

# Licensing Act (2003) Fees Survey

An Analysis to Identify Differences Between Fees Charged and Costs of  
Administering the 2003 Act

July 2016

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## 1. Introduction/Background

Licensing authorities (district, unitary and metropolitan councils, and London boroughs) are responsible under the Licensing Act 2003 for issuing licences to sell alcohol, host regulated entertainment and serve late night refreshment. They are entitled to charge a fee to cover the cost of issuing, administering and enforcing these licences, which is intended to cover the full cost of the work. Licensing fees are not intended, or permitted, to generate income for the council.

The Act has had fixed national fees since it was introduced – set by central government. The LGA has consistently argued that there is a shortfall between fee income and the costs incurred by councils in administering the 2003 Act, and believes that fees should be set locally. The independent Elton report in 2007 confirmed that nationally set licensing fees were not covering the costs of councils administering the scheme, and recommended that fees be increased over a period of three years. This did not happen.

The 2010 Conservative Manifesto included a commitment to localise licensing fees, (as is the case with taxi and gambling fees) and the 2011 Police Reform and Social Responsibility Act introduced the power for government to localise fees. In early 2014, the Home Office issued a consultation and detailed costings survey exploring how this could be implemented. However, the survey achieved a very low response rate. Consequently, the Coalition Government decided in early 2015 not to implement its proposed changes to the fee structure at that time.

Since the election, Government has invited the LGA to help build evidence and understanding of the true costs of administering the scheme and any discrepancies between current fee levels. Government has made it clear that it no longer considers the Elton Review to be a factor for consideration.

In October 2015 the LGA commissioned CIPFA Research to undertake a survey-based comprehensive analysis of the differences between the level of fees charged and the actual costs of administering the 2003 Act. This report outlines the findings of the survey.

The survey did not attempt to assess the costs incurred by Responsible Authorities, such as environmental health, trading standards and public health. Initial explanatory notes presented to Parliament alongside the Licensing Act 2003 indicated that Government intended these costs to also be recouped through the licence fees. This was not reflected in the fees regulations, however, and these costs have had to be subsidised by councils from their general budgets.

The overall expenditure of councils on administering the Licensing Act, ie those activities directly related to considering, issuing, and enforcing a licence, will therefore be greater than indicated. Challenges exist to determining a method for redistributing fees income to those Responsible Authorities that may sit outside the licensing authority, as where trading standards and public health sit with a County Council. However, this issue will need to be considered if the deficit is to be fully closed.

The LGA and CIPFA would like to thank all those councils and individuals who contributed to the survey, both in the development stage and in providing responses.

## 2. Management Summary

- It is estimated that annually Licensing Authorities across England and Wales have a net deficit of -£10.3m<sup>1</sup>
- Just over half (52%) of the 102 responding Licensing Authorities operate in deficit, primarily made up of London boroughs, Metropolitan Districts and District Councils. English and Welsh Unitary Authorities are more likely to operate in surplus
- Across the 12 fee categories only two run in surplus, **Annual Fee for a Premises License** and **Annual Fee for a Club Premises Certificate**. The fee category **Temporary Event Notices (TENS)** operated with the largest level of deficit
- The Licensing Authority with the largest surplus was an English Unitary Authority (£0.265m), a London Borough recorded the largest deficit (-£1.4m).

