



Coventry City Council

8.2.2

Public report

Cabinet Report

Licensing and Regulatory Committee
Scrutiny Board 4
Cabinet
Council

1st November 2011
2nd November 2011
29th November 2011
6th December 2011

Name of Cabinet Member:

Cabinet Member (Community Safety & Equalities) Councillor Townshend

Director Approving Submission of the report:

Director of Community Services

Ward(s) affected:

All

Title:

Response to DCMS Consultation Proposal to examine the Deregulation of Schedule One of the Licensing Act 2003

Is this a key decision?

No

Executive Summary:

The Coalition Government have made a commitment to remove red tape affecting live music in small venues as part of the Growth Review. They are suggesting that removing the need for proactive licensing for regulated entertainment could provide a great boost for community organisations, charities, cultural and sporting organisations, for artists and performers, for entertainment venues, and for those local institutions that are at the heart of every community, such as parent/teacher organisations, schools and hospitals.

The Department for Culture, Media and Sport (DCMS) are seeking views on the proposal to remove the licensing requirement for activities currently defined as Regulated Entertainment in Schedule One to the Licensing Act 2003.

The proposal is to examine the need for a licensing regime for each of the activities classed as regulated entertainment. Subject to consultation responses and where evidence exists to suggest there is no such need, the licensing requirement will be removed. Where there is a genuine need to licence a type of entertainment, the proposal will be that the licensing requirement would remain.

Chapter 3 of the consultation addresses the generic issues that are relevant to more than one type of regulated entertainment. They would like to receive views on the handling of health and safety protection for the public/employees and noise nuisance prevention for local residents, as well as views from a public safety and crime & disorder perspective.

The consultation intends to retain the licensing requirements for:

- Any performance of live music, theatre, dance and recorded music, indoor sport or exhibition of film where the audience is of 5,000 people or more
- Boxing and wrestling
- Any performance of dance that may be classed as sexual entertainment, but is exempt from separate sexual entertainment venue regulations

There are no proposals to remove Late Night Refreshment as a licensable activity. (The provisions of hot food and drinks after 11pm)

There are only four premises within the city currently licensed for an audience of 5,000 people or more; these are the Godiva Festival, the War Memorial Park general licence, Broadgate and the Ricoh Arena.

The Government is not proposing any time related cut off for entertainment which is to be deregulated from the 2003 Act. Live music and other entertainment could continue until such time as the organiser sees fit.

Recommendations:

1. Licensing and Regulatory Committee is asked to note the consultation response and forward comments to Cabinet.
2. Scrutiny Board 4 is asked to note the consultation response and forward any comments to Cabinet.
3. Cabinet is requested to:
 - a) Consider any comments from Licensing & Regulatory Committee and Scrutiny Board 4 and approve the response for submission to the Department for Culture, media and Sport by 3rd December 2011, with the indication that the response is subject to approval by Council.
 - b) Recommend that Council approve the consultation response.
4. Council is asked to approve the response.

List of Appendices included:

DCMS consultation proposal (Appendix A). <http://culture.gov.uk/consultations/8408.aspx>

Responses to the consultation questions (Appendix B).

Other Useful Background Papers

DCMS Impact Assessment http://culture.gov.uk/images/consultations/IA_deregulation-scheduleone_2011.pdf
Licensing Act 2003

Has it been or will it be considered by Scrutiny?

Yes – Scrutiny Board 4, 2nd November 2011

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

Yes – Licensing & Regulatory Committee, 1st November 2011

Will this report go to Council?

Yes – 6th December 2011

Response to DCMS Consultation Proposal to examine the Deregulation of Schedule One of The Licensing Act 2003

1. Context (or background)

- 1.1 The Licensing Act 2003 classified the following activities as regulated entertainment, and therefore licensable:
- performance of a play,
 - an exhibition of a film,
 - an indoor sporting event,
 - a boxing or wrestling entertainment (both indoors and outdoors)
 - a performance of live music
 - any playing of recorded music, and
 - a performance of dance
- 1.2 In addition, there is a licence requirement relating to the provision for entertainment facilities (which generally means the provision of facilities which enable members of the public to make music or dance).
- 1.3 Licensable activities can only be carried out under the permission of a premises licence/club premises certificate issued by the local authority, or under a Temporary Event Notice (TEN) served on a local licensing authority. Licences or TEN's are required for any of the activities above, whether they are free events to which the general public are admitted, or public/private events where a charge is made for entry with the intention of making a profit, even where this is raising money for charity.
- 1.4 The Act currently exempts certain forms of entertainment from being licensable, eg. incidental music, educational films, live TV, within places of worship, garden fetes and morris dancing.
- 1.5 There are currently 964 premises in the City that are licensed to provide either alcohol, regulated entertainment or late night refreshment. Of these premises, 4% are schools, community premises, church and village halls and public open spaces. Community premises, such as schools, village halls etc, are exempt from paying any licence application fee if they only apply to licence entertainment. The full fee is payable if they also require an alcohol licence.
- 1.6 There are restrictions on TENs whereby a premises can apply for no more than 12 notices (or 15 days) in one calendar year. An event organiser who does not hold a personal licence is also restricted to 5 notices per calendar year.
- 1.7 Applications for licences for regulated entertainment often occur as part of an application for an alcohol licence, particularly in venues such as pubs, clubs and hotels. There are venues that are primarily entertainment venues, that operate a bar, such as theatres; these still require licensing for both alcohol and regulated entertainment.
- 1.8 The government's proposals if fully implemented, would result in any venue providing entertainment for up to an audience of 4,999 people being outside the control of the Licensing Act unless it was also providing alcohol or late night refreshment

2. Options considered and recommended proposal

- 2.1 The Licensing Regime was introduced in 2004 to consolidate a number of existing licensing regimes spread across the Magistrates Court and Local Authorities. It was introduced as a simple integrated system. The Licensing objectives (Preventing crime and disorder, preventing public nuisance, protecting public safety and protecting children from harm) ensured that a range of 'Responsible Authorities' were formally engaged in any Licensing application to ensure that the public and the community at large were protected by the application of a range of sensible licensing conditions.

