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Please reply to:

Paul Jessop



Dear Sirs

Consultation - Fees under the Licensing Act 2003

Please find attached the response to this consultation from the British Gliding Association.

Yours sincerely

Paul Jessop

Member, Development Committee, British Gliding Association

cc:

Pete Stratten, Chief Executive, British Gliding Association

Diana King OBE, Chair, Development Committee, British Gliding Association

Dave Latimer, Executive Committee, British Gliding Association

Alison Randle, Development Officer, British Gliding Association

Patron The Duke of Edinburgh KG

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Chief Executive Pete Stratten

British Gliding Association Limited. **Registered Office:** As above **Registered No:** 422605 England

Home Office consultation on fees under the Licensing Act

2003 Submission from the British Gliding Association

The British Gliding Association (BGA) respectfully submits these comments in response to the Home Office consultation on fees under the Licensing Act 2003.

The BGA is the governing body responsible for the conduct and safety of the sport of gliding in the UK. It currently operates from 82 sites and has around 7,000 flying members owning between them some 2300 gliders, which make over 320,000 flights a year. Some (but not all) of these clubs hold licences under the Licensing Act 2003 and these clubs are likely to be affected by the changes discussed in this consultation.

The BGA is well aware of the potential incompatibility between alcohol and aviation and its policy is to encourage everyone to take very seriously the need to prevent club members flying when under the influence of alcohol. The limits for aviation (even when taking a trial lesson) under the Railways & Transport Safety Act are very significantly lower than those for driving motor vehicles. The BGA also informs clubs of the need to comply with other licensing rules such as running an age verification policy and publishes a generic policy for use by its members. While the implementation of these policies is a matter for the clubs themselves, the BGA ensures that gliding club management committees are aware of them. There is no evidence of any significant misuse of licences by gliding clubs or their members and the BGA is unaware of any examples of clubs causing problems for the local licensing authority or for neighbours as a consequence of holding a license.

For gliding clubs, the provision of a club bar is a social adjunct to the main business of flying. The bar opens at the end of flying to allow members to relax and share their experiences of the day. These bars are run with financial care in order not to make a loss, but they are typically not major money making parts of the clubs' activities and service a clientele very largely drawn from the clubs' regular participating members.

Clubs that do not run bars often quote security as a major factor – their location on remote sites makes them attractive to criminals seeking high-value goods. Others make use of facilities run by the operators of the airfields where they are based.

All but one of the UK gliding clubs are non-profit bodies and many are constituted as Community Amateur Sports Clubs. All provide sporting facilities to their local communities and many are involved in outreach to disadvantaged groups of various sorts. Club bars are typically run by volunteers drawn from the club – on a self-help basis. We understand that all or most gliding club bars in England and Wales are run under a Club Premises Certificate.

In this context, any increase in licensing fees would be a most unwelcome addition to the costs borne by clubs at a time when they are facing larger costs resulting from European oversight of recreational aviation (something that had been deregulated in the UK for generations) and broader economic uncertainty.

While the BGA accepts the principles of cost recovery and local accountability, it is concerned that the changes contemplated in this consultation could have severe consequences for some clubs. It draws particular attention to its response to Question 19 where it highlights the potentially very large increase in annual fee that will face gliding clubs.

Consultation Question 1 - Do you agree or disagree that the use of national non-domestic rateable value bands as a criterion for variable fee amounts should be abandoned?

The BGA sees no link between the NNDR and the costs to the licensing authority. While some sports clubs might find the link to NNDR attractive, gliding clubs need large sites to operate from and these tend to be associated with a relatively large NNDR. This valuation is associated with the sporting operation and is not connected with the incidental running of a club bar. The unwarranted burden of business rates on such premises is recognized by the relief offered to Community Amateur Sports Clubs (and the discretionary relief sometimes offered to other non-profit clubs). To use this value as the basis of licensing fees is not justified.

Consultation Question 3:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is linked to costs?

The BGA would be concerned if this provision were applied to Club Premises Certificates independently from the “primarily used for sale of alcohol for consumption on the premises” test. There does not appear to be a link between costs to the licensing authority and the late opening of a non-profit sports club.

Consultation Question 5:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is sufficiently practical to implement?

Consultation Question 7:

Do you agree or disagree that the licensing authority should be able to determine the hours during which the higher fee is payable within the boundaries of midnight to 6am?

Consultation Question 9:

Do you agree or disagree that licensing authorities that impose higher fees for premises which open later should have discretion to exclude premises that are authorised to open late only on certain nights per year?

Provided this test is not applied to Club Premises Certificates, the BGA does not have an opinion on these questions. If applied to Club Premises Certificates, the BGA would recommend the broadest exemptions from higher fees because no link between costs to the licensing authority and the late opening of a private sports club is apparent.

Consultation Question 11:

Do you agree or disagree that the criterion of whether or not a premises is used primarily for the sale of alcohol for consumption on the premises is linked to costs?

It appears to the BGA that costs to the licensing authority are higher for such premises and they should bear a higher proportion of licensing costs.

Consultation Question 13:

Do you agree or disagree that the criterion of whether or not premises are exclusively or primarily used for the sale of alcohol for consumption on the premises is sufficiently practical to implement?

The BGA recommends that the test should exclude entirely premises used to a significant extent for the pursuit of sporting activities.

