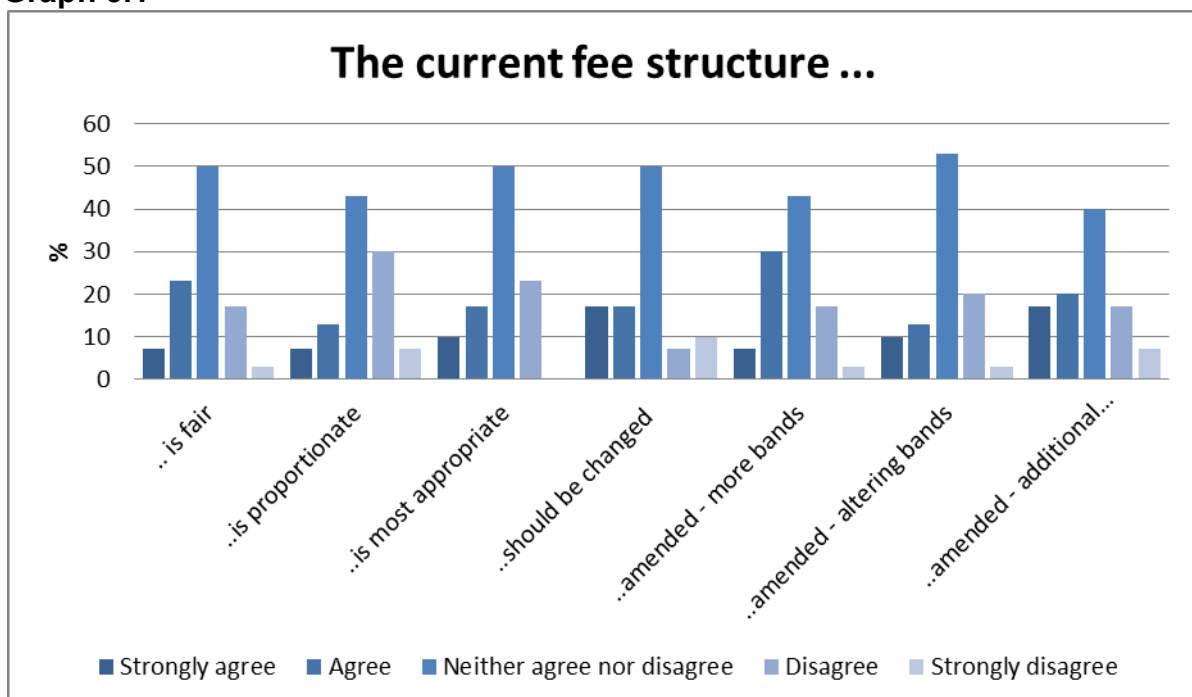
5.2 In an open question survey respondents were asked what they considered the five most important elements of any Licensing Fee Structure. The most common response was „Cost Recovery“, with 20 of 26 respondents citing this element. The other most commonly mentioned elements for any Licensing Fee Structure were:

- Fairness (14);
- Easy to understand (8);
- Proportionate to the work required (7);
- Transparency (6);
- Affordability (4).

Current Fee Structure

5.3 Survey respondents were asked to indicate their level of agreement with a number of statements. Answers were: Strongly agree; Agree; Neither agree nor disagree; Disagree; or Strongly disagree. Responses are shown in Graph 5.1.

Graph 5.1



Source: Survey Question 24

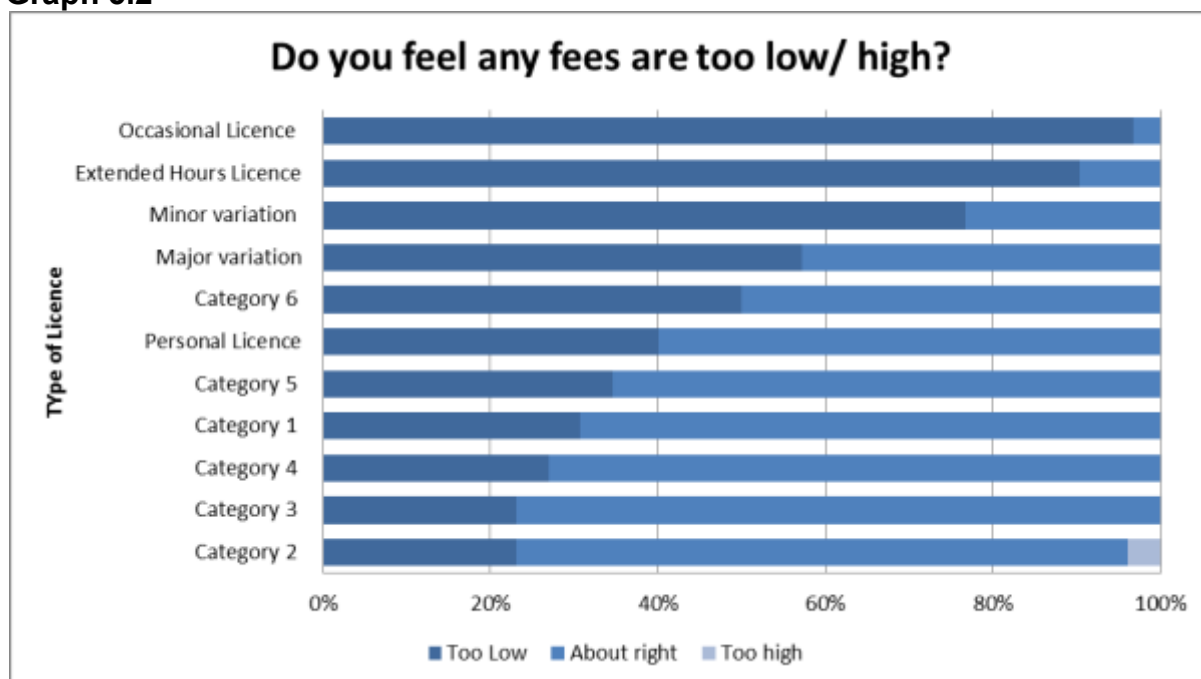
5.4 30% of respondents agreed or strongly agreed with the statement „the current alcohol licensing fee structure is fair“, while 50% neither agreed nor disagreed and 20% disagreed or strongly disagreed.