- 2.2 It is recognised that entertainment does not create risks of crime and disorder or public nuisance per se. It is the combination of the nature of that entertainment, the numbers attending, the audience profile, the provision of alcohol and the overall management control of the premises, which together can create problems for individuals and local communities.
- 2.3 Option 1 would be not to send a response to the DCMS. However, given the issues raised within the consultation documents, it is considered appropriate to respond.
- 2.4 Option 2 would be to send a response to the DCMS identifying the Council's view on the questions raised within the consultation. This is the recommended option.

3. Results of consultation undertaken

- 3.1 The consultation proposals have been examined by the Licensing Team, senior managers and legal services. Views have also been sought from Responsible Authorities, particularly those for whom the Local Authority is the service provider - Safeguarding Children, Environmental Protection, Trading Standards, Planning and Health & Safety. These views are collated in Appendix B which represents the City Council's proposed formal response to the consultation.

4. Timetable for implementing this decision

- 4.1 The closing date for responses is 3rd December. Due to the tight timescales and the dates of Council meetings, it is proposed that the response will be submitted with a covering letter outlining the local position and informing them that any changes/updates to the submission will be forwarded following the Council meeting on 6th December.

5. Comments from Director of Finance and Legal Services

5.1 Financial implications

In reducing this 'regulatory burden', the government forecast significant cost savings to the entertainment sector. If the proposed changes are implemented there will be a number of financial impacts on the local authority. The information below is taken from the Government's own impact assessment.

a) Income from the processing of licence applications and annual fees may fall. The current income target is £187k, the Government have not specified the proposed fee reductions. The Government view is that the reduction in administration and enforcement costs would offset this reduction in income, ie. we would need less resource to manage fewer licensing applications. It must be noted however that the vast majority of premises in Coventry with licensed entertainment, also possess an alcohol licence which must still be administered for the reduced fee levels.

b) There is likely to be an increase in the number of noise complaints which would require investigation by the Environmental Protection Team in Public Safety & Housing. This increase in complaints would also lead to an increase in the number of licence reviews called for. However, the Government view is the increase in costs associated with this enforcement activity would be compensated for by the reduction in time taken to assess licence applications by responsible authorities.

c) There would be further savings to business by the removal of a requirement to apply for TENs. Again this would be a reduction in income for the licensing authority.

Until a fee structure is developed by the government, it will be impossible to quantify the actual revenue impact on the authority or the resources required to administer the remaining licensing regime.

5.2 Legal implications

There are no legal implications directly arising from responding to this Government consultation. However, should the proposals be implemented it is likely that the Council will become involved in an increased number of legal proceedings arising from licence variation appeals and increased enforcement under statutory noise nuisance powers.

6. Other implications

There are 16 parks and open spaces currently licensed by the City Council, the majority of these are solely for regulated entertainment purposes and many are owned and operated by the City Council. The local authority are also required to apply for TEN's to provide for entertainment in parks where those areas are not licensed.

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint

The government proposals for removing the need for proactive licensing suggest that this could provide a boost for community organisations, charities, cultural and sporting organisations, who wish to use artists and performers. It may also provide a boost for entertainment venues, to create an active and vibrant city.

6.2 How is risk being managed?

By following legal process and the setting of a policy, the authority is working positively with Responsible Authorities, business and local residents whilst minimising any risk of legal challenge.

6.3 What is the impact on the organisation?

Premises that continue to hold a licence after the reforms, (for alcohol, late night refreshment or remaining forms of regulated entertainment) would be able to host entertainment activities that were formerly regulated without the need to have a licence. All existing conditions on such licences would continue to apply unless the premises decided to apply for a variation to remove or amend them.

Most premises that provide regulated entertainment have conditions in place to uphold the licensing objective of the prevention of public nuisance. It is unclear what validity, if any, such conditions would have if the activities they seek to control are no longer licensable. However, the removal of such controls are likely to be resisted by local residents which may lead to an increase in sub-committee hearings and subsequent magistrates' appeals. There would be resource implications for licensing officers and the licensing committee should the majority of these premises make an application to remove these from the licence.

6.4 Equalities / EIA

The Equalities Impact Assessment for the Licensing service was reviewed in November 2010. Any changes to licensing activities will not have any negative impact on that assessment.

6.5 Implications for (or impact on) the environment

There are minimal impacts on the environment as a whole. Noise would be the principal concern, and the local authority would be reliant on existing statutory powers to control noise and nuisance, rather than the Licensing Act 2003. This may have an impact on workloads for Environmental Protection and Legal Services where action is taken.

6.6 Implications for partner organisations?

The Police and Responsible Authorities have an opportunity to consider new and variations to premises licences under the Licensing Act 2003. There may be an impact on resources should the majority of premises undertake to apply to remove conditions from their licences.

