

# 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 If you choose the second or third option, a name is still required, but it will not be published.

Argyll and Bute 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?

Fully opposed

**Please explain the reasons for your response**

We are fully opposed to the proposal to exempt funfairs from Public Entertainment Licensing requirements

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?

under the Civic Government (Scotland) Act 1982 and to create a distinct new licensing system for funfairs in Scotland as we have several concerns about the proposal. The current mechanism under the 1982 Act serves its intended purpose in that it allows local authorities to consider the granting or refusal of a licence on various grounds. Throughout the application process, consultation takes place with Police Scotland (who can express any concerns they have about an applicant not being a fit and proper person). Licensing authorities can also refuse a licence where the proposed location is unsuitable due to the condition of the site, nature and extent of the proposed funfair or any public order or public safety concerns. We also consider that there should continue to be sufficient and proper scrutiny of these applications by licensing authorities, with the particular issues faced by each local area being adequately addressed. Our fear is that a new licensing system, which is set out and limited to the provisions of the relevant statute, will not allow for local considerations to be taken into account and have the same importance attached to them that the current system under the 1982 Act provides for.

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

Yes

**Please explain the reasons for your response**

We consider that some of the aims of this proposal may be achieved through amendment of the 1982 Act, as opposed to putting in place a brand new licensing regime for funfairs. Amendment to the 1982 Act would also have the effect of maintaining consistency and congruency.

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

We note that this proposal may be attractive to the community of Scottish showpeople for the reasons noted in the consultation paper. However, these are outweighed by our concerns about the proposal, as set out in the response to Question 1.

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

We refer to the reasons set out in the response to Question 1, above. In particular our concerns are that this proposal may result in reduced scrutiny of applications, reduced opportunity for licensing authorities to engage with local communities in the application process and less scope for licensing authorities to give adequate consideration to local issues, which would all be detrimental to the interests of the general public, and in particular, local communities.

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.**

We believe that a period of at least 1 month should be available for local authorities to make a decision on an application to hold a funfair. This allows adequate time for any potential objections or representations to be made, which would necessitate a hearing before the Committee. The maximum timeframe should also

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?

take into account the fact that any objector may potentially appeal against the grant of a licence to the sheriff court, which could hold up the process and result in licences not being issued timeously.

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

fee at local authority's discretion

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

The present position under the 1982 Act requires that any fees are sufficient to meet the expenses of the licensing authority. This should include staffing, administration and other costs related to the licensing process. We are of the view that this position should not change. Whilst the consultation highlights that there is a significant variation in fees across all the local authorities, we are of the view that this is because each authority has their own individual process in place. Some involve extensive advertising and consultation, which can be of considerable cost. Whilst fees vary on an authority-to-authority basis, the principle remains that they are designed to cover costs. The needs of each local authority are very different, and so the difference in licensing fees reflect this fact.

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**

Reference is made to the response for Question 6. Fees for licensing applications are based on the principle of cost recovery. Even unsuccessful applications still have to go through a process before being refused, so costs are still incurred in respect to unsuccessful applications. They involve the same or similar amount of work for the licensing authority to process, so it is not clear why they should be free when charges will apply to successful applications. In Argyll and Bute, the applicant is advised right at the outset of the application process of any fees that are applicable to his/her application and informed that the fee is not returnable.

## 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
(c) General public						X

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

**Please explain the reasons for your response**

It is difficult to comment fully on this question as a draft Bill is not yet available. From the consultation document, the proposal appears to be geared towards having a positive financial impact for showpeople. However, we would note that some funfairs form part of a wider entertainment event and so this might result in two separate licences being necessary, one under the 1982 Act and another funfair licence. This could mean that two fees are payable, rather than one. As such, costs for event organisers and/or funfair operators could increase in this context. We are not sure what financial implications there may be for the general public. The impact on local authorities will depend on how stringent any measures that may be put in place for local authorities are, any caps that may be put on fees, and if fees will be returnable for unsuccessful applications. In absence of a Bill which details these particular issues, we cannot comment further on the financial impact on local authorities at this present time.

## 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?

Positive

**Please explain the reasons for your response**

We note the comments on pages 15 and 16 of the consultation paper and have no further observations to make at this time.

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

Given the response to question 9, we have nothing further to add at this time.

## 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 noted above, we are unable to comment in detail in absence of a draft Bill being published. However, as noted in the response to Question 1, we would be concerned if any new system of licensing funfairs were to involve less engagement with local communities and other stakeholders as public engagement underpins the current licensing regime.

## 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?

We have nothing further to add from the responses provided above, but in summary, we would be concerned that any proposed new licensing system will take away the necessary discretion and flexibility from local authorities to adequately scrutinise applications, involve the local community in the process and make decisions which best serve their particular areas. For these reasons, we are fully opposed to the proposal.