- 5.5 When asked to state their level of agreement with the statement „the current alcohol licensing fee structure is proportionate across all parts of the sector“, 20% of survey respondents agreed or strongly agreed, 43% neither agreed nor disagreed and 37% disagreed or strongly disagreed.
- 5.6 Just over a quarter (27%) agreed or strongly agreed with the statement „The current alcohol licensing fee structure is the most appropriate structure“, 50% neither agreed nor disagreed and 7% disagreed.
- 5.7 When asked to indicate their level of agreement with the statement „The alcohol licensing fee structure should be changed, one third (33%) agreed or strongly agreed, while 50% neither agreed nor disagreed and 17% either disagreed or strongly disagreed.
- 5.8 A number of stakeholder interviewees favoured the current system while acknowledging it is open to some improvements. The principle of cost neutrality was supported. It was felt that there is a need to tighten up on financial reporting so that cost and income of Licensing Boards can be subject to proper scrutiny. Stakeholders also thought that there is inconsistency of reporting of income and costs between Licensing Boards.
- 5.9 Stakeholders thought that multi-locational businesses encountered wide variations in fees and that the administrative burden and level of engagement with the LSO depended on where they sought a licence.
- 5.10 One stakeholder believed there to be a perception that „larger retailers can afford it“ when fees are increased – indicating that such attitudes do not take account of the difference between turnover and profit, tight margins and fiercely competitive operating environments.

Current Fee Levels

- 5.11 Responses to whether fees were felt to be too low or too high are shown in Graph 5.2. The vast majority (97%) of Licensing Boards who responded thought that the Occasional Licence fee was too low considering the amount of work carried out by local authorities, 90% thought the Extended Hours Licence fee was too low, 77% thought the Minor Variation fee was too low, and 57% thought the Major Variation fee is too low. The other licence categories were, in the main thought to be „about right“ in terms of fee levels by the majority of Licensing Board respondents. Only one respondent thought one category fee level was too high – this was the Category 2 fee level.

Graph 5.2



Source: Survey Question 28

- 5.12 Stakeholders who were interviewed believed that local authorities charged the maximum fee permitted. Others stated that there was no consistency and no definition of what should be classed as each type of licence. This was particularly thought to be the case in relation to Major Variations with very different charges being applied.
- 5.13 In the main, stakeholders accepted that as traders they must pay for administration of the system. Some did not feel, however, that they get an appropriate level of service for this fee. Some licence holders stated that they never saw an LSO, but would expect a courtesy call, or some level of relationship with the LSO. There was an assumption amongst licence holders that LSOs were out talking to licence holders all the time, but there was a lack of knowledge about what they actually do.
- 5.14 Where LSOs were visible, they were said to work well, offering advice and operating in a conciliatory, non-authoritative manner.
- 5.15 It was highlighted that fee levels were set six years ago and have not been subject to any increase since then. A number of fees were also thought to have been set too low at the outset. In particular, fees for Occasional Licences and for extended hours were said not to cover costs.
- 5.16 The fee for a provisional licence was thought to need clarification – if there is a new build then no Rateable Value will be allocated to the premises and the argument has been made that because there is no Rateable Value, there is no further fee due – which is perhaps not what was intended by the Act.

- 5.17 Dissatisfaction with the current system was expressed due to its perceived disproportionality. It was highlighted that the average convenience store would fall into Band 3 and pay a fee of £1,100 while the largest supermarket would pay less than double, £2,000. It was suggested that additional bands may be an improvement to the current system in relation to disproportionate banding.

Case Study of Small Pubs and a Pub/Restaurant in a Small Town in a Rural Area

Hours are Sunday 1230 – 0030; Mon – Thurs 1100 – 0030; Fri & Sat 1100 – 0130 with extensions for holidays, e.g. Christmas and New Year period. The pub is a bar in a terrace block run by one staff member except on Friday and Saturday nights. Turnover has been pretty steady for a number of years. The pub lounge is a venue for the older patron and has steady business throughout the day. Turnover has been pretty steady for a number of years. Beer sales in both outlets have been steady from last year to this year and turnover has stayed about level but profits are down since costs are up.

The bar/restaurant was refurbished in 2007. Initially turnover rose but was then hit by the 2008 crash and dropped, and is now fairly steady. The bar is for a younger clientele and is quiet during the day, getting busy only later at night. Business is tight. In the restaurant, input costs of food are increasing, some quite dramatically, staffing costs are also high but prices charged have to be kept low to get business.

The owner believed that £220 for the annual fee is excessive. Under the old system a three-year licence cost £94.

The owner did not see a square footage based system being workable and would prefer a turnover based system. It was recognised that there would be issues with fluctuations in turnover from year to year but for most premises fluctuations would likely be minor, and that taking an average of three years turnover could overcome any such issue.

Cost Recovery

- 5.18 The vast majority of stakeholders made reference to the European Services Directive and the principle of cost recovery in the administration of Alcohol Licensing. The 2005 Act was also mentioned in this context. Stakeholders indicated that they supported the principle of cost recovery but only where reporting was transparent and accountable. Survey respondents and stakeholders interviewed were in favour of licence holders paying for administration costs.
- 5.19 It was suggested by some survey respondents and stakeholders that fees should be ring-fenced and surpluses used to drive down fees overall. Within this, stakeholders discussed whether it cost more to administer a licence to a large retailer than it did a small retailer and if this was the case then the fee should reflect this.

- 5.20 A common theme among stakeholders was the belief that Licensing Boards were profiting from the administration of alcohol licensing fees. However, the data showed that this was not the case.
- 5.21 The view was expressed that it is difficult to cost the administration of licensing fees as many staff and costs provided by the Council would have to be apportioned to the licensing fee. It was also highlighted that licensing processing is only one element of the work of licensing staff – other tasks include: guidance to applicants, enforcement activity, and reviewing the alcohol licensing policy. Accurate time recording would be required to quantify the processing element.
- 5.22 Some stakeholders also thought that, if fees were based on administration costs, there should be a national standard to avoid local variations in fee levels. Additionally, it was suggested that centralised control was required with streamlined administration and a national IT system.
- 5.23 In terms of cost neutrality it was explained that different applications take different lengths of time and resource input to process, therefore it is impossible for a standard fees based system to achieve cost neutrality at the level of an individual application. It was thus considered that cost neutrality can only be achieved approximately for all licences in any given year.
- 5.24 It was stated that any change to the current fee structure would have the effect of temporarily increasing the workload on existing staff during the transition process and this would have to be taken into account in determining any new fee structure.
- 5.25 One survey respondent raised the issue of licence administration in rural areas, stating that Licensing cannot be self-funding in remote and rural areas when the numbers of licensees would be low, unless fees were set at an unacceptably high level.
- 5.26 One survey respondent stated that there should be no dispensations in fees for Members' Clubs or tourist attractions because it cost the same to process those licences as it did others.