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department for
**culture, media
and sport**

Appendix A

Regulated Entertainment

A Consultation proposal to examine the deregulation of
Schedule One of the Licensing Act 2003

September 2011

improving
the quality
of life for all

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Foreword

At the moment, the law and regulations which require some (but not all) types of entertainment to be licensed are a mess. For example, you will need a licence if you want to put on an opera but not if you want to organise a stock car race. A folk duo performing in the corner of a village pub needs permission, but the big screen broadcast of an England football match to a packed barn-like city centre pub does not. An athletics meeting needs licensing if it is an indoor event, but not if it's held outdoors. A free school concert to parents doesn't need a licence, but would if there is a small charge to raise money for PTA funds or if there are members of the wider public present. A travelling circus generally needs a permit whereas a travelling funfair does not. A carol concert in a Church doesn't need a licence, but does if it is moved to the Church Hall. There are many other examples where types of entertainment are treated differently for no good reason – the distinctions are inconsistent, illogical and capricious.

But they cause other problems too. Whenever we force local community groups to obtain a licence to put on entertainment such as a fundraising disco, an amateur play or a film night, the bureaucratic burden soaks up their energy and time and the application fees cost them money too. Effectively we're imposing a deadweight cost which holds back the work of the voluntary and community sector, and hobbles the big society as well.

Equally importantly, the various musicians' and other performers' unions are extremely concerned that all these obstacles reduce the scope for new talent to get started, because small-scale venues find it harder to stay open with all the extra red tape. There is also evidence that pubs which diversified their offer to include activities other than drinking were better able to survive the recession. Making it easier for them to put on entertainment may therefore provide an important source of new income to struggling businesses such as pubs, restaurants and hotels.

Last but not least, laws which require Government approval for such a large range of public events put a small but significant dent in our community creativity and expression. If there's no good reason for preventing them, our presumption should be that they should be allowed.

So this is a golden opportunity to deregulate, reduce bureaucratic burdens, cut costs, give the big society a boost and give free speech a helping hand as well. Our proposals are, simply, to remove the need for a licence from as many types of entertainment as possible. I urge you to participate in this consultation so that we can restore the balance.

John Penrose

Minister for Tourism and Heritage

Chapter 1: Regulated Entertainment - a proposal to deregulate

Introduction

- 1.1. The consultation seeks views on a proposal to remove licensing requirements in England and Wales for most activities currently defined as “regulated entertainment” in Schedule One to the Licensing Act 2003.
- 1.2. The Licensing Act 2003 brought together nine separate licensing related regimes covering alcohol supply and sale, late night refreshment, and “regulated entertainment”. In doing so the Act modernised many out-dated laws that had been left behind by changes in technology and modern lifestyle.
- 1.3. The Licensing Act 2003 changed the way that licensing procedures worked. Having a single licence for permissions for multiple licensable activities was undoubtedly a great step forward for many, who had previously needed to make separate costly and time consuming licence applications. In this respect, the 2003 Act has been a success. In other respects, it has been less successful. The Government is currently legislating via the Police Reform and Social Responsibility Bill to rebalance alcohol licensing in favour of local communities, for example.
- 1.4. In addition, despite a radical approach to alcohol licensing, the 2003 Act failed to match its ambition. The regime for “regulated entertainment” missed a real opportunity to enable entertainment activities and either simply aped old licensing regimes or instead took a new, overcautious line. This was particularly apparent with the removal of the “two in a bar” rule, which allowed previously two musicians to perform in a pub without needing to obtain a specific entertainment licence. But instead of modernising an old law that had simply gone past its sell by date, the 2003 Act ended up potentially criminalising a harmless cultural pastime.
- 1.5. Indeed tidying up the administrative processes created new problems for many others. The Government has received countless representations about the difficulties that the 2003 Act has brought to a wide range of cultural and voluntary sector and commercial organisations. New licensing requirements, under the 2003 Act were, for many, a step backwards, bringing costly and bureaucratic processes for low risk, or no risk, events, including:
 - Private events where a charge is made to raise money for charity;
 - School plays and productions;
 - Punch and Judy performances;
 - Travelling circuses;
 - Children’s films shown to toddler groups;
 - Music performances to hospital patients;
 - Brass bands playing in the local park;
 - School discos where children are charged a ticket price to support the PTA;
 - Exhibitions of dancing by pupils at school fetes;
 - Costumed storytellers;
 - Folk duos in pubs;

- Pianists in restaurants;
- Magician's shows;
- Performances by street artists;
- And even performances by a quayside barber shop quartet.

- 1.6. Before the General Election both Coalition parties recognised the need for reform, and in the Coalition Programme for Government we made a firm commitment to remove red tape affecting live music in small venues. Then, as part of the Growth Review which was published alongside the Budget this year, we announced an examination of "regulated entertainment", with the aim of removing licensing regulation that unnecessarily restricts creativity or participation in cultural and sporting events. This consultation is the result of that work.
- 1.7. In the chapters to come we will explore each of the entertainment activities regulated by the Licensing Act 2003 and ask for views on the key question: "what would happen if this activity were no longer licensable?"
- 1.8. In many areas, early discussions with stakeholders have indicated that deregulation would be welcome and straightforward. With other forms of licensable activity though, we recognise that there may be some inherent difficulties. In such circumstances, this consultation outlines where we feel particular protections will be needed, and indeed where full deregulation may not be possible at all.
- 1.9. This consultation is predicated on the fact that we think there is ample scope to sensibly deregulate most, but not all, of Schedule One to the 2003 Act. Removing the need for proactive licensing for regulated entertainment could provide a great boost for community organisations, charities, cultural and sporting organisations, for artists and performers, for entertainment venues, and for those local institutions that are at the heart of every community, such as parent/teacher organisations, schools and hospitals.
- 1.10. We do, though, need to request and examine evidence from this consultation in order to fully evaluate the proposals and to ensure we have a complete picture with regard to any potential benefits or impacts to ensure there are no unintended consequences.

