



PRS for Music

Tariff 'UC' University colleges and other
institutions of higher education

Customer Consultation

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1. Introduction

1.1. Performing Right Society Limited (“PRS for Music”)

PRS for Music is running a consultation on the terms of tariff UC which is used to license the use of copyright music, controlled by *PRS for Music*, at the premises of universities, colleges, and similar institutions of higher education, and their student unions.¹ In this document, these entities will be referred to collectively as the “higher education sector” and the tariff as “tariff UC”

PRS for Music is a collective management organisation (CMO), owned by and accountable to our songwriter, composer and publisher members. We license the performing rights in the millions of musical works written and published by over 111,000 members and the millions of songwriters, composers and music publishers who are members of our affiliated CMOs overseas.

We are a not for profit organisation. After deducting the costs of running our organisation, we distribute net licence fees to our members and affiliated CMOs.²

PRS for Music plays a valuable role for the customers using our repertoire. Our members and affiliated CMOs have entrusted us to make their copyright music collectively available for use in return for fair compensation and we provide the required licences for this in a simple and cost effective way. By doing this we give organisations, businesses and individuals the right lawfully to use a global repertoire of millions of copyright musical works, without the need for them to negotiate individual licensing terms for these songs with the songwriters or publishers.

We are required to operate tariffs whose terms are reasonable in relation to the type of user to which they apply (e.g. universities and student unions) and in relation to other schemes that PRS operates in respect of other types of users of our repertoire.

The *PRS for Music* Code of Conduct³ outlines our commitments to existing and prospective customers. These include providing clear and accessible information to users of our repertoire and, where we are considering or proposing to make significant changes to a tariff or to introduce a new tariff, undertaking fair, reasonable and proportionate consultations and negotiations with affected stakeholders.

1.2. Music usage in the higher education sector

We license the ‘public performance’ of music at universities and other higher education institutions, including their student unions⁴. In some cases music uses are permitted by law to be undertaken by educational establishments without the licence of the copyright owner; the public performance of music used as part of the teaching syllabus is generally exempt from the licence requirement but music played for non-curricular purposes at premises for students or staff, for example through TV, radio, stereo systems, computers, or at live music events is considered a licensable public performance.⁵ In such cases the Copyright, Designs and Patents Act 1988 states that permission must be sought from the copyright holder to perform music in public.

¹ These include music used at formal dances, annual Balls and the like, organised by or specifically for, the entertainment of students attending those establishments

² See www.prsformusic.com/creators/memberresources/prsformusicroyalties/distributions/pages/prsdistributionpolicy.aspx for further information on our distribution policy

³ Available at www.prsformusic.com/codeofconduct

⁴ Copyright law defines a performance of music ‘in public’ as including any acoustic presentation of copyright music to an audience consisting of individuals outside of the composer’s domestic or home circle, which would include students and staff at a higher education institution

⁵ Where PRS repertoire is contained in a broadcast which is recorded and communicated by electronic transmission to teachers and pupils at a higher education institution for the educational purposes of that establishment, the communication of our works in this way is licensed by the Educational Recording Agency (“ERA”) [www.era.org.uk].

1.3. Background to tariff simplification

We have recently embarked on an extensive programme to review and simplify our 44 public performance tariffs. The average age of our public performance tariffs is nearly 20 years and some date back even 40 years. Several updates have been applied to the tariffs over time reflecting how music is performed and used by our customers. This has made many tariffs and their associated documentation long and complicated. Hence, we feel that there is a requirement to address the way we license the public performance of music across our customer sectors and to aim for simpler licensing. The guiding principles of our tariff simplification programme are:

1. The tariffs should reflect how our customers use our repertoire
2. The tariffs should be simple to administer for both *PRS for Music* and the customer
3. Aim to remain cost neutral for the existing customer base as a whole (all other things being equal, the simplification should not of itself change the overall licence revenue collected by PRS from any given tariff).

1.4. Background and process of Tariff UC consultation

This consultation forms part in our effort to simplify tariff UC, which was set in 1996 following discussions with *Committee of Vice Chancellors & Principals*⁶, *National Union of Students* and *Student Union Senior Officers' Conference*. The current tariff can be found in Appendix 4.2. The consultation will apply to all music usage licensed under tariff UC at university and student union premises, including at formal dances, annual Balls and the like, organised by or specifically for the entertainment of students attending those establishments.

As part of the simplification, *PRS for Music* has already engaged higher education sector representative bodies such as *Universities UK* and *National Union of Students* in preliminary discussions. In this consultation we will be writing to all current tariff UC customers as well as representative bodies and other stakeholders, with details of the consultation and how to be involved. Information about the consultation will also be published on our website and we invite responses from all interested parties.