Inconsistencies within the Current System

- 5.27 Inconsistencies within the current system were highlighted by stakeholders interviewed. Some local policies were felt to have introduced unnecessary requirements such as a filling station requiring a separate counter for alcohol sales, layout plans only admissible if prepared by an architect, and some introducing colour-coding of layout plans.

- 5.28 On this issue it was also highlighted that major variations may involve similar resources as a new application, and that fees may not cover the amount of work required. It was noted that licence holders may include a number of issues in one variation application (so that only one fee is applicable). Such an application may require dealing with objections, administering neighbour notifications, liaison with other departments within the Local Authority to obtain for example noise orders, traffic orders or food certificates.

Case Study of Small Urban Pub

The case study pub was a family run, community, tenanted lounge bar. The pub is approximately 8m by 10m (80 sq m) and has a capacity of around 100. There is a garden with six tables and a small function room of approximately 15 sq m with a capacity of around 20. Licensed hours are 1200 – 0000 except Friday to 0100 and Sunday from 1230. The Licensing Board operates a „festive policy“ of blanket extensions to 0100 for December and holiday weekends.

As designated Premises Manager, the tenant pays £50 per month (£600 per year) to the landlord, a pub chain, which deals with all licensing administration. The Licensing Board has set the annual fee at the maximum of £280, which will be the amount paid out by the landlord. The tenant has been informed by the landlord that the excess goes into a „contingency fund“.

The tenant stated that no major variation has ever been applied for in respect of the premises because of the high fee set by the Licensing Board. There is a widely held view in the trade locally that some licensees are not keeping their operating plans up to date because of this cost. It is believed also to represent a restrictive practice in that many people having a new idea to develop their business perceive the cost to change the operating plan to be prohibitive.

The tenant pointed out that rateable values for pubs are based on turnover, with the rateable value of a pub being set on the basis of hypothetical achievable turnover. This differs from the basis of setting rateable values for shops and supermarkets which is based on annual rental values. The tenant stated that this means that there is a lack of comparability between the different types of premises within alcohol licence fee categories and that there should be differential banding for the on and off trades with more, higher bands at the top of the range.

- 5.29 Issues were thought to arise under the current system where there are new premises where a rateable value has yet to be put in place. One Licensing Board stated, “Premises with no allocated Rateable Value can get a commercial licence without paying a reasonable rate – Rateable Value assessed once premises are fit for occupation does not allow the Board to go back for the appropriate fee.”
- 5.30 Category 1 were described as “off the hook” with one stakeholder believing they were effectively subsidised by everyone else. Attention was drawn to Members’ Clubs in particular – while their social value was recognised, it was thought that some now operated on an increasingly commercial basis.

- 5.31 One stakeholder described the current system as “a shambles” with a lack of knowledge of costs and income, Licensing Boards are perceived to “do what they want” and to be “inefficient and over resourced.”

Amendments to the Current System

- 5.32 An option to „amend the current fee structure to include more bands for premises licences/ annual fees” was met with agreement or strong agreement from 37% (11 respondents) of Licensing Board survey respondents, while 43% (13 respondents) neither agreed nor disagreed, and 20% (6 respondents) disagreed or strongly disagreed. When asked if the current alcohol licensing fee structure should be amended by altering existing bands for premises licences/ annual fees, 23% agreed. Also, 20% agreed that the current alcohol licensing fee structure should be amended to introduce additional discounts for some licensees such as small businesses/ tourist attractions.
- 5.33 In relation to current bands stakeholders thought that these should reflect costs incurred. In cases where insufficient income was raised, bands could be drawn out. If banding were to be reviewed, however, the view was expressed that it would be most appropriate to do so in 2017 when business rates are to be reviewed. Stakeholders thought that if there were more bands there could be more work involved in order to determine which band to put a business in.
- 5.34 97% of survey respondents thought Occasional Licence fees were too low given the amount of work that they require. Fees from occasional licences account for just 2% of the fee income reported. However within the main survey, the activity most frequently cited as the most resource intensive was Applications for Occasional Licences. Percentages ranged from 5% of total activity being spent on occasional licences, to 50%. A calculation, which assumes that the percentage of activity equates to the same percentage of costs being spent on that activity, demonstrates that processing an application for an occasional licence cost an average of £90 across the 11 Boards for which there was sufficient data to make the calculation. If the fee were set at £90 rather than £10, the amount of fee income raised by the 18 Boards that returned income spreadsheets would increase by 17.2% and the proportion raised from occasional licences would increase from 2% of the total to 16.5%.
- 5.35 However, an £80 increase in the Occasional Licence fee would likely receive a negative reaction from those who use them. It may also impact on voluntary groups and/or charitable organisations seeking to hold infrequent fundraising functions. A lesser increase may therefore be thought to be more appropriate.

Case Study of Convenience Store Operator with Outlets across Scotland

The operator has over 100 convenience stores in almost all of the 32 local authority areas. The size of store ranges from 400ft² to 7,000ft² and stores are urban and rural. All stores have an Off Sales Licence – the majority of these have held licences for some time. On occasion there may be a new build store which requires a new licence. The retailer undertakes a rolling programme of refurbishment – this may mean relocation of the check-out, or moving the shelf space around. When this is done, layout plans may need changed and a major variation sought. The cost of a Major Variation can be similar to a new licence, while a minor variation costs £31. Each store also has three Personal Licence Holders who are authorised to sell alcohol. This requires a constant stream of training as staff members leave and join the business.

Concerns were raised that local authorities may be making a profit from the administration of licence fees; and it was believed that there were some inefficient local authorities charging as much as they could.

It was thought that with 32 local authorities carrying out the same activities, a centralised Licensing system would be preferred. At present there are different approaches throughout Scotland; for example, one local authority will allow beer stacks while another will not – there are different interpretations of the law by each authority. Overall, it was thought that a system that had less local variation and a central point of administration was needed.

