

Your response

Question	Your response
Question 1: Do you have any comments on Ofcom's proposals to make more frequencies available for restricted services?	<i>Is this response confidential? – N</i> As the umbrella charity that supports, informs, represents, and develops hospital, health and wellbeing broadcasters across the UK, HBA welcomes Ofcom's proposals to make more frequencies available for long-term FM RSLs, via the use of "limited coverage" frequencies, and consequently to remove the current arbitrary geographic limits to the application for licences. HBA also welcomes Ofcom's plans to increase the maximum effective radiated power to 2W, from the current 50mW, with the norm for services aimed at indoor reception being up to 1W, to increase the maximum height above ground level of the antenna, and to allow mixed polarisation broadcasts. With the size of hospital campuses growing, and the number of buildings on hospital sites increasing, the combination of additional permitted radiated power, additional antenna height, and mixed polarisation will, hopefully, ensure that, in most cases, the vast majority of the licensed hospital sites are covered. Those of our members who are involved in Ofcom's current trial, and who have been in touch with HBA, report this to be the case, and for coverage within the hospital buildings to be much better than current AM LRSL broadcasts covering the same site. The consultation is timely, and the HBA thinks that is highly-likely that a number of hospital radio stations will now look to low-power FM RSLs as a means of securing the future of their service within hospitals that they serve. This is due to two factors: Firstly, the Trusts and Boards that run the hospitals, facing huge financial pressures, are removing bedside entertainment systems rather than face the costs (be they capital or revenue) of renewing contracts with providers and/or upgrading the equipment. This leaves increasing numbers of our members with only the free public WiFi network within the hospital as a means of distributing their service. Secondly, a number of our members that currently broadcast to patients via an AM long-term RSL will

	undoubtedly be looking at the opportunity to "upgrade" to FM.
Question 2: Do you have any comments on Ofcom's proposed restricted service standard form Broadcasting Act licence?	<i>Is this response confidential? – N</i> HBA has no comments to make on Ofcom's proposed standard form Broadcasting Act licence.
Question 3: Do you have any comments on Ofcom's proposal to issue existing extended duration SRSL licensees with a restricted service licence on a new frequency at the end of their existing licence term, should they apply for a new licence?	<i>Is this response confidential? – N</i> As hospital radio stations generally do not make use of extended-duration SRSL licences, HBA has no opinion on these proposals.
Question 4: Do you have any comments on Ofcom's proposal to issue existing LRSL licensees with limited coverage frequencies (if available) at the end of their existing licence term, should they apply to renew their licence?	<i>Is this response confidential? – N</i> As noted in para 3.14 of the consultation, there are costs involved in changing frequency, such as equipment retuning and promotional material updated. Where hospital radio stations have purchased fixed-frequency receivers for distribution to patients, there could also be a significant cost for the replacement and disposal of receivers rendered useless by the change of frequency. Hospital radio stations are almost exclusively operated by micro-sized independent charities, run on an entirely voluntary basis with no financial support from the NHS or other statutory body (support is usually limited to free accommodation and utilities). Annual budgets typically run to the low thousands of pounds per year, with some running on less than £1000 annually. All funds have to be raised by the volunteers. Additional unavoidable costs, even of what in other circumstances might be considered quite modest amounts, are, therefore, of great concern. Whilst it is understandable that Ofcom wishes to keep the 87.7 – 87.9MHz band clear for SRSLs wherever possible, HBA would ask that, in areas where there have been little or no SRSL activity, and the existing use of a frequency in that band by an LRSL has not caused recent frequency-planning difficulties or the inability to find a frequency for an SRSL, that the LRSL operator is allowed to continue to use its

	original frequency, with the current restrictions of 50mW ERP, 10m AGL antenna height and vertical polarisation. This removes the need for unnecessary expenditure, whilst providing those stations that wish to take advantage of the greater permitted ERP, antenna height and mixed polarisation an incentive to accept a change of frequency as part of a planned and funded coverage improvement project. Where a change of frequency is to be imposed at time of licence renewal, HBA would ask that Ofcom engages with the affected licence-holders well in advance of the renewal date, advising them of the need to change frequency and, if at all possible, what the new frequency will (or is likely to) be. A short period during which either or both of the two frequencies could be used would also help facilitate the logistics of arranging for suitably-qualified engineers to undertake whatever technical work is necessary, rather than the work having to be undertaken on a specific day.
Question 5: Do you have any comments on these changes to our application process, as set out in the revised guidance at Annex 4?	<i>Is this response confidential?</i> – N HBA welcomes Ofcom's proposed changes to the licence application process and the associated guidance. HBA particularly welcomes the removal of the arbitrary geographic restrictions on FM RSLs and the intention to license services throughout the UK subject to the availability of a frequency. To avoid unnecessary effort and expense by potential applicants, it would be very helpful if Ofcom would publish, on its website, a (suitably caveated) list of locations where limited-coverage FM frequencies are known not to be available (either as a result of earlier applications or other work undertaken by Ofcom), and also the list of "SRSL activity" that Ofcom uses to determine whether an LRSL might be licensed in the 87.7 – 87.9MHz band in the absence of "limited coverage" frequencies. HBA also welcomes Ofcom's proposal to change the official licensee for a LRSL from being a permanent, senior member of staff of the establishment served to being the organisation,

or a person associated with the organisation, actually providing the service.

HBA has heard evidence from some of its members where the current rules have caused administrative problems, including late payment of licence fees, due to the lack of involvement in the hospital radio service by the official licensee. Others have reported difficulty in finding a senior member of NHS staff willing to take on the responsibility of licensee given their lack of involvement with the station. The new guidance – which two of our members tell us has, in their cases, already been implemented – should address this issue.