We are seeking responses to the consultation by the 9th November 2015. All responses received on or before this date will be reviewed. Details of how to respond are included in section 3.1 of this document and in our dedicated web page section www.prsformusic.com/highereduconsultation.

We are happy to answer any queries from customers and representative bodies submitted via the official communication channels (see section 3.1 for details) and request all consultation respondents to indicate in their responses if they are represented by an industry organisation in this consultation. This information will enable future communications to proceed more efficiently.

Once we have reviewed the consultation responses and held appropriate follow-up discussions, we will publish a response summary along with our proposals as to the terms of a new tariff UC on our website.

⁶Now Universities UK

1.5. The exclusions from the scope of this consultation

The following areas are outside the scope of this consultation:

Further Education Colleges: PRS licenses these institutions using tariff FE. The tariff applies to sixth form colleges and colleges of further education⁷

Educational Establishments: PRS licenses these institutions using tariff EE. The tariff applies to schools that are wholly or partially government-funded, including all primary and secondary schools – or any combination thereof – including special schools; independent ('private' and 'public') schools; schools when the school provides extended hours care for pupils; nurseries, pre-schools or playgroups forming part of any school.⁸

Sound recordings: a licence from Phonographic Performance Limited (PPL) is required in most cases when recorded music, including radio and TV, is played in public. PPL and *PRS for Music* are two separate independent CMOs and in most instances a licence is required from both organisations to lawfully play recorded music in public. While both organisations licence the use of music and collect royalties for the music industry, each represents different rights holders and have separate licences, terms and conditions. PPL collects and distributes money for the use of recorded music on behalf of record companies and performers. *PRS for Music* collects and distributes money for the use of the musical composition and lyrics on behalf of authors, songwriters, composers and publishers.⁹

⁷For further details on Tariff FE, please visit www.prsformusic.com/tariffs

⁸For further details on Tariff EE, please visit www.prsformusic.com/tariffs

⁹For further details on PPL, please visit www.ppluk.com

2. The need for tariff UC review

2.1. Current tariff UC improvement areas

An internal *PRS for Music* review into the current tariff UC commenced in 2014. Findings from this along with feedback from the customers and representative organisations indicated four key improvement areas that we believe should be addressed in the simplification:

1. The tariff documentation (e.g. licence review form) including its administration is perceived to be complex and difficult to understand
2. The tariff uses fragmented metrics to determine licence fees and follows a lengthy “check list” structure. As a result, gathering and declaring the required licence information requires considerable time and effort from PRS and its customers
3. Most higher education institutions and their student unions hold multiple licence accounts for different types of music usage; this further increases the administrative burden
4. The calculation of the royalty charges payable for formal dances (including graduation balls and similar events) is complicated by the ambiguity of the current wording and scope of permissible deductions under the tariff.

2.2. Proposed simplified tariff

To address the improvement areas outlined above, we propose four specific measures for the tariff, its associated documentation and the licensing process:

1. Simplify the structure of the tariff with fewer charges by moving from the “check list” to a streamlined “Core charge + Bolt-on” structure, as illustrated in Figure 1 below:

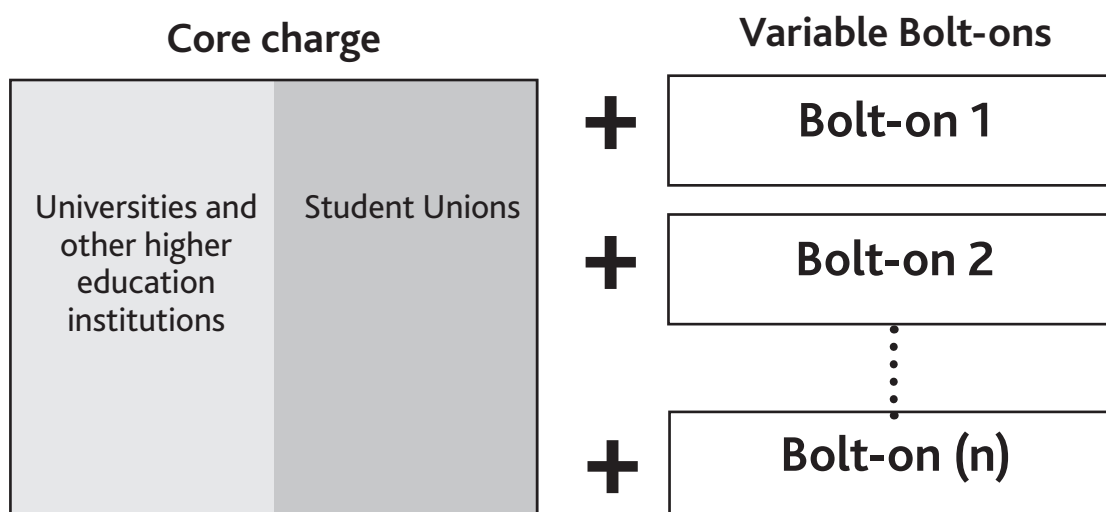


Figure 1: proposed generic tariff UC “Core charge + Bolt-on charges” structure

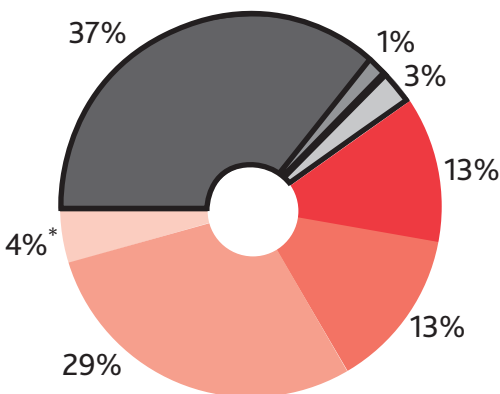
2. Base the tariff charges on simple and objective metrics that can be reported on a centralised institution-by-institution basis by the customers
3. Encourage a “one customer, one licence” principle by issuing one licence per higher education institution and one licence per student union
4. Streamline the associated licensing documentation to support the transparency and understanding of the tariff and licensing.

As outlined in measure 3 above, we propose each customer (higher education institution or student union) to hold a single licence, covering the customer’s Core and variable “Bolt-on” music usage. This will provide an opportunity to consolidate the current average of eight accounts per customer which we believe will help reduce the administrative burden placed on our customers, for example through centralised invoicing for each customer.

2.3. Core usage: definitions and metrics

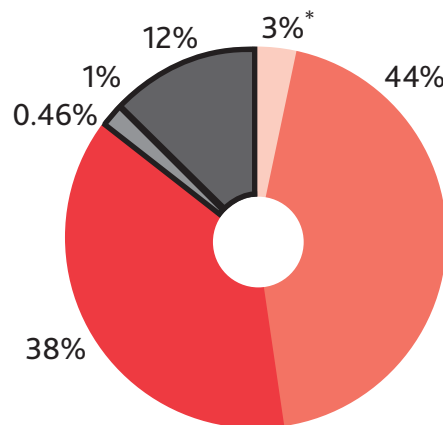
As illustrated in Figure 1 above, we propose that higher education institutions and student unions have separately defined Core charges so that their licences cover the same music usage types, have the same structure, use the same metric but have different Core charge pricing. The purpose of this is to allow the tariff charges to recognise the different music usage profiles between higher education institutions and student unions which we have identified in our internal analysis of the current tariff UC customer base. These average music usage profile can be seen in Figure 2 below:

Universities and other higher education institutions



* Other usage:
 Formal dances (2%)
 Film shows (2%)
 Minimum charges (0%)

Student unions



* Other usage:
 Fitness & dance charges (3%)
 Film shows (1%)
 Minimum charges (0%)



Figure 2: Current music usage structure (based on licence fee) of tariff UC customers; music usage types average cost as a % of current licence cost. BGM denotes 'background music'. Sum of total percentage deviations from 100% are due to rounding

Figure 2 illustrates a clear difference between higher education institutions' and student unions' average music usage profiles: the extent of 'Ticketed Live' and 'Other Featured' music usage types is much more prevalent at the unions compared to higher education institutions. Also, the music usages that are proposed to constitute the Core charge (see the following section), account for a lower percentage share of the unions' current licence fee, compared to the institutions. Hence, we propose that this difference is recognised in determining the core charge. This will help mitigate dramatic shifts in the licence fees for individual customers.

Following the analysis outlined above, we believe that the Core charge of the tariff, which all tariff UC customers would have, should cover the following common music usage types:

Usage type	Description	Proposed charge metric
Background music	Music played on premises through any type of equipment including televisions other than for feature purposes. This excludes uses where the music is a 'featured' element, such as at club nights or live concerts	Number of full-time equivalent students at the institution
Jukeboxes	Audio or video jukebox, with or without background capability	
Staff Areas (formerly known as 'Music in the Workplace')	Music audible to workers such as administrative staff in their place of work or canteen	
Staff training films	Short educational videos exhibited for information purposes.	
Occasional & Spontaneous	Performances that are not pre-arranged, for example on a piano situated in a public place.	