Chapter 2: The Current situation, and our detailed proposal

The current situation - background

2. The Licensing Act 2003 classifies the following activities as “regulated entertainment”, and therefore licensable:

- a performance of a play,
- an exhibition of a film,
- an indoor sporting event,
- a boxing or wrestling entertainment (both indoors and outdoors),
- a performance of live music,
- any playing of recorded music, and
- a performance of dance

2.1. In addition, there is a licence requirement relating to the provision for entertainment facilities (which generally means the provision of facilities which enable members of the public to make music or dance).

2.2. Licensable activities can only be carried out under the permission of a licence¹ or a Temporary Event Notice (TEN) from a local licensing authority. Licences (or TENs) are required for any of the activities above (subject to limited exemptions set out in part 2 of Schedule 1) whether they are free events to which the general public is admitted, or public or private events where a charge is made with the intention of making a profit - even when raising money for charity.

2.3. Applications for licences to host regulated entertainment can often occur as part of an application for an alcohol licence, particularly in venues such as pubs, clubs, and hotels, but there are also many venues that are primarily “entertainment venues” that operate a bar, such as theatres, which still require alcohol licence permissions to do so.

¹ In this consultation “licence” refers to a Premises Licence or a Club Premises Certificate for ease of reading.

Licensing powers and national scale

- 2.4. The Licensing Act 2003 has four underlying licensing objectives: Prevention of Crime and Disorder; Prevention of Public Nuisance; Protection of Children from Harm; and Public Safety. Licensing authorities must exercise their functions and make their decisions with a view to promoting those objectives .
- 2.5. In support of these four objectives, licences can be subject to extensive conditions. These conditions can be placed on a licence at time of grant - either volunteered by the applicant or imposed by the licensing authority, as part of an application to vary a licence, or imposed as part of a licence Review. Conditions play an important part role in ensuring a “contract” between a licensing authority and licensee, and play an important role in setting the context in which the licensed premise can operate.
- 2.6. Similarly, licence Reviews play an important role in the controls process. Reviews provide relevant authorities with powers to address problems, and they ensure appropriate local representation in the decision making processes. Reviews can be triggered by complaints from local residents or businesses, or by representations by relevant authorities such as the police. For a licensee, a licence review is a very serious issue, and failure to comply with the law could lead to closure of a premises, a very heavy fine, and even a potential prison sentence.
- 2.7. In terms of scale, there are currently around 133,000 premises in England and Wales licensed for regulated entertainment, with almost all of these premises licensed to sell alcohol. Additionally, over 120,000 TENs are authorised each year. TENs can be used as an alternative to a fuller licence, as a “one-off” permission for a licensable event, at a cost of £21 per application.
- 2.8. An event organiser is permitted up to five TENs per year, unless they also hold a personal licence for alcohol sale or supply, in which case the limit is extended to 12 TENs per year at the same premises or up to 50 events at different places.

This proposal

- 2.9. The starting point for this consultation is to examine the need for a licensing regime for each of the activities classed as “regulated entertainment”. Where there is no such need, we propose to remove the licensing requirement, subject to the views and evidence generated through this consultation.
- 2.10. Where there is a genuine need to licence a type of entertainment, then this consultation proposes that the licensing requirement would remain, either in full, or in part if more appropriate. In such cases this consultation seeks to identify the precise nature of the potential harm, and seek evidence to identify effective and proportionate solutions.
- 2.11. Chapter 3 of this consultation will address the generic issues that are relevant to more than one type of regulated entertainment. For example, we are interested to hear views on the handling of health and safety protections and noise nuisance prevention, as well as views from a public safety and crime and disorder perspective. The consultation will pose a number of questions related to these aspects, and will ask a

final question where any further comments can be added on any issues of note.

- 2.12. Chapters 4-11 will then examine each activity in Schedule One to the Licensing Act 2003 and investigate specific issues particular to that activity.
- 2.13. Although both Chapter 3, and Chapters 4-11 will ask questions relating to deregulation principles, **this consultation would like to make clear at the outset that in any instance, Government intends to retain the licensing requirements for:**
- Any performance of live music, theatre, dance, recorded music, indoor sport or exhibition of film where the audience is of 5,000 people or more.
 - Boxing and wrestling.
 - Any performance of dance that may be classed as sexual entertainment, but is exempt from separate sexual entertainment venue regulations.

More details of how we would ensure these protections are in place can be found in Chapters 4-11.

Next steps and methodology

- 2.14. We will collate and review comments from this consultation and then publish a Government response. Where we have a clear view that deregulation for an activity is supported, we will look to remove or replace the Schedule One definition relating to that activity as soon as possible, using existing powers in the 2003 Act to do so where this is possible.
- 2.15. Where changes would require either new exemptions or new provisions in the Licensing Act 2003, or an amendment to any other legislation, we will assess needs and legislative options following the consultation analysis and set out the forward plan in the consultation response.

Who will be interested in this proposal?