Currently most hospital radio stations are unincorporated organisations registered as charities, although an increasing number are converting to the modern Charitable Incorporated Organisation (CIO – in Scotland, a Scottish Charitable Incorporated Organisation, SCIO) form of charity, which is incorporated but not registered with Companies House. A handful are incorporated as companies limited by guarantee. HBA would recommend that Ofcom's guidance and application form are adjusted to make clear that, where the service is being provided by an incorporated organisation of any form, the licensee must be the organisation, not just when the organisation is a company. In a similar vein, HBA would recommend that the guidance and application form are adjusted to make clear which sections of the application form are required to be completed when the applicant is an individual on behalf of an unincorporated organisation; at the moment, there is some lack of clarity as to exactly which questions should be answered in this case.

When an application is being made on behalf of an unincorporated organisation, HBA would recommend that Ofcom offer the ability for the individual holding the licence on behalf of the organisation be someone other than a member of the management committee (the trustees, in the case of an unincorporated charity) of the organisation providing the service. The appointment of a "holding trustee" to hold a lease or licence to occupy accommodation, or to sign a commercial contract, on behalf of the

charity is commonplace and allows the Trustees, who are often subject to election every 1 to 3 years, to appoint someone with a long-term association with the charity to hold the property/contract whilst being protected in terms of personal liability as long as they follow any/all instructions of the current Trustees, as long as those instructions are themselves not illegal or *ultra vires* the organisation's governing document. This removes the potential requirement to transfer the licence to a new licensee every few years.

In para 3.7 of the updated guidance, the existing statement that "overspill" audience outside the licensed establishment should not be acknowledged, either on-air, or in off-air promotion and publicity is retained, and a further sentence added: "The service should not be directed at listeners living outside of the licensed location."

Hospital, health & wellbeing radio stations these days often simulcast their service via various media to different audiences. For instance, a charity with charitable objects of "the relief of sickness, poor health and old age amongst people living in [stipulated area] by providing a local broadcasting service for hospitals, residential homes and similar institutions, and for patients receiving community care" might broadcast its service via LRS to a hospital site, and also via an internet stream to local old people's homes and GP Surgery waiting rooms, as well as to patients living at home whilst receiving healthcare in the community. HBA hopes and assumes that use of phraseology such as "listen to us 95.1FM in XYZ Hospital, or online across XYZshire" would not fall foul of this restriction, and that the simulcast service would be allowed to be directed at listeners living outside, as well as within, the licensed location, as long as such listeners were directed to use alternative means of reception.

Likewise, a charity with both the above charitable object and an additional one of "the advancement of health and prevention or relief of sickness for the public benefit through the promotion of the benefits of living a healthy

	lifestyle, and the importance of maintaining good personal mental and physical health by (mainly, but not exclusively) the means of broadcasting health education messages to people living in [stipulated area]" might be simulcasting via Small-Scale DAB, FM RSL, and internet stream. It will need to be able to direct its service at the totality of its audience, and to promote its community public health education broadcast via DAB and online, and mention that it is available via an FM frequency in the local hospital. HBA again hopes and assumes that careful use of phraseology will be able to address the terms of the RSL licence. Inclusion of guidance as regards direction and promotion of a simulcast service that is broadcast via means other than the RSL would be welcome.
Question 6: Do you have any comments on Ofcom's proposal to invite the Secretary of State for DCMS to consider making an order which would provide an exception for certain services from the need to hold a Broadcasting Act licence?	<i>Is this response confidential? – N</i> HBA welcomes Ofcom's proposal to invite the Secretary of State to exempt audio distribution systems and emerging short-range broadcast services from the requirement to hold a Broadcasting Act licence. HBA is aware of nascent ideas within the hospital radio community to use short-range broadcast services, such as Bluetooth and licence-exempt extremely low power FM transmitters, to transmit signals with a bay within a hospital ward in the absence of a bedside entertainment system, and this would remove such systems from Ofcom's regulatory oversight.
Question 7: Do you have any comments on Ofcom's proposed fees for restricted services?	<i>Is this response confidential? – N</i> HBA agrees with Ofcom that broadcasting via AM induction loop is now obsolete. It has been a number of years since any hospital radio station has used this means of broadcasting, and it is most unlikely that a station would propose to do so now. HBA does not believe a case has been made by Ofcom to increase the combined BA & WTA licence fees for FM LRSs from the current £240 to the proposed £450 per year. This is an increase of 87.5% - far from the "small" increase stated in para 6.16 of the consultation.

When compared with the licence fees payable by those broadcasting on DAB, even the current figures appear high. Why should a charitable hospital radio station serving a few hundred beds on one hospital site have to pay £450 per year in licence fees when a commercial radio station is able to broadcast nationally on DAB after paying only £100 for a BA licence? The DAB network operator pays nothing for their WTA licences, and thus there is nothing to be passed on to the DSP licence holders as part of their negotiated carriage fees, so you can broadcast nationally for only £100, but need to pay £240/£450 to broadcast to a single site. DAB services must surely cause a greater proportion of Ofcom's workload, through, for example, dealing with audience complaints, and changes of ownership of commercial entities, than the operation of an RSL serving a single site such as a hospital by a charity.

Another example of the evident disparity would be where a hospital health & wellbeing radio station broadcasts under a C-DSP licence across a large metropolitan area, but wishes to simulcast its service under an FM RSL at a specific hospital site because it is on the edge of the coverage area for the Small-Scale DAB multiplex, or in an area where reception is poor. This station would pay more in licence fees to Ofcom for the hospital site (£450 per year) than it would do to broadcast across a population of 100,000 or more (£100 per year).