No advantages were identified within the current system. It was felt that the differential between bands was unfair to smaller stores when compared to what the large supermarkets pay. The average convenience store will have weekly alcohol sales that may equate to the hourly sales in a large supermarket, meaning that those with the highest volume of sales are paying less relatively. There was thought to be scope to add bands within the current system to remedy this inconsistency.

- 5.36 It is clear that conflicting opinions about the advantages and disadvantages of the current system reflect conflicting views about its objectives. Stakeholders giving prominence to the fairness objective argued that fees for smaller businesses should be lower and those for larger businesses higher. However, stakeholders giving prominence to cost recovery argued that the size of the business was not relevant to the cost of processing its application.

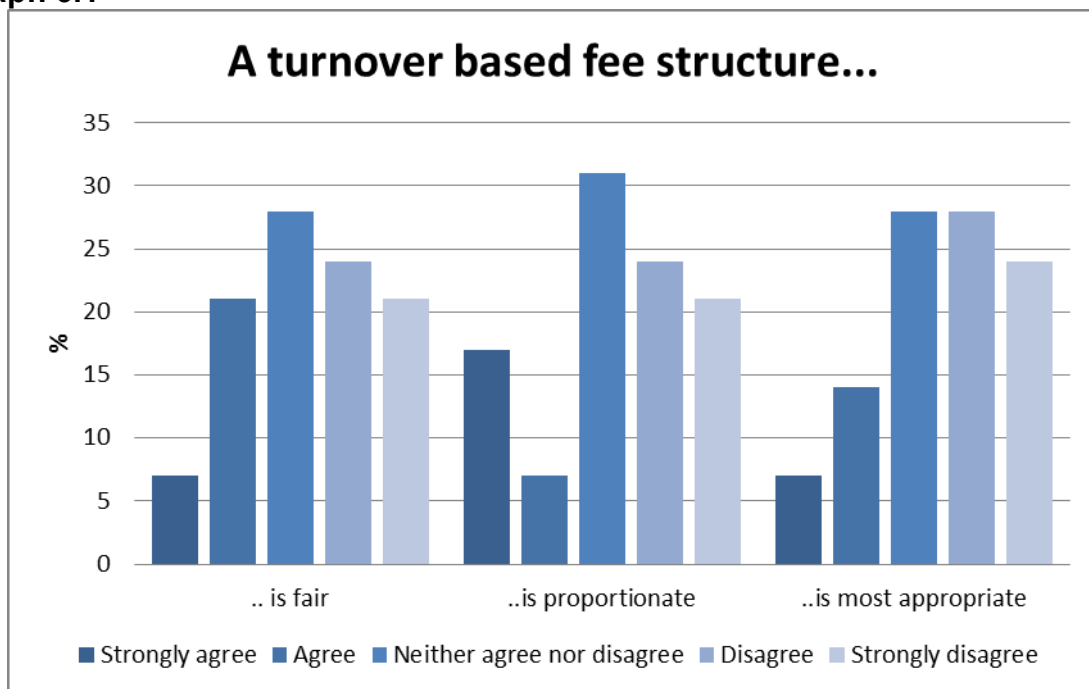
6 TURNOVER BASED ALCOHOL LICENSING FEE STRUCTURE

6.1 This section sets out the key findings in relation to Stakeholder and Licensing Board staff views on a turnover based alcohol licensing fee structure.

Turnover Based Alcohol Licence Fees

6.2 Licensing Board survey respondents were given a series of questions in relation to a turnover based alcohol licence fee structure and were asked to indicate their level of agreement. The responses are shown in Graph 6.1 and discussed in more detail in subsequent paragraphs.

Graph 6.1



Source: Survey Question 29

6.3 When asked if a turnover based alcohol licensing fee structure would be fair, 28% either agreed (21%) or strongly agreed (7%). (30% agreed current system was fair and 20% disagreed.)

6.4 In relation to the statement „A turnover based alcohol licensing fee structure would be proportionate across all parts of the sector“, 24% either agreed (7%) or strongly agreed (17%).

6.5 When asked if „A turnover based alcohol licensing fee structure is the most appropriate structure“, 21% either agreed (14%) or strongly agreed (7%).

6.6 General queries surrounding a turnover based system raised by stakeholder interviewees included whether it would be turnover by value of total sales, turnover by value of alcohol sales, or turnover by volume of alcohol. One stakeholder suggested that this would create an additional administrative burden on businesses. Others raised queries about how a new business would be charged if it did not yet have trading figures. The difference between „dry led“ and „wet led“ pubs was also raised.

Advantages of a Turnover Based System

- 6.7 Survey respondents were asked what the advantages of a turnover based alcohol licensing fee structure were. 14 responses were received and these can be summarised in the following themes:
- Clarity and fairness;
 - Appropriate and reasonable recovery from premises deriving most benefit from sales, those being most profitable, and those with greatest turnover;
 - Greater differentiation between large and small operators;
 - More accurately reflects the ability of the trade to meet the necessary fees.
- 6.8 Positives within the turnover based system were highlighted by stakeholders as: fees would be based on an accurate reflection of sales; and it would be relatively simple to administer.

Disadvantages of a Turnover Based System

- 6.9 Survey respondents were asked what the disadvantages of a turnover based alcohol licensing fee structure were. 20 responses were received and these can be summarised in the following themes:
- Additional burden in preparing/ checking accounts;
 - Potential for movement between bands creating greater administration costs;
 - Difficulties in determining the relevant turnover and evidence required;
 - Difficulties in challenging inaccurate data;
 - Reluctance to disclose commercially sensitive information.
- 6.10 A number of stakeholders were very nervous about a move to a turnover based system. It was felt that this option would be commercially sensitive and suggested that retailers could not be expected to reveal this information. Others suggested that turnover data would have to be certified by an accountant in order to have a fair and transparent system – this would raise issues of whether Licensing Boards have staff qualified to deal with accounting information.
- 6.11 Negatives included the possibility of businesses moving between bands on a regular basis with fluctuations in turnover. Questions were raised about additional administrative costs of a turnover based system. Additional comments included that such an option would penalise success, it would be very difficult to police, and an „industry of avoidance“ would develop.
- 6.12 Reporting timescales and prompt publication of accounts were raised as a potential issue – would delays in publishing accounts lead to delays in fee administration?
- 6.13 Licensing Board respondents thought that the administrative management of a turnover based system would be a major issue for their Board. One respondent suggested, “This would likely be replacing a sound system which might be further honed by an unworkable system which will consume much of the resources which it was designed to collect.”