- 2.16. Each aspect of regulated entertainment has a wide range of interested parties. In some cases there are groups of stakeholders who will have interest in more than one of the regulated entertainment activities. Some of these will include:
- Existing small and medium professional and amateur cultural groups, such as arts centres, theatre groups, dance groups.
 - Mainstream and independent cinemas, film clubs
 - Musicians – amateur and professional
 - Actors, performers
 - Local cultural providers and practitioners, and event organisers
 - Charities, PTAs, Schools
 - Community audiences for all of the art forms regulated by the 2003 Act
 - Residents and community representatives

- Licensed premises, such as clubs and pubs, hotels and bed and breakfasts
- Unlicensed premises such as coffee shops, scout huts, church halls, record shops, schools and hospitals, amongst others
- The music industry
- Larger cultural institutions, and cultural development stakeholders
- Those involved in local regeneration
- Other cultural and creative institutions, such as dance and theatre companies, sports bodies who could gain increased exposure in their sport from greater opportunities, potentially leading to an uptake in participation
- Cultural and sporting development organisations
- Licensing authorities, noise officers, health and safety officers
- The police, fire service and trading standards officers and others with an interest in public safety and crime and disorder.

Impacts and benefits

- 2.17. An initial Impact Assessment has been produced for these proposals. This Assessment details, wherever possible, the benefits and impacts of these proposals and has been examined by the independent Regulatory Policy Committee. The initial Impact Assessment can be viewed online at www.culture.gov.uk and is available in hard copy from DCMS from the address provided in annex A.
- 2.18. The initial Impact Assessment has a provisional status and will be informed by the responses to this consultation. We will undertake further work to quantify the consequential costs, benefits and burdens on the police, licensing authorities and others on the central proposal to deregulate entertainment events involving 4999 people or less. Many of the activities classed as regulated entertainment are small local events and, because of this, national data collection is currently disproportionately expensive.
- 2.19. In these circumstances assumptions have been made by Government analysts, following various extrapolations of the available data but in this consultation we would be very grateful for any new data that may be helpful to our overall understanding of the local nuance or the national statistical picture.
- 2.20. It is not possible, for instance, to predict precisely the additional activities that we expect to arise if there were currently no licensing requirements in respect of regulated entertainment, and so we are grateful for views through the questions in this consultation. It has also not been possible to cost every possible benefit (such as the effect of the Culture and Sport Evidence Programme led by DCMS, Arts Council England, English Heritage and Sport England) or possible impact (for example data on costs of the noise complaint processes under the Noise or Environmental Protection Acts) - so again we will use evidence from the consultation responses to update the Impact Assessment to ensure costs and benefits of these proposals are reflected as accurately as possible before any final considerations.
- 2.21. The headline detail from the Impact Assessment is that we would expect to see a huge range of benefits, with a total economic benefit of best estimate of £43.2m per year. Besides the direct economic benefit, and the costs and labour saving, there are

expected to be substantial benefits to individual and collective wellbeing due to extra provision of entertainment and participation, as well as additional social interaction benefits.

- 2.22. This proposal would also bring clarity to existing laws, ending uncertainty about whether and in what circumstances activities, such as street artists, buskers, poets, and carol singers would require a licence under the Licensing Act 2003.

Effect on the current licensing regime

- 2.23. Over 133,000 premises have some form of regulated entertainment provision granted on their licence. The benefits of removing licensing requirements will vary, depending on individual circumstances.
- 2.24. Premises that currently hold a licence **only** for the activities that were formerly classed as regulated entertainment (for example, some church halls) would no longer need a licence. In these cases all licensing requirements would cease, and fees and licence conditions would end when a licence is surrendered. Venues would be able to host activities formerly classed as regulated entertainment without the need for any licence.
- 2.25. Premises that continue to hold a licence after the reforms (for example, for alcohol, late night refreshment, or remaining forms of regulated entertainment) would be able to host entertainment activities that were formerly regulated without the need to go through a Minor or Full Variation process. We propose that all existing conditions on such licences would continue to apply unless the premises decided to apply for a variation to remove or amend them - a situation that should prevent the need for a wholesale reissue of licences by licensing authorities. Conditions are an integral part of a licence authorisation, so this consultation seeks evidence with regard to any potential transitional issues, to ensure sufficient certainty for both licensee and those monitoring compliance to ensure all parties are aware of what is required of a premises. Taking account of any such issues, full guidance would be issued to licensing authorities and other interested parties before any changes would be made.
- 2.26. Finally, on a very practical local level, there are also at least 900 areas listed on the DCMS licensed public land register² which represent areas licensed by local authorities solely for regulated entertainment purposes - such as town centres, promenades, high streets, parks, gardens and recreation grounds. Licensing authorities would also no longer have to process and oversee over 12,500 licences per annum for which they do not receive a fee, such as village halls and for certain performances held in schools. Together this is at least 13,400 community and non-commercial premises per annum that would no longer be subject to a licensing regime.

² http://www.culture.gov.uk/what_we_do/regulated_entertainment/3196.aspx

Proposal Impacts: Questions

You may wish to read the full document before commenting - a composite list of questions is provided at the end of the document

Q1: Do you agree that the proposals outlined in this consultation will lead to more performances, and would benefit community and voluntary organisations? If yes, please can you estimate the amount of extra events that you or your organisation or that you think others would put on?

Q2: If you are replying as an individual, do you think this proposal would help you participate in, or attend, extra community or voluntary performance?

Q3: Do you agree with our estimates of savings to businesses, charitable and voluntary organisations as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures that you think need to be taken into account (see paragraph 57 of the Impact Assessment).

