

Proposed Licensing of Funfairs (Scotland) Bill

Page 2: About you

Are you responding as an individual or on behalf of an organisation?

on behalf of an organisation

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

No Response

Please select the category which best describes your organisation

Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)

Please choose one of the following:

I am content for this response to be attributed to me or my organisation

Please insert your name or the name of your organisation. If you choose the first option above, this should be the name as you wish it to be published. If you choose the second or third option, a name is still required, but it will not be published.

Clackmannanshire Council

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

Page 7: Your views on the proposal - Aim and approach

Q1. Which of the following best expresses your view of the proposal to exempt funfairs from Public Entertainment Licensing requirements and to create a distinct new licensing system for funfairs in Scotland?

Partially supportive

Please explain the reasons for your response

A stand alone nationwide system of licensing would provide consistency of approach by all Local

Q1. Which of the following best expresses your view of the proposal to exempt funfairs from Public Entertainment Licensing requirements and to create a distinct new licensing system for funfairs in Scotland?

Authorities, something that is currently lacking in various areas of Scottish Licensing. There must however be a balance to ensure that any new regime does not impose a burden on the already stretched Local Authority staff and budgets. Particularly in respect of costs and processing times.

Q2. Could the aims of this proposal be better delivered in another way (without a Bill in the Scottish Parliament)?

No

Please explain the reasons for your response

The proposal suggests that the current system of licensing is not fit for purpose, and as such there seems no alternative to deliver the aims, than a complete legislative change.

Q3. What do you think would be the main advantages, if any, of the proposal?

Consistency across all of Scotland would improve the quality of application submissions made by applicants. Processing delays are often down to the poor quality submission, which in some instances stem from the differences style of the application form and in the required information by the 32 Authorities.

Q4. What do you think will be the main disadvantages, if any, of the proposal?

Potential disadvantages would be the:

1. loss of revenue to already cash strapped Local Authorities.
2. Undue pressure being placed on admin staff to process applications within a tight time frame.
3. Poor consultation with stakeholders interested parties if application periods are shortened by too much.
4. Additional training required by staff administering a new system of licensing, costs associated with that training.
- 5 Potential costs relating to new software or software upgrades to accommodate new regime.
- 6 An unrealistic expectation that it is actually possible to have all 32 LA's working in an identical manner.
7. Small processing differences and expectations will still exist and this may lead to frustration on the part of applicants who may expect everybody to be doing the same thing overnight.

Q5. What do you think the maximum time available should be for local authorities to make a decision on an application to hold a funfair?

more than 28 days (please specify)

Please explain the reasons for your response.

Application lodging time, vetting for competence and initial processing can take up to 7 days depending on workload and quality of submission. A reasonable consultation period and advertising is essential to allow interested parties to make comment, representations and objections – This should be at least 21 days. Consideration of representations, determination of applications is at least another 7 days. If a hearing is required to determine an application that has attracted objections or representations then standard reasonable notice period for applicants and objectors has been determined to be at least 21 days. If the decision is required to be appealed by any party that could be at least another 21 days – Just adding up the basics required for a transparent, fair (to all) and legal process is over 11 weeks. Any less than 8 weeks is realistically unworkable for any event attracting even a basic representation. There must be

Q5. What do you think the maximum time available should be for local authorities to make a decision on an application to hold a funfair?

enough time for different consultees such as local residents, Police, Fire, Environmental Health etc to consider and respond to any application. Particularly where there may be public safety, noise or food hygiene issues.

Q6. How do you think fees should be determined for local authorities to process an application?

maximum fee set in statute

Please explain the reasons for your response, including details of the amount of any suggested fees.

It must be recognised that there is a difference between 3 or 4 rides coming to a local park and the Kirkcaldy Promenade type set up with 30 -40 rides. Either a maximum fee or a scale of pre determined fees identifying clearly defined different sized travelling fairs would achieve the aim of consistency of cost.

Q7. What is your view on what should happen to the fee in cases where an application is refused?

None of the fee returnable to the applicant

Please explain the reasons for your response

The fee is an application fee. Like every other application fee it should be set calculating the average cost of administering a single licence. The average must be calculated taking into consideration all possible and likely costs, of every licence and potential outcome then divided equally by the number of licences granted. A straightforward application for a small fair may only cost £100 (just an example figure) in staff time to process. With no objections no hearing required and no compliance issues in the duration of the licence, the total cost to the authority would remain at £100. A complex large fair, may require a site visit, a SAG panel to consider the pre application risks, a hearing if there are objections, legal advice, pre-opening approval, compliance monitoring, this could all add up to thousands of pounds in real terms cost to the Authority. If we use £2000 as a not unrealistic nominal figure for a complex application, and if we have 8 applications 6 simple and 2 complex therefore a total cost of £4600- Individual Licence costs should be set at £575 each. Why would it be fair or appropriate to return any part of that fee because the application failed? Well thought out, well considered timeous and planned applications are unlikely to fail. This reinforces the need for a fee structure, identifying the difference between different scaled events.

Page 14: Financial implications

Q8. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost-neutral	Some reduction in cost	Significant reduction in cost	Unsure
(a) Showpeople						X
(b) Local authorities						X

Q8. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(c) General public						X
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Please explain the reasons for your response

Without having details of proposed fee structure it is impossible to comment.

Page 15: Equalities

Q9. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation?

Neutral (neither positive nor negative)

Please explain the reasons for your response

LA's are very equality aware and already pretty good complying.

Q10. In what ways could any negative impact of the proposed Bill on equality be minimised or avoided?

Not applicable

Page 17: Sustainability

Q11. Do you consider that the proposed Bill can be delivered sustainably i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Unsure

Please explain the reasons for your response:

As per previous answer without knowing details of a proposed fee structure it is impossible to comment

Page 18: General

Q12. Do you have any other comments or suggestions on the proposal to exempt funfairs from Public Entertainment Licensing requirements and to create a distinct new licensing system for funfairs in Scotland?

Any new system of licensing must be introduced so that it is cost neutral to the Licensing Authority. The costing calculations must carefully take into account all of the likely costs that will be incurred in administering the system. Costs such as Compliance Monitoring, Staff training, software upgrades, development of new processes and forms, legal advice.

Q12. Do you have any other comments or suggestions on the proposal to exempt funfairs from Public Entertainment Licensing requirements and to create a distinct new licensing system for funfairs in Scotland?

The new system must ensure that it does not provide an unrealistic expectation of service to the applicant, and that it does not impose either a financial burden or workload burden on staff that are already often working at capacity and under excess pressure to process applications in unrealistic timescales.

There is mention of moving to 'other suitable sites' at short notice if a site is no good when the funfair turns up. From an Environmental Health perspective, this could bring noise issues to an area which has not been consulted on the funfair and could lead to increased noise complaints from local residents who were not prepared for the funfair arriving.

Any final proposal should include a requirement to identify alternative sites as a contingency within the original application to ensure that those in the vicinity of the back up site could also be consulted.