On Trade Operator with Outlets across Scotland

This company currently has over 300 pubs, and the interviewee believed the biggest issue for the trade to be inconsistencies between different Licensing Boards, of both fees and paperwork/forms. Centralised functions such as Personal Licences would remove the possibility that someone could apply to one Licensing Board, subsequently have the Personal Licence revoked and then apply to another Board and be granted a Personal Licence because that Board would not have knowledge of the first Board having withdrawn the original Licence (although under the current system, the police may bring this to the Board's attention). It was believed that there was a need to cut bureaucracy and increase efficiency.

It was thought that the current rateable value based system was working reasonably well. Everyone can access rateable value information and so the system is transparent. There is an appeals system in place if businesses feel their assessment is wrong. However, the interviewee stated that there was a need to amend how the rateable value based system was applied.

A turnover based system was not thought to be viable. There is no system in place to collect turnover data and questions arise over who would manage any such system if it were to be introduced, how manipulation or fraud could be prevented and who would audit the system. The interviewee believed that a turnover based system could potentially penalise growing businesses and businesses suffering a dramatic downturn through no fault of their own (e.g. as a result of the Edinburgh tram works or building repairs).

Turnover does not necessarily reflect profit. The interviewee believed that high volume/low selling-price off sales businesses would be particularly likely to raise that issue. The interviewee thought that a turnover based system taking account only of liquor sales was thought to be fair to everyone across the sector but would be too difficult to implement and open to abuse.

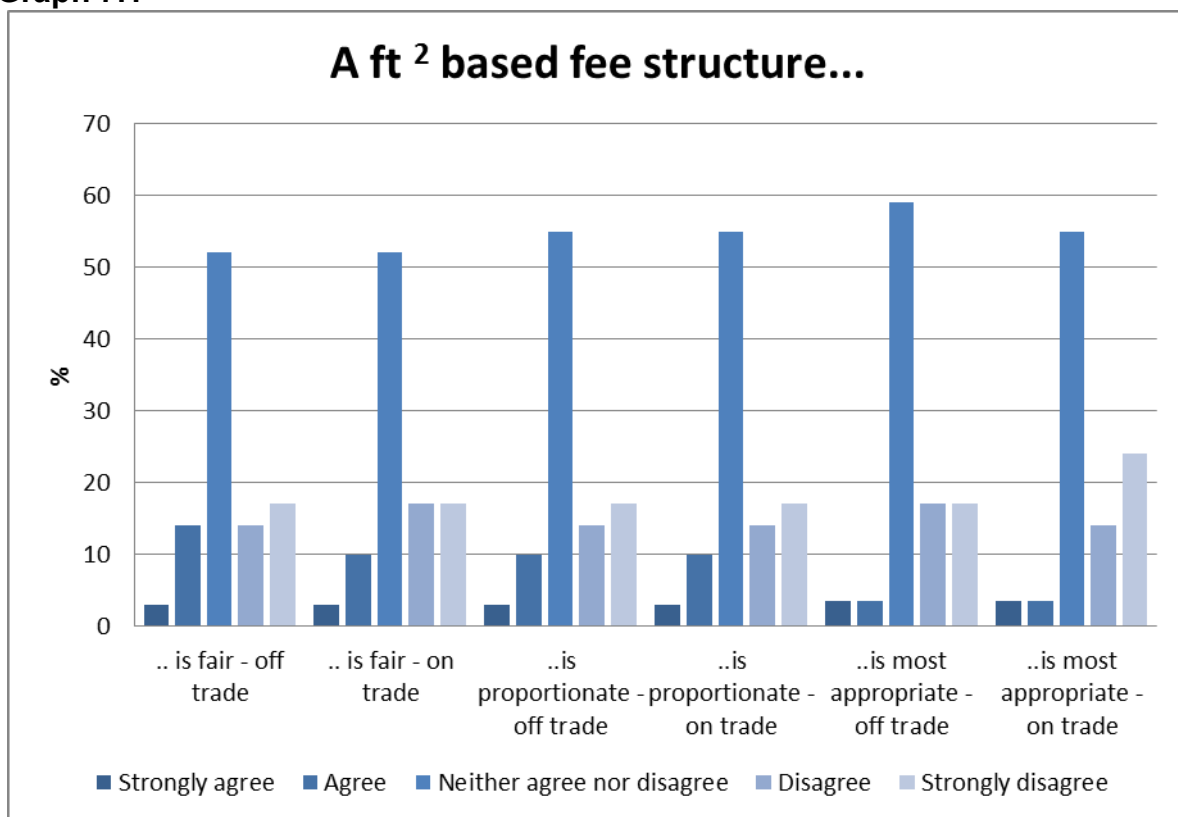
7 SQUARE FOOTAGE BASED ALCOHOL LICENSING FEE STRUCTURE

7.1 This section sets out the key findings in relation to Stakeholder and Licensing Board staff views on a square footage based alcohol licensing fee structure.

Square Footage Based Alcohol Licence Fees

7.2 Licensing Board survey respondents were given a series of questions in relation to a square footage based alcohol licence fee structure and asked to indicate their level of agreement. Questions were posed in relation to both „on trade“ and „off trade“. The responses are shown in Graph 7.1 and discussed in more detail in subsequent paragraphs.

Graph 7.1



Source: Survey Question 33

7.3 Survey respondents were asked to indicate their agreement with the statement „An alcohol licensing fee structure based on the square footage of **off trade** premises would be fair“ – 17% agreed (14%) or strongly agreed (3%). When asked to comment on the same statement in relation to **on trade** premises a slightly lower level of agreement was observed with 14% agreeing (10%) or strongly agreeing (3%).

7.4 When asked whether an alcohol licensing fee structure based on the square footage of **off trade** premises would be proportionate across all parts of the sector 14% either agreed (10%) or strongly agreed (3%). Slightly more respondents disagreed with this statement in relation to the **on trade** – with 31% disagreeing (14%) or strongly disagreeing (17%), while 14% agreed

(10%) or strongly agreed (3%). This statement attracted most levels of agreement in relation to the turnover based system (24% agreement) followed by the current system (20% agreement) and the square footage based system (14% agreement).