Consultation Question 15:

Do you agree or disagree that there should be discretion to apply higher fee amounts only where both criteria apply in combination?

Provided this test is not applied to Club Premises Certificates, the BGA does not have an opinion on this question. If applied to Club Premises Certificates, the criteria should be applied only in combination.

Consultation Question 16:

Do you agree or disagree that, if a licensing authority has determined that different fee amounts should apply, it should have discretion to exclude certain types of premises from that higher fee amount?

While the BGA recommends that the regime of classification should be constructed to focus fees on premises with higher costs to the licensing authority (see responses above), it would certainly agree that discretion to exclude certain types of premises should be available.

Consultation Question 17:

If discretion to exclude certain types of premises from a higher fee amount were available, what types of premises should be specified in the regulations as potentially excluded classes?

The BGA strongly suggests that non-profit sports clubs should be eligible for exemption from the higher fee amounts (should the regime be constructed so as to apply them).

The BGA further suggests that there is a strong argument for automatic exemption from the higher fee amounts, or perhaps a requirement for licensing authorities to publish justifications for refusing to grant automatic exemptions.

Consultation Question 18:

Are there alternative options that should be available to licensing authorities to apply different fee amounts in their area?

The BGA recommends a system where (a) non-profit sports clubs are automatically treated in a way that reflects the low costs they create for the licensing authority and (b) the discretion offered to vary this on a local basis is as restricted as possible.

Consultation Question 19:

Do you agree or disagree that the proposed cap levels will enable your licensing authority to recover costs?

Beyond the concerns about annual fee levels explained below, the BGA is concerned that some of these caps look very large compared with the costs of providing the service. For example, to charge £46 to replace a document (which might be delivered as a re-download from a website) does not look defensible.

Consultation Question 20:

Do you have any other comments on the proposed cap levels?

The BGA finds the proposed cap levels very worrying. A typical gliding club will currently fall into Band B and pay £180pa for a Club Premises Certificate. The relevant cap of £720 means that clubs will inevitably face massive increases in the fee payable and will further be unable to budget for the increase until the licensing authority decides how far below the cap it is able to set the fee.

This uncertainty makes it hard to model the effect of these changes but if a licensing authority were to set its fees at 75% of the cap, an average gliding club would see annual licensing costs rise from £180 to £540. If the bar were opened on 60 flyable weekend days and served two drinks to each of 10 members, the additional cost per drink from licensing fees would be

30p – a significant proportion of the price. Clubs aiming to break even would be forced to pass this to members in increased prices.

The BGA believes that non-profit sports clubs should be treated differently because of the lower costs they create for the licensing authority. This should be reflected in radically lower caps.

Consultation Question 21:

Do you agree or disagree that the proposed cap of £100 will enable your licensing authority to recover costs?

The BGA recognises that the increase in the cost of a Temporary Event Notice appears justified by the costs of providing the service. It notes however that where (for example) community groups use this process to provide alcohol to the public, there is usually a benefit to the whole community from the event covered. It therefore recommends a lower cap for TENs used to cover occasional community events provided by non-profit entities.

Consultation Question 23:

Do you agree or disagree that licensing authorities be required, before locally-set fees are implemented, to:

23a: publish their proposed fee levels?;

23b: publish the basis on which they have been calculated?

23c: publish the measures they have taken to keep costs

down? 23d: invite comments from interested parties?

The BGA recommends that all licensing authorities be required to take all these steps.

Consultation Question 24:

What practical steps can licensing authorities take to secure efficiency?

The BGA is concerned that allowing licensing authorities to recover costs without any incentive to reduce them is not good public policy. Quite apart from measures intended to prevent gold plating and mis-attribution of costs, licensing authorities should be expected to use best practice to minimise their costs, using appropriate technology and other techniques.

As well as publishing the basis for locally set fees, licensing authorities should be required to publish comparisons with other similarly situated authorities.

Consultation Question 25:

Do you agree or disagree that the Guidance should suggest that these areas present a particular risk of excessive costs or gold-plating?

The BGA agrees that all these areas represent opportunities for gold plating and other forms of inefficiency. In particular the attribution of common costs to individual licensing events is a “black art” and capable of manipulation. Careful government oversight and the transparency noted above will be critical to fairness.

Consultation Question 27:

Do you agree or disagree that there should be a single national payment date for annual fees in England and Wales?

The BGA is always concerned to reduce the load on the volunteers in its clubs but since most clubs do not hold multiple licences, this is not a major issue for them.

Consultation Question 28:

Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposal to move to locally-set fees (including, in particular, the costs of setting fees locally)?

As noted above, the BGA is not convinced that the costs to licensing authorities of small, remotely situated, non-profit sports clubs such as gliding clubs are reflected in the Impact Assessment, where they are lumped together with city centre members’ clubs.

Conclusion

The BGA believes that a fair and equitable licensing fee structure based on the concepts exposed in the consultation document is achievable but the figures presented in the consultation document do not represent such a situation. It strongly recommends that non-profit sports clubs be treated with greater care to ensure that they are not loaded with costs properly recovered elsewhere. It also recommends careful scrutiny of the efficiency of licensing authorities to ensure that they are properly efficient in the exercise of their responsibilities.

The BGA is glad to have had the opportunity to respond to this consultation and would be happy to clarify any issues presented or provide access to the experience of its member clubs in any follow up actions.

Paul Jessop
Member, Development Committee, British Gliding Association