Q4: Do you agree with our estimates of potential savings and costs to local authorities, police and others as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures you think need to be taken into account.

Q5: Would you expect any change in the number of noise complaints as a result of these proposals? If you do, please provide a rationale and evidence, taking into account the continuation of licensing authority controls on alcohol licensed premises and for late night refreshment

Q6: The Impact Assessment for these proposals makes a number of assumptions around the number of extra events, and likely attendance that would arise, if the deregulation proposals are implemented. If you disagree with the assumptions, as per paragraphs 79 and 80 of the Impact Assessment, please provide estimates of what you think the correct ranges should be and explain how those figures have been estimated.

Q7: Can you provide any additional evidence to inform the Impact Assessment, in particular in respect of the impacts that have not been monetised?

Q8: Are there any impacts that have not been identified in the Impact Assessment?

Q9: Would any of the different options explored in this consultation have noticeable implications for costs, burdens and savings set out in the impact assessment? If so, please give figures and details of evidence behind your assumptions.

Q10: Do you agree that premises that continue to hold a licence after the reforms would be able to host entertainment activities that were formerly regulated without the need to go through a Minor or Full Variation process?

Chapter 3: The role of licensing controls

Introduction

3. In this section we will explain the general background to regulatory protections in the Licensing Act 2003 and ask for views that apply across the “regulated entertainment” regime. Chapters 4-11 will cover individual items included in Schedule One, so you may choose to apply your comments in questions posed in those sections if more appropriate.

The four licensing objectives

- 3.1. As set out in paragraph 2.4, the Licensing Act 2003 has four licensing objectives and licensing authorities must exercise their functions with a view to promoting those objectives. They are:

- Prevention of Crime and Disorder;
- Prevention of Public Nuisance;
- Protection of Children from Harm;
- Public Safety.

These four objectives are important protections, particularly in respect of alcohol sale and supply, which is the principal component of the Licensing Act 2003.

- 3.2. In taking stock of the efficacy and proportionality of the licensing regime, this proposal seeks to examine the need for licensing in the context of the other legislative protections that are already in place. This chapter will do this by examining each of the four licensing objectives and seek views regarding necessary controls.
- 3.3. This consultation proposal suggests that regulated entertainment itself in general poses little risk to the licensing objectives. There are though considerations concerning noise nuisance from music and where audiences of up to 4,999 people could attend events where no licensing authority licence was present, as well as related public safety issues.

Crime and disorder

- 3.4. Where problems do occur, it is often because of the presence of alcohol sales and consumption.
- 3.5. Most existing venues offering regulated entertainment are already licensed for alcohol and **existing controls will continue to apply under these proposals**. The existing alcohol safeguards provide a powerful incentive to ensure that licensing objectives are safeguarded, and as outlined earlier, failure to comply can result in a licence review, which can lead to closure of the premises, a very heavy fine, and a potential prison sentence for the licensee. However, under our proposals, there would be no requirement to notify the licensing authority or the police of an event of up to 4999 people that did not involve the sale of alcohol.
- 3.6. The Government is also legislating via the Police Reform and Social Responsibility Bill to

rebalance the regulation around alcohol licensing. These measures include, for example giving licensing authorities and the police more powers to remove licences from problem premises and increasing the involvement of health bodies and environmental health authorities in licensing decisions, including Temporary Event Notices.

- 3.7. In addition, the Government is giving local communities additional powers to shape their night-time economies and tackle alcohol-fuelled crime and disorder, by allowing licensing authorities to collect a contribution or levy from late opening alcohol retailers towards the cost of late night policing and extending powers to restrict the sale of alcohol in problem areas. The Government will also take steps to dismantle unnecessary legislation but will continue to regulate in a targeted way where this is needed. The new measures on alcohol, taken together with a sensible deregulation of the no risk or low risk entertainment activities, should lead to a more effective and focussed controls regime.
- 3.8. So while there would no longer be a requirement for a specific permission for activities currently classed as regulated entertainment, there would still be generic controls in place related to the alcohol licence (or, where relevant, permission for late night refreshment). For example, under the current arrangements, a pub does not need a specific permission to show a big screen football international. However, if it is necessary to address identifiable risk of disorder related to the event, a responsible authority such as the police can seek a review to apply measures such as limits on opening hours before the screening, or the use of plastic glasses, or the employment of extra door staff - even though the television broadcast itself is not a licensable activity.
- 3.9. Events in non-licensed premises that are currently held under a TEN will usually be held in non-commercial premises that are overseen and controlled by a management committee or governing body (for example, a community hall, school or club) or otherwise run by the local authority. While this may not singularly remove every risk of crime and disorder, it does suggest that a blanket requirement for all those providing music and other entertainment to secure a licence is disproportionate and unnecessary.
- 3.10. However, we should also pay regard to the fact that the removal of licensing regulations will remove the requirement to automatically notify the Licensing Authority and the police that an entertainment event is taking place. We would be grateful for views on potential public safety and crime and disorder considerations in the questions in this consultation.