- 7.5 The statement „An alcohol licensing fee based on the square footage of **off trade** premises is the most appropriate structure" showed levels of only 7% agreement or strong agreement. The same statement in relation to **on trade** premises showed similar results with 38% disagreeing (14% disagreed, 24% strongly disagreed), 55% neither agreed nor disagreed while 7% agreed (3.5%) or strongly agreed (3.5%).
- 7.6 The statement „An alcohol licensing fee structure based on the square footage of off trade premises should reflect the alcohol display as a proportion of the total square footage of the premises" received 14% agreement.
- 7.7 Research participants overall, were not clear if the square footage of the premises should be calculated as the entire footprint of the premises or the square footage designated for the display, sale or consumption of alcohol. Complications were anticipated if it was the former, as premises such as a cinema complex, health club or a large hotel, which had large square footages and where the primary business (and profit) was not alcohol related would fall into the same category as large nightclubs, national supermarkets and public houses whose sales of and profit from alcohol was substantial.
- 7.8 One stakeholder stated that while they opposed any move to a square footage based system, if such a system were selected, it should use the square footage of the alcohol area as a proportion of the total area rather than the square footage of the alcohol area.

Advantages of a Square Footage Based System

- 7.9 Licensing Board survey respondents were asked what the advantages of a square footage based alcohol licensing fee structure were; their views can be summarised as follows:
- Lower fees for smaller premises/ higher fees for larger premises;
 - Easy to operate;
 - Ties in with health objectives;
 - Links to quantity of alcohol on display and potentially quantity sold;
 - May provide more accurate estimates of the level of alcohol sales than the rateable value of premises.
- 7.10 One stakeholder thought that this system would have no disadvantages. It was thought that any such system should be based on the absolute square footage of the alcohol section of the store. The size of the alcohol area is already recorded in layout plans; information would not need to be audited and is readily available at present.

Disadvantages of a Square Footage Based System

- 7.11 Licensing Board survey respondents were asked what the disadvantages of a square footage based alcohol licensing fee structure were; these can be summarised as follows:
- The size of premises do not necessarily equate to the amount of alcohol sold;
 - This system does not take turnover into account;
 - Over simplistic and unfair;
 - Difficulties in calculating square footage – is it linear, cubic, what about mixed use venues?
 - Square footage does not necessarily correlate with problems of an anti-social nature;
 - Alterations would require recalculation and potential for unauthorised alterations;
 - It would create an unfair burden in requirement for new layout plans;
 - Larger premises may only have a small alcohol display but pay more.
- 7.12 One stakeholder stated that a square footage based system would be unfair as this would subsidise smaller stores if it was based on a system of the percentage of the whole store, and that the system should not be about redistribution from large to small operators. Another stakeholder said that calculation of square footage as percentage of the total store would nullify the point of a square footage based system.
- 7.13 Stakeholders raised issues of the practicality of a square footage based system – in particular if a store were to change the size of off sales displays, it could mean a change of banding whereas at present it would mean a variation application. Additionally supermarkets, corner shops and pubs all charge very different prices for alcohol, and it was not understood how this would be reflected in a square footage based system. It was thought that large premises with low alcohol sales would be unfairly penalised.
- 7.14 Stakeholders thought that any square footage approach would disadvantage those who only trade at or near capacity for a few hours each week. Other problems were envisaged in determining the fee applicable to nightclubs and entertainment venues which are laid out in a very different way from a pub – would the dance floor or stage be included in the square footage? There are currently no distinctions between Members' Clubs, hotels, and tourist attractions – how would this be tackled under a square footage system?
- 7.15 Overall, the square footage based system was thought to be administratively very difficult with a lot of data gathering required.

Case Study of Major Supermarket Operator with Outlets across Scotland

The interviewee represented a multi-site retailer operating stores, which range in size from the convenience store (of around 5,000 ft²) to the hypermarket (circa 100,000 ft²). Each store has a Premises Licence and within each store the law requires that there is one Personal Licence Holder. Company policy means that in larger stores there may be 12 to 20 Personal Licence Holders on the premises at any one time with up to 20 Personal Licence Holders within the full staff complement of that store. Every member of staff employed by the supermarket will have received alcohol and age awareness training.

The current system was thought to be clear in how it functioned and the business had set up internal systems to work within this structure. The current system could be improved through greater transparency in terms of fees raised and Licensing Board expenditure. The principle of a cost neutral Licensing System was believed to be correct. There was thought to be a lack of consistency of approach in some areas, including fee levels.

Questions were raised about alternative structures such as square footage and turnover based systems about how they would work in reality. Issues of fairness in relation to total size of store or total turnover compared to alcohol display areas and alcohol turnover were raised. A turnover based system would have operational difficulties for retailers – who would they entrust with highly sensitive turnover information; how would fluctuations in turnover be accommodated; and what impact would the general downward trend in alcohol sales have on cost recovery for the Licensing Board?

8 ALTERNATIVE ALCOHOL LICENSING FEE STRUCTURES

8.1 Research participants were asked if they had any proposals for alternative alcohol licensing fee structures or suggested amendments to the existing structure. This section sets out the suggestions and comments made by Stakeholders and Licensing Boards, which included:

- The introduction of additional categories at the lower end of the scale;
- A system based on the amount of alcohol sold;
- The Operating Plan of a Premises Licence already has a capacity that has been approved by the Board – it is suggested that the alcohol fee structure is based on this, either in terms of the number of persons for on sales and off sales or the size of the display areas. The capacity measurement would need to be banded, with those premises having a higher capacity in either respect paying a higher fee – exemptions for premises with large capacity but low alcohol turnover (such as cinemas, tourist attractions) would make the fee structure fairer;
- Retain the current structure based on rateable values but with increased flexibility;
- Review the current bandings so that annual fees can be increased to help Boards cover their costs;
- Make other fees subject to a cap rather than a set fee;
- Allow Boards to apply a proportion of rateable value if no separate RV is available for a small part of large premises e.g. college café;
- Licensing Boards should have a statutory requirement to produce an income and expenditure account in order to achieve the required transparency;
- Licensing Boards should establish a Good Practice Forum to share best practice and drive efficiencies;
- The licensing system should be based on the volume of alcohol sold. This information is readily available and a stakeholder commented that commercial concerns should not override the substantial benefits to public health that could derive from the introduction of this requirement.