The metric to be used in the tariff to determine each customer's Core charge should be transparent, objective and comparable across our customers. It should also be easy to manage and one that correlates with the extent of the given customer's music usage. Based on our research and discussions with our customers, the number of full-time equivalent ('FTE') students¹⁰ at the higher education institution would constitute the most viable metric.

Our proposed Core charge rates for the higher education institutions and student unions are as follows:

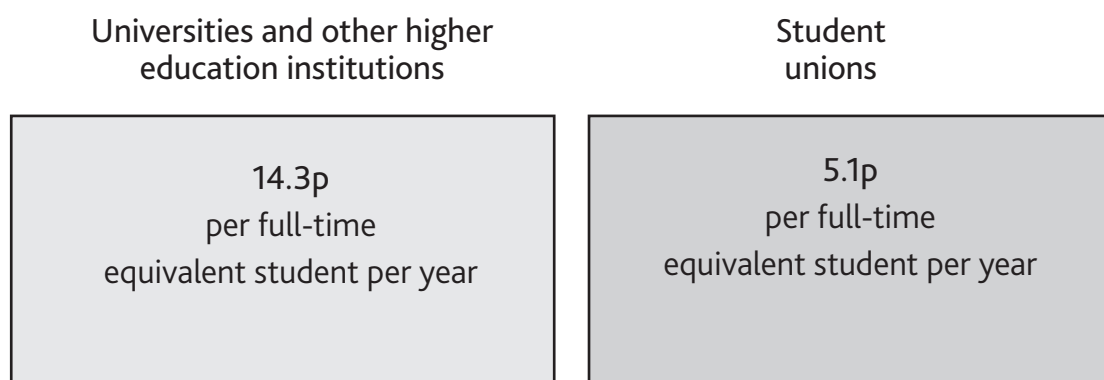


Figure 3: Proposed Core charges for higher education institutions and student unions

¹⁰We have based our subsequent calculations on the student numbers reported by Higher Education Statistics Agency (HESA; www.hesa.ac.uk), with a full-time registered student corresponding to 1 FTE student, and a part time registered student corresponding to 0.5 FTE students

These rates (14.3p and 5.1p) have been calculated to achieve the overall licence fee cost neutrality across the tariff UC customer base, described earlier in this document. As discussed earlier in this section, they illustrate the different average music usage profiles between the higher education institutions and student unions.

While the pence per full-time student is our proposed metric, we are willing to consider other alternatives that respondents may feel are more suitable. These can be outlined in the consultation responses.

2.4. Bolt-on music usages: definitions and metrics

As discussed in this document, variable Bolt-on charges will complement each customer's Core charge by capturing music usage not covered by it. These additional Bolt-on music usage types often have a one-off nature, such as specific events with featured music. For this reason, we propose to apply Bolt-on specific charges determined by an appropriate metric separately per each music usage type. The below table outlines the proposed Bolt-on charges together with their respective definitions and charging metrics:

Bolt-on	Description	Proposed metric
Ticketed Live Music Events	Live music events with admission charge (e.g. touring band performing at student union or university function room)	Aligned with tariff 'LP'
Ticketed Featured Recorded Events	Featured recorded music events with admission charge of £10.00 or more (e.g. touring DJ performing at student union or university function room)	% of box office receipts
Formal Dances	Formal dances with admission charge (e.g. annual/graduation Balls or formal evenings)	% of box office receipts
Other Featured Music Events	Live music events with free admission Featured recorded music events with free admission or with admission charge of less than £10.00 (e.g. regular club nights with a DJ) ¹¹	Fee per event based on venue capacity
Fitness & Dance	Fitness and dance classes featuring music (e.g. Spin, Aerobics, Zumba, Legs Bums & Tums) Fitness and dance lessons featuring music (e.g. Ballet, Tap, Modern, Jazz, Ballroom, Street, Latin)	Aligned with the future Fitness & Dance Tariff 'F&D' ¹²
Film Shows	On-premises extra-curricular film exhibition (e.g. weekly film club)	Fixed fee per showing

¹¹Allows one unbilled live music act to be included at the event; otherwise the event will be charged using "Ticketed Live Music events" charge

¹²See www.prsformusic.com/fitnessanddanceconsultation for further details

2.5. Ticketed live events charge

Live Music Events¹³ to which a charge is made for admission are currently charged under tariff UC at a standard rate of 3% of gross box office receipts¹⁴, less VAT and other taxes. The percentage rate and formula are derived from the PRS charge under its tariff LP, the licensing scheme operated by PRS in respect of popular music concerts “performed where a charge is made for admission in any place not otherwise covered by an appropriate tariff.”