Public Nuisance (noise)

- 3.11. **Premises selling alcohol will still require a licence** as outlined above. Alcohol licences can already be used to address noise and other areas of concern, and the Licensing Act 2003 gives the police powers to close licensed premises at short notice as a result of disorder or on the grounds of public nuisance, which includes noise. This process can result in conditions being stipulated which must be met before the premises can reopen. Such Closure Orders under the Licensing Act 2003 lead automatically to a review of the licence where, again, conditions can be attached to the licence. Local Authorities also maintain the right to impose a full range of conditions on alcohol licenses after a licence Review. Again, failure to comply can result in a very heavy fine, and a potential prison sentence up to six months for the licensee.
- 3.12. **All premises**, whether licensed for alcohol or not, will also continue be subject to existing noise nuisance and abatement powers in the Environmental Protection Act 1990. These powers require local authorities to take reasonable steps to investigate a complaint about a potential nuisance and to serve an abatement notice when they are satisfied that a nuisance exists or is likely to occur or recur.
- 3.13. Additionally, there are also powers in the Anti-Social Behaviour Act 2003 which allow the police to close licensed premises to prevent a public nuisance caused by noise from those premises. Earlier this year, the Government set out proposals to radically simplify and improve the powers the police and others have to deal with anti-social behaviour.
- 3.14. There is also the Noise Act 1996 which allows the local authority to take action (issuing a warning notice, or fixed penalty notice, or seizing equipment) in respect of licensed premises where noise between 11pm and 7am exceeds permitted levels.
- 3.15. Finally, under the Criminal Justice and Public Order Act 1994, the police currently have powers to remove people attending or preparing for night-time raves on land in the open air - refusal to leave or returning to such land following a police direction is a criminal offence.
- 3.16. **Premises which do not sell alcohol** (such as non-licensed restaurants and cafes, as well as non-commercial premises such as community halls, schools and hospitals) would be covered by noise nuisance legislation such as the Environmental Protection Act 1990. As referenced above, non-commercial premises such as village halls tend to be run by a local management board or committee to represent the interests of the local community and exercise necessary control should problems occur. In such circumstances though the existing licence controls would no longer be in place, and so in the questions in this consultation we would be grateful for views on any potential concerns.

Public Safety

- 3.17. The Health and Safety at Work Act 1974 together with disability legislation, offers protection in relation to the safety of the public at an event, placing a clear duty to take reasonable steps to protect the public from risks to their health and safety. In addition,

the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) imposes fire safety duties in respect of most non-domestic premises.

- 3.18. Potential problems at events should be prevented through the risk assessments and compliance with other duties imposed by this legislation, rather than the additional layer of bureaucracy imposed by requirements of the Licensing Act 2003.
- 3.19. Although some licensing authorities rely on the Licensing Act 2003 rather than other legislation, many types of existing mass entertainment activity already take place successfully outside the licensing regime. Large numbers of people gather in one place without an entertainment licence for events such as fun fairs, country shows, political rallies and demonstrations, religious events, stock car racing, or outdoor sport such as the Ryder Cup, or three-day eventing. There is no directly justifiable reason why events such as ballet, classical concerts or circuses should be considered any more of a risk to public safety than these activities.

Protection of Children

- 3.20. There are two main areas of relevance in relation to regulated entertainment where it is important we protect children from harm.
- 3.21. The first of these is the prevention of access to unsuitable content (for example by film classification restrictions, and by restrictions on sexual entertainment). The second aspect is with the physical protection of children in relation to participation in indoor sport and other activities.
- 3.22. Issues specific to unsuitable content in the context of dance and film are addressed directly in chapters 6 and 7 respectively in this consultation. Some content protection themes do though cut across several forms of regulated entertainment, and we seek your views on these at the end of this chapter.
- 3.23. Adult entertainment is not a separate or distinct licensable activity under the 2003 Act, but is generally dealt with under other legislation (see paragraph 11.4). Some forms of adult entertainment (such as “blue” comedians) are not currently licensable at all. In most cases, such activities take place in premises that are licensed for the sale of alcohol for consumption on the premises, and restrictions automatically apply on the admission of unaccompanied children. The proposals in this consultation would not affect the status quo.
- 3.24. In the second area of child protection (physical protection for children taking part in indoor sports, and similar activities) there are already robust existing child protection policies in place across all Government funded sports. Recognised sports are required to have a governing body in place that controls the sport and ensures that coaches and officials are properly trained.
- 3.25. Most importantly, the Children Act 1989 places a duty on Local Authorities to investigate if there are concerns that a child may be suffering or may be at risk of suffering significant harm. Additionally, the employment of children is covered by other legislation, such as the Children and Young Persons Act 1963 which, among other things, places restrictions on children taking part in public performances.

Size of events

- 3.26. The Government recognises that, once an event reaches a certain size, it can be difficult to control the events using alcohol licences alone, and there may also be large entertainment events that do not – either currently or in the future – choose to sell alcohol. Sports ground safety legislation, which applies to outdoor sport, applies a limit of 5,000 spectators for football, and 10,000 for other sports before specific safety requirements apply.
- 3.27. The Licensing 2003 Act already recognises the additional burden that large events can cause for local authorities by applying an additional licence fee for events where more than 4,999 people are present.
- 3.28. **This consultation therefore proposes that only events with an audience of fewer than 5,000 people are deregulated from the 2003 Act.**
- 3.29. We would welcome views on this figure in the questions at the end of this chapter. The Association of Chief Police Officers has, for example, suggested that the 500 audience limit which applies to Temporary Event Notices may be a more appropriate starting point.
- 3.30. Similarly, we would welcome views on whether there should be different limits for different types of entertainment – for example whether unamplified music performances should have no audience limit applied at all (as they are self-limiting, due to acoustic reach), and whether outdoor events should be treated differently to those held in a building. Again, questions relating generically to these issues are posed at the end of this chapter.