8.2 Other interviewees raised the issue of linkages between public policy objectives and licence fees. It was felt that there were other tools in place to pursue public health objectives in this area – these included the Public Health Supplement and the potential Social Responsibility Levy.

8.3 In line with the brief a number of alternative options that could be introduced within the current fee structure were also considered. These alternatives are hypothetical rather than evidence-based, some having been raised by research participants, others suggested after detailed examination of the existing system. These alternatives have not been tested or considered by research participants. For each the implications and potential consequences of any change are discussed.

Occasional Licences

- 8.4 The fee level could be raised to more accurately reflect the actual time and resources spent on administration of the Licence. The current fee of £10 is too low to cover costs and it may be appropriate to consider an increase to a flat rate of £50, £75 or £100. The impact of this may be that for simple applications the cost of the Licence exceeds the cost of resources expended, and for more complex applications costs are still not covered. There would need to be more accurate recording of time spent on Occasional Licences to determine the most appropriate fee level to be introduced.
- 8.5 Once actual costs of administration of Occasional Licences are more fully understood there is scope to introduce an upper fee cap, although this would significantly complicate the system as Licensing Boards would be required to justify the costs charged for each Licence, adding to the administrative burden, thus being somewhat counter-productive.
- 8.6 In increasing the current fee level there is the danger that bona fide charities and voluntary organisations may be unable to afford increased rates. The local theatre group whose ticket price includes a „free“ glass of wine, but makes little if any profit from the event may decide not to provide alcohol; while charity events may be deterred from having a drinks licence if more of the proceeds intended for charitable causes are spent on licence fees. It is important to consider whether these types of organisations should be treated under the same regime as commercial applications for an Occasional Licence.

Members' Clubs

- 8.7 Members' Clubs are currently an issue in relation to the difference in type of activity undertaken by those that arguably operate on a commercial basis compared with those that do not.
- 8.8 Identification of which clubs fall into which category on the basis of verifiable evidence could be problematic. While the introduction of a turnover based system across the board is not advocated, an approach based on turnover could be introduced to determine the fee level that a Members' Club should pay. For example a Members' Club with a turnover over a certain threshold could be considered to be operating on a commercial basis and could be considered within the normal rateable value categories. On application for a licence applicants would be required to provide accounts disclosing whether turnover was above or below the threshold.

Introduction of Additional Bands

- 8.9 An option for consideration is to introduce additional bands to the existing system. This may include introduction of new definitions of Category One and the potential of a sub category such as the „non-commercial“ group discussed above. Within the current six-band system there has been some criticism of the current banding levels. An option could be to introduce additional bandings at the top end of the scale – for example Category Six could cover a rateable value of £140,000 to £200,000; Category Seven cover a rateable value of £200,001 to £500,000, Category Eight covering £500,001 to

£750,000, Category Nine covering £750,001 to £1 million and Category 10 greater than £1 million.

- 8.10 The fees associated with each banding would reflect the rateable value of the premises applying for the alcohol licence. Again in order to fully understand the costs associated with administration of the licence, more detailed recording and analysis of Licensing Board activity would be required. Given that there was no confirmation that it costs more in time or resources to administer a licence for businesses operating from premises with a higher rateable value than those operating from smaller premises, it is anticipated that such a move would meet resistance from larger operators.

Adjust Existing Bands

- 8.11 The option to adjust existing bands is also worthy of consideration. Existing bands could be split into a larger number of bands. For example bands could cover:

- Rateable Value between £1 and £11,500;
- Rateable Value between £11,501 and £21,000;
- Rateable Value between £21,001 and £35,000;
- Rateable Value between £35,001 and £50,000;
- Rateable Value between £50,001 and £70,000;
- Rateable Value between £70,001 and £100,000;
- Rateable Value between £100,001 and £140,000;
- Rateable Value over £140,000.

- 8.12 Advantages of this system may be that a number of businesses would see their fees reduced. Those that do not may not support such a change. These changes would not address the issues raised by having Category Six cover all businesses with a rateable value over £140,000. A combination of the two options – increasing the number of bands both above and below £140,000 creates a further alternative. Although it should be noted that any option that increases the number of bands is likely to increase administrative burden and complicate the existing system.

Increase Certain Fees

- 8.13 The majority of Licensing Board survey respondents agreed that fees in the following areas were too low (current fee level is provided in brackets):

- Application to vary premises Licence under 31(1) (£31);
- Application to vary premises Licence – minor variation (£20);
- Extended Hours Licence (£10);
- Personal Licence (£50).

- 8.14 As Licensing Board respondents thought these fee levels were too low when considering the associated work carried out by Licensing Boards, there is clearly an option to increase fees in these areas. Again the level of any such increase should be based on analysis of resources and costs associated with administration of the activity. In considering this option, the feedback from

some licence holders and their representatives, which indicated that, even under the current fee regime, licence holders are deterred from applying to vary premises licences due to cost and the required administration, should be noted.

- 8.15 Given the financial information that has been provided by a number of Licensing Boards, it would appear that current costs are not being met. If this were the case across all Licensing Boards, there may be an argument to increase fee levels in general to reflect the cost of administration. However, it would seem that some do cover their costs and many Boards did not provide this data so their financial situation is not known. This would indicate that this option might not be appropriate.

Discounts

- 8.16 Additional options suggested by the brief include the provision of discounts for small businesses, tourist attractions and business start-ups. These types of business (with the exception of business start-ups) are already in receipt of a discount by virtue of being classed within Category One. Additional discounts would require specific qualification criteria to be developed and may be difficult to justify.
- 8.17 To include new business start-ups would be relatively easy and could, for example, only require verification from Companies House of the registration date of the company. Rules would have to be in place setting out the period under which businesses are considered to be „start up“ businesses. It could apply for the first year only, the first two years, etc. This option may be beneficial in encouraging entrepreneurship and business creation during difficult economic conditions.

9 CONCLUSIONS

9.1 The aim of the research was to evaluate the current alcohol licensing fees regime and consider the efficacy of other potential structures. The conclusions are presented in relation to the three main research objectives, which were to:

- Establish a factual baseline;
- Evaluate the current fees regime;
- Evaluate potential alternative options for premises licence applications / annual fees.