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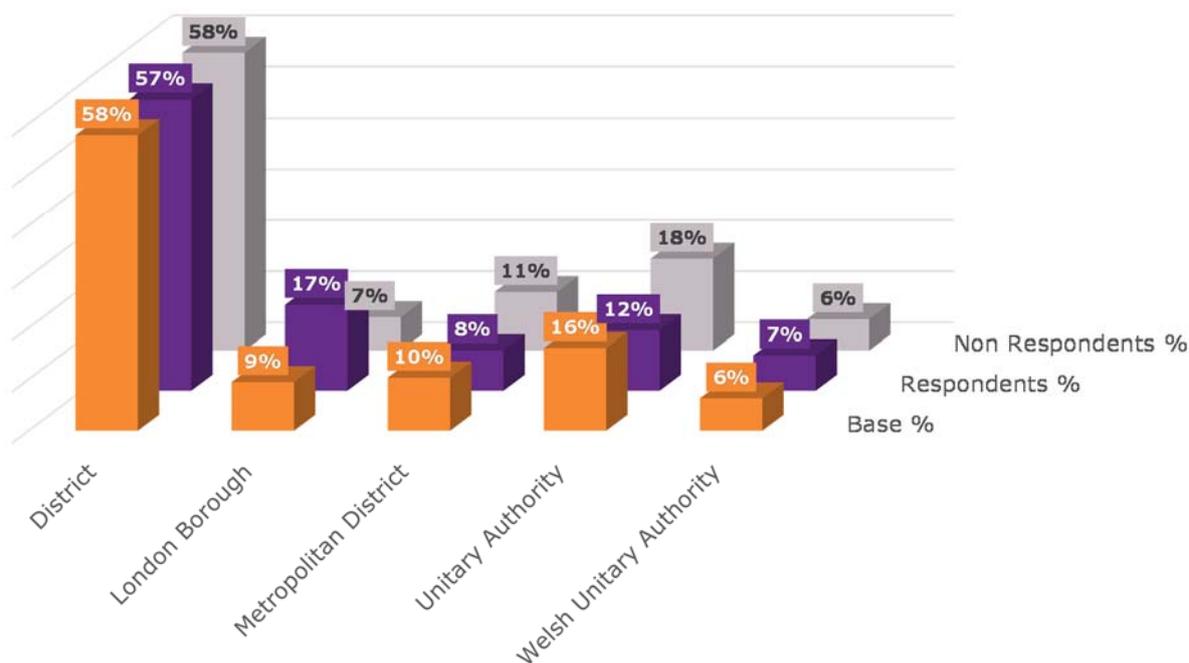
<sup>1</sup> Costs of responsible authorities such as Environmental Health, Trading Standards and Public Health are not included.

### 3. General Feedback

A total of 348 licensing authorities were canvassed to take part in the survey of which 102<sup>2</sup> (29%) did so. Based on the 102 responses we have calculated the overall surplus/deficit to be -£10.3m. However, allowing for statistical imprecision, the overall surplus/deficit is more likely to lie somewhere between -£9.2m and -£11.4m<sup>3</sup>.

Despite the shortfall in response those that did provide a return can be seen as being generally representative of the licensing authorities across the UK, see chart 3.1 below:

**Response by licensing authority type [Chart 3.1]**



The Base % shows the spread of licensing authorities across England and Wales in total. The Respondents % shows the spread of response. Ideally we want the difference between these two corresponding set of figures to be as small as possible. In a number of cases the differences are small, ie no greater than 2%. However, what is evident is that we have a greater proportion of responses from London Boroughs than is ideal (17% actual compared with 9% required) and a smaller proportion of responses for (English) Unitary Authorities than is ideal (12% actual compared with 16% required). No corrective weighting has been applied to take into account this bias, as doing so cannot guarantee removing/reducing this. Instead one should simply take into account this bias when reading the report.

<sup>2</sup> Of the 102 participants 82 returns were fully validated and/or were signed off by the Chief Finance officer or equivalent

<sup>3</sup> Based on a degree of confidence of 99%

## 4. Survey Findings

We have found the level of variation across the range of returning licensing authorities to be extensive. Based on all 102 validated and un-validated responses this ranges from a surplus of around £0.3m to a deficit of -£1.4m. Consequently the average surplus/deficit for all 102 returning authorities is -£29,680. Interestingly the average surplus/deficit figure for the 82 validated returns is -£29,520, which is only marginally different.

Continuing to focus on the entire set of returns we find that the surplus/deficit figures vary quite extensively by type, as can be seen in the table 4.1 below:

**Table 4.1**

<b>Council type:</b>	<b>Income</b>	<b>Expenditure</b>	<b>Surplus/ Deficit</b>	<b>Surplus/ Deficit (Average)</b>
London Borough [Base: 17 cases]	£5,487,167	£7,906,078	-£2,418,911	-£142,288
Metropolitan District [Base: 8 cases]	£3,035,664	£3,587,600	-£551,936	-£68,992
District [Base: 58 cases]	£4,788,462	£5,653,382	-£864,920	-£14,912
Welsh Unitary Authority [Base: 7 cases]	£863,704	£692,616	£171,088	£24,441
Unitary Authority [Base: 12 cases]	£2,018,140	£1,380,792	£637,348	£53,112

According to the 102 returns received, District Councils, London Boroughs and Metropolitan Districts are operating in deficit whilst Unitary Authorities in England and Wales are operating in surplus. From a general perspective 52% of licensing authorities are in deficit with correspondingly 48% in surplus, coincidentally this split holds true for the validated dataset. However, on balance, the sum of the deficits is greater than the sum of the surpluses – see chart 4.2 overleaf.