Time of events

- 3.31. Noise nuisance can be a particular issue of concern for those living near venues. It has been argued that particular controls need to be applied to events held after 11pm. The background to this issue is that 11pm is stipulated in existing noise legislation as the beginning of “night hours” (defined by the World Health Organisation as *the period beginning with 11pm and ending with the following 7am*) in the Noise Act 1996 and the point at which the control powers of the Noise Act begin to apply.
- 3.32. **This consultation does not propose applying an 11pm cut off for the deregulation of regulated entertainment.** This is because existing legal powers in the Noise Act 1996 already make special provision to deal with problems occurring after 11pm for alcohol licensed premises, which will cover the vast majority of venues for entertainment. Noise Act powers work in tandem with the Licensing Act 2003 so that any premises that is not abiding by its licence conditions can be immediately tackled by Local Authority officers, but it should be noted that most Local Authorities do not operate a full nuisance complaints service outside normal working hours.
- 3.33. The Anti-Social Behaviour Act 2003 provides Local Authorities with powers to immediately close noisy premises for up to 24 hours, with consequences of up to three months in prison, a fine up to £20,000, or both. Whilst this is a substantial deterrent we

would be grateful for views relating to any potential problems or enforcement or resourcing issues, including where there may be other issues, such as “out of hours” resourcing.

- 3.34. Additional measures under the Criminal Justice and Public Order Act 1994 cover outdoor night time music events that are not licensed under the 2003 Act. Most currently regulated entertainment does not go beyond 11pm, but to impose a cut off would introduce inflexibility and in effect make it illegal for an unlicensed performance to run 10 minutes over time. This would simply reintroduce the kind of unintended consequences the deregulation seeks to remove whereby illegality has no bearing on the impact of the actual individual activity.
- 3.35. In the recent debate during the Committee stage of the Live Music Bill in the House of Lords, several speakers, expressed their support for a cut off time of midnight for exemptions for small music events.³
- 3.36. The Government is therefore not proposing any time related cut off for entertainment which is to be deregulated from the 2003 Act. However, we welcome views on this issue at the end of this chapter. This includes seeking views on whether any time restrictions should apply and, if so, whether this should be the same for all entertainment activities or just those which are believed to pose a particular risk. It would also be helpful to have views on whether there should be a distinction between indoor and outdoor events.
- 3.37. One alternative option to the current licensing arrangement could be to develop a Code of Practice for entertainment venues. This could help to ensure preventative best practice without the need for regulation. While this would have no statutory sanctions, it would encourage good practice. Would such an approach mitigate risks? Again, we would welcome views.

³ <http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/110715-0001.htm#11071554000685>

The Role of Licensing Controls: Questions

Q11: Do you agree that events for under 5,000 people should be deregulated across all of the activities listed in Schedule One of the Licensing Act 2003?

Q12: If you believe there should be a different limit – either under or over 5,000, what do you think the limit should be? Please explain why you feel a different limit should apply and what evidence supports your view.

Q13: Do you think there should be different audience limits for different activities listed in Schedule One? If so, please could you outline why you think this is the case. Please could you also suggest the limits you feel should apply to the specific activity in question.

Q14: Do you believe that premises that would no longer have a licence, due to the entertainment deregulation, would pose a significant risk to any of the four original licensing objectives? If so please provide details of the scenario in question.

Q15: Do you think that outdoor events should be treated differently to those held indoors with regard to audience sizes? If so, please could you explain why, and what would this mean in practice.

Q16: Do you think that events held after a certain time should not be deregulated? If so, please could you explain what time you think would be an appropriate cut-off point, and why this should apply.

Q17: Should there be a different cut off time for different types of entertainment and/or for outdoor and indoor events? If so please explain why.

Q18: Are there alternative approaches to a licensing regime that could help tackle any potential risks around the timing of events?

Q19: Do you think that a code of practice would be a good way to mitigate potential risks from noise? If so, what do think such a code should contain and how should it operate?

Q20: Do you agree that laws covering issues such as noise, public safety, fire safety and disorder, can deal with potential risks at deregulated entertainment events? If not, how can those risks be managed in the absence of a licensing regime?

Q21: How do you think the timing / duration of events might change as a result of these proposals? Please provide reasoning and evidence for any your view.

Q22: Are there any other aspects that need to be taken into account when considering the deregulation of Schedule One in respect of the four licensing objectives of the Licensing Act 2003?

Chapter 4: Performance of Live Music

Introduction

4. The Coalition Agreement committed to cutting red tape to encourage the performance of more live music.
 - 4.1. We intend to honour this agreement in two ways. The first is to honour our public commitment to support the Live Music Bill, a Private Member's Bill tabled in 2010 in the House of Lords by Lord Clement Jones, which followed a recommendation for live music deregulation by the Culture, Media and Sport Select Committee in 2009 and a full public consultation on the subject in 2010. Because of this, the Live Music Bill is **not** the subject of this consultation.⁴
 - 4.2. The second is to examine, through this consultation, whether our proposed deregulation is ambitious enough for the vast quantity of talent in England and Wales that would benefit from a wider deregulation than the Live Music Bill will, alone, permit. In examining live music we would be grateful for responses to the generic questions posed in chapter 3, and also to the live music questions based on the consultation proposal below.
 - 4.3. Live music is at the heart of our national and local cultural traditions, and continues to play a very important part in our national and local identity. As well as being exhilarating and inclusive, music can change the way we view ourselves and how others perceive us. Our musical heritage is strongly felt across England and Wales, with a live line of performance from folk and traditional song through many hundreds of years to our present day with internationally famous local music scenes across so many towns and cities.
 - 