Establish a Factual Baseline

9.2 Some difficulties in establishing a factual baseline were encountered as, although a 100% response rate to the survey was achieved, four Licensing Boards did not submit meaningful data for any questions, while other responses varied in completeness of data. In relation to the data collection spread sheet, only 18 responses were received, and of these only 15 included expenditure data. The factual baseline was created using the data received.

9.3 Full financial information was supplied by a minority of Licensing Boards and what was supplied appeared in some cases to be of dubious reliability. For example, there were a number of inconsistencies between data returned on the spreadsheet, often completed by local authority accountants, and that returned in the main survey completed by Licensing Board personnel. There are also issues relating to support services and to „hidden“ staff costs. These latter appear to amount to about 42% of the total resources spent on the regime.

9.4 The fees regime is underpinned by the principle of cost recovery. Due to the lack of financial data available, some Boards may not be able to demonstrate that they have appropriately recovered costs.

9.5 The majority of Boards that submitted financial data were not covering their costs with fee income and, based on their data, the total deficit across the whole of Scotland was estimated to be in the order of £2.6m in the context of an estimated total spend of £9.5m. This represents recovery through fee income of about 72% of costs.

9.6 However some large Board areas did not submit responses. Were these areas to be breaking even or making a profit due to economies of scale and more efficient processes their absence may have an impact on the data overall.

9.7 The analysis has shown that the activity most frequently cited as the most resource intensive was Applications for Occasional Licences, which have the lowest fee attached. The second most resource intensive activity was Applications for Major Variations, while the third most resource intensive activity was indicated to be „Compliance“.

Evaluate the Current Fees Regime

- 9.8 Using data collected from the survey of Licensing Boards, stakeholder consultation and stakeholder visits the views held on the current fees regime have been summarised.
- 9.9 Advantages of the current alcohol licensing fee structure were stated to be that it is:
- Fair, reasonable and objective;
 - Clear, concise and simple;
 - Easy to understand and calculate;
 - Easily identifiable through rateable value;
 - Offers certainty of application;
 - Objective and based on independently assessed rateable value.
- 9.10 Disadvantages of the current alcohol licensing fee structure were stated to include:
- Inefficiency and ineffectiveness;
 - Lack of transparency;
 - Lack of consistency of approach;
 - Lack of information in relation to Licensing Board costs and expenditure, and therefore the inability to know whether surpluses are being made or costs recovered;
 - It is disproportionate for businesses with low alcohol turnover but large premises;
 - It lacks sufficient differentiation between large and small premises;
 - Fixed fees are set too low – particularly Occasional Licences;
 - It lacks flexibility;
 - Most Boards are unable fully to recover costs;
 - Rateable value does not reflect turnover or profit;
 - Fees do not reflect the amount of work required to process;
 - Fees take no account of enforcement or mediation.
- 9.11 Stakeholders' views on whether the current system is fair and proportionate to all sections of the trade varied depending on stakeholder type. Within the current bands there was perceived unfairness and lack of proportionality especially where large supermarkets paid only notionally more than convenience stores.
- 9.12 Licensing Board Survey respondents were asked if they thought any current fees were too low or high considering the amount of work carried out by local authorities. The vast majority (97%) of Licensing Board respondents thought that the Occasional Licence fee was too low and did not reflect costs incurred, 90% thought the Extended Hours Licence fee was too low, 77% thought the

Minor Variation fee was too low, and 57% thought the Major Variation fee was too low.

- 9.13 There are issues with Members' Clubs licences and a number of stakeholders felt that these need to be rethought in order to allow bona fide Members' Clubs to operate, but to have a different system for those Members' Clubs that are operating on a commercial basis.
- 9.14 The other licence categories were, in the main, thought to be „about right“ in terms of fee levels by the majority of respondents.
- 9.15 The majority of other stakeholders thought that most fees were about right – with the exception of the highest fee banding in relation to supermarkets, which were thought to pay only marginally more than small convenience stores. From a number of basic data sources and as reported by stakeholders, there has been a clear trend over recent years towards much larger stores and, whilst this has concentrated sales at the top end, this is not sufficiently reflected in the fee structure. Creating additional bands at the top of the scale would reflect this market trend.
- 9.16 There was said to be a lack of consistency across the Licensing Boards – this led to frustration among multi-site businesses dealing with different systems in each area. A number of interviewees expressed support for a central administration or the central setting of fees and operational systems/processes. In particular, it was suggested that the administration of Personal Licences would benefit from centralisation.
- 9.17 It should be noted that the central setting of fees, removing all discretion from individual Boards, would make it more difficult for each Board to break even, given the extent of differences between them. Breaking even across the whole of Scotland would be a more reasonable expectation, but this may only be compatible with the European Services Directive, and the principle of cost recovery, if the system as a whole is seen as a National one. Clearly, if fee income is retained centrally but with local administration of the process, Boards would expect reimbursement of their costs.
- 9.18 Some of the other issues raised, notably the perceived need for regular uprating of fees to cover inflation and the question of whether surpluses and deficits should be ring-fenced, would cease to be local issues for Boards were a national system to be introduced. However, other new issues would be likely to arise, such as how cost reimbursement would operate, and others, such as inconsistencies in operational practices, would not be resolved unless there were also to be operational guidelines for Boards to follow.

Evaluate Potential Alternative Options

- 9.19 Some stakeholders representing different segments of the licensed trade expressed preferences for one or other of the alternative turnover or square footage based systems but, in each case, they represented a small minority.
- 9.20 The majority of stakeholders and survey respondents raised valid questions about whether such alternative systems would be workable.

- 9.21 In respect of a turnover based system, issues of definition, variability, data confidentiality and auditability were highlighted and it was felt that such a system would increase the administrative burden.
- 9.22 In respect of a square footage based system, there were conflicting views regarding how square footage should be calculated and it was questioned whether the size of a premises could be linked with the volume of alcohol sold. Issues of variability and auditability were also highlighted. Again, it was felt that such a system would increase the administrative burden.
- 9.23 Overall, a substantial majority of Licensing Board survey respondents and stakeholder interviewees favoured retention of the rateable value based system although it was felt that some refinements may be beneficial as discussed at paragraphs 9.12 to 9.18.

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