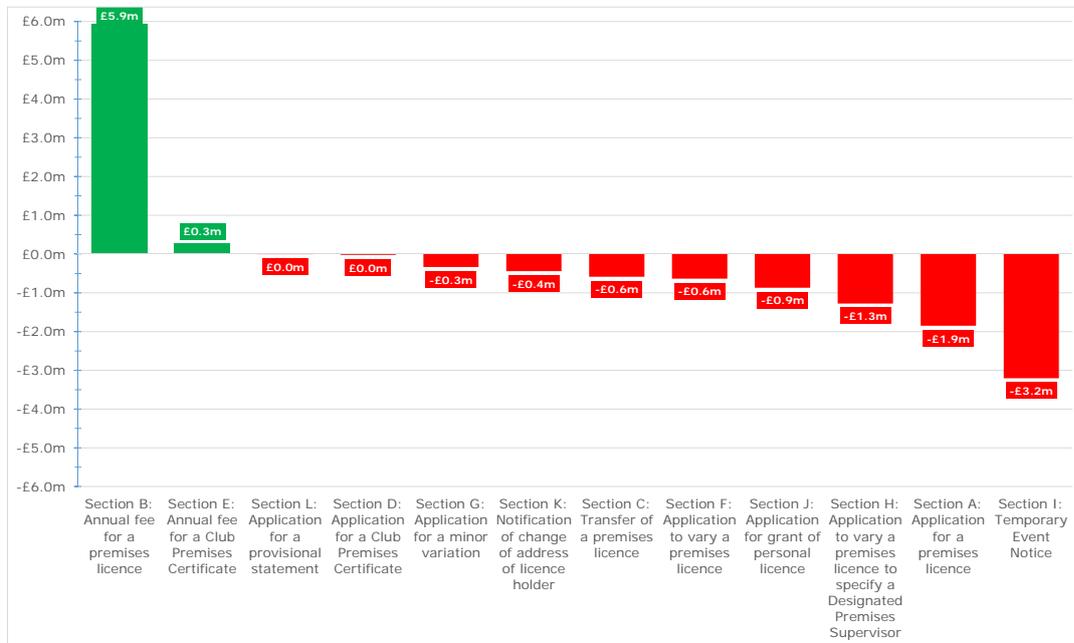
Interestingly the proportions for each council type running in deficit were:

**Table 4.2**

<b>Council type:</b>	<b>Proportion in deficit</b>
London Borough [Base: 17 cases]	71%
District [Base: 58 cases]	59%
Metropolitan District [Base: 8 cases]	38%
Unitary Authority [Base: 12 cases]	25%
Welsh Unitary Authority [Base: 7 cases]	14%

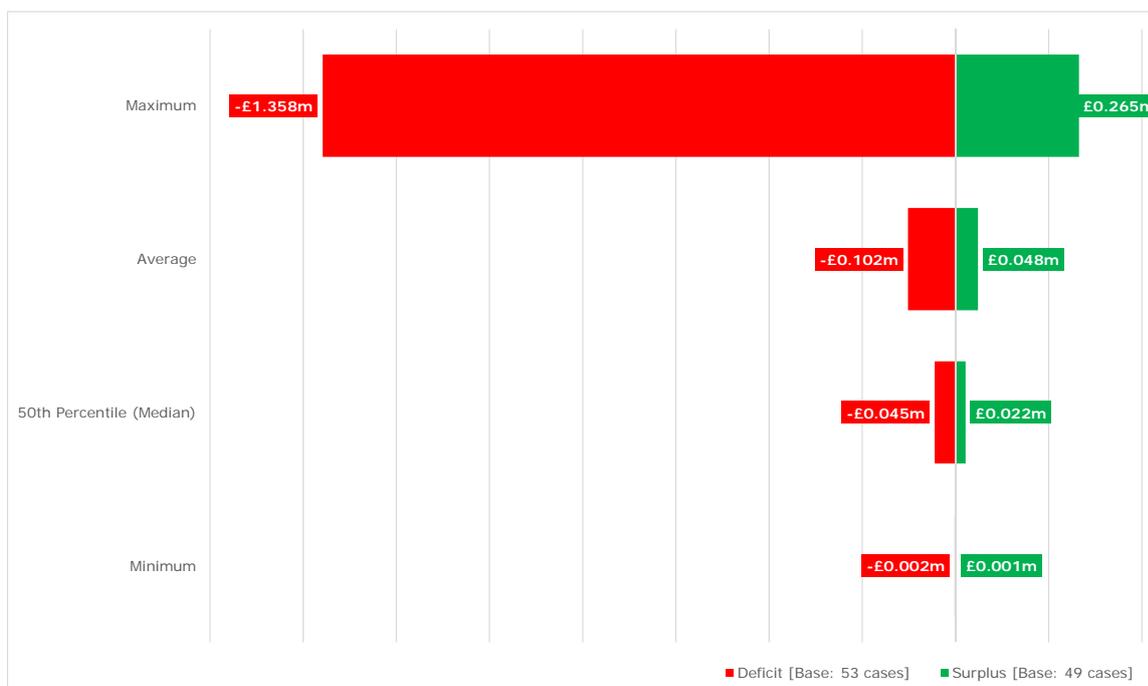
Our evaluation of the fee categories suggests that licensing authorities manage to operate the part of the service that deals with **annual fee for a premises licence** in surplus; whilst the part of the service that deals with **temporary event notices** runs in deficit. There is only one other fee category run in surplus and that is the **annual fee for a club premises certificate**, all other fee categories run at a loss. The full range of responses can be seen in chart 4.1 below:

**Surplus/Deficit by Fee Category [Chart 4.1]**



Evaluating the returns for the surplus (48% of all returning authorities) and deficit (52% of all returning authorities) groups reveals the following spread of results:

**Surplus/Deficit Statistical Analysis [Chart 4.2]**



Across the four measurements for each of the surplus and deficit groups, ie minimum, maximum, median and average, we find that the level of deficit is far greater than that

of surplus. For example, whilst the maximum level of surplus achieved by any one licensing authority is £0.265m the corresponding level of deficit is £1.358m, ie 5 times greater. This may also explain why it is the case that although the proportions making a surplus or deficit are quite close the overall picture is that of a deficit.

Based on the entire return of 102 responses the total deficit for participating licensing authorities per annum equates to -£3.0m, see table 4.3 below:

**Table 4.3**

Council type:	Income	Expenditure	Surplus / Deficit
District [Base: 58 cases]	£4,788,462	£5,653,382	-£864,920
London Borough [Base: 17 cases]	£5,487,167	£7,906,078	-£2,418,911
Metropolitan District [Base: 8 cases]	£3,035,664	£3,587,600	-£551,936
Unitary Authority [Base: 12 cases]	£2,018,140	£1,380,792	£637,348
Welsh Unitary Authority [Base: 7 cases]	£863,704	£692,616	£171,088
Total [Base: 102 cases]	£16,193,137	£19,220,468	-£3,027,331

So, for our 102 responses the overall reported deficit is -£3.0m. However, given we have 102 responses and the total population of licensing authorities is 348 our estimate is subject to an error, at the 99% confidence level, of  $\pm 10.7\%$ . Consequently the total level of deficit could range between -£2.7m and -£3.4m for our 102 responses.

Therefore as can be seen in table 4.4 below, predicting the surplus/deficit for all Licensing Authorities, our estimate is -£10.3m although this may vary from as low as -£9.2m to as high as -£11.4m.

**Table 4.4**

	Estimate based on 102 returns	Estimate for 348 Licensing Authorities
Lower range	-£ 2,702,260	-£ 9,219,475
Surplus/Deficit	-£ 3,027,331	-£ 10,328,541
Upper range	-£ 3,352,402	-£ 11,437,608

We note that this figure is broadly in line with other recent estimates. In January 2013 the Home Office undertook an Impact Assessment in respect of the Licensing Act 2003; fees regulations. At the time their assessment was that Licensing Authorities, across England and Wales, were not recovering the costs associated with discharging their function under the 2003 Act. The report stated that:

*There is evidence of a net deficit of income against costs and therefore that costs are not being fully recovered locally.*

The value of the net deficit was set at -£12.4m, close to the -£10.3m suggested by this consultation.

Published by:

**CIPFA \ THE CHARTERED INSTITUTE OF PUBLIC FINANCE AND ACCOUNTANCY**

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