Tariff LP, which is a Copyright Tribunal tariff, is currently the subject of a separate consultation (“Live Consultation”), details of which can be viewed at www.prsformusic.com/liveconsultation. In relation to tariff UC, we propose that all popular concerts performed at tariff UC licensees’ premises should remain aligned with tariff LP from time to time, i.e. with the scheme in its current form and, subject to the outcome of the Live Consultation and any changes that may eventually be ordered by the Copyright Tribunal in relation to the LP scheme, as varied in the future.

2.6. Formal dances

Formal dances and balls currently benefit from a lower licensing rate compared to the ticketed live music events (1% vs. 3% of gross receipts).

The current tariff also allows the customers to deduct from the chargeable revenues that portion of the ticket price relating to expenditure for food and drink, where there is a sit down meal and tickets with and without the dining option are sold. The food and drink deduction has proved to be complex and costly to administer for all parties. Given the significantly lower percentage of gross receipts charged for formal dances and balls compared to ticketed live music event, we propose to maintain the 1% of the event receipts charge with no provision for a food and drink expenditure deduction.

¹³Currently other than formal dances or performances by a single, unbilled act for an admission charge of £5.00 or less at predominantly featured recorded music events

¹⁴i.e. of “all monies paid or payable in respect of any form of admission charges in connection with any event to which [Tariff UC] applies”

2.7. Proposed tariff UC price summary

Below is a summary of the proposed future tariff UC outlining the described structure along with the metrics and charges:

Core charge			Events bolt-ons
Universities and other higher education institutions: - Background music - Jukeboxes - Staff areas - Staff training films - Occasional & spontaneous	Student unions: - Background music - Jukeboxes - Staff areas - Staff training films - Occasional & spontaneous	+	Ticketed live events 3% of box office receipts ²
		+	Ticketed featured recorded events 3% of box office receipts
		+	Formal dances 1% of box office receipts
		+	Other featured events Where venue capacity: 1-150 persons: £6.00 per event 151-300 persons: £12.00 per event 301-500 persons: £22.50 per event 501-1,000 persons: £37.00 per event 1,000+ persons: £73.00 per event
		+	Other bolt-ons
14.3 pence per full-time equivalent student ¹ per year	5.1 pence per full-time equivalent student ¹ per year	+	Fitness and dance classes £1.53 per class ³
		+	Fitness and dance lessons £0.95 per lesson ³
		+	Film shows £4.00 per showing

Figure 4: Proposed tariff charging structure and metrics for higher education institutions and their student unions: Notes: (1) Full-time equivalent students registered at the higher education institution; (2) Aligned with tariff LP, currently in consultation (see section 2.5); (3) Aligned with Fitness & Dance tariff, currently in consultation; (4) The quoted rates are as per licence review period between September 2015 and August 2016 and will be subject to the inflation adjustment formula used in the current tariff on a pro-rated basis until the next review date

3. How to respond and next steps

3.1. How to respond to this consultation

Respondents should complete the “Response Form” as attached as an appendix, providing answers, and any evidence in support of these answers. We are inviting all current tariff UC licence holders to respond to this consultation but welcome and encourage consolidated responses per customer (one response per university; one response per student union).

We will consider all responses that we receive but would ask that you follow the prescribed format in the Response Form, to assist us in reviewing comments efficiently and accurately.

To submit your comments to the consultation, please complete the Response Form (including any supporting evidence) and email it to us by the 9th November 2015 at: UC.consultation@prsformusic.com.

The Response Form and the consultation details outlined in this document are available for download at www.prsformusic.com/highereduconsultation.

If you wish us to keep any or all of your response confidential, or if you wish to provide confidential data in support of your response, please indicate this clearly in the Response Form. We will assume that any information not marked as confidential can be made available to third parties or referred to in documents made available to the public by us. Please also indicate whether you object to us naming you in any published material which summarises or includes quotes from responses.

If you have any questions in relation to the consultation or any other related matter, please contact us at UC.consultation@prsformusic.com or via telephone at **0870 333 7003**.

3.2. Next steps

Following the deadline for submission of consultation responses, we will carry out a review of all responses received and publish a summary of these on our website. We will seek to hold discussions with customers and representative bodies, as required, and announce a new tariff based on the consultation feedback and the subsequent discussions.

4. Appendix

4.1. Consultation Response form

4.2. Current tariff UC



PRS for Music
2 Pancras Square
London N1C 4AG

www.prsformusic.com

Registered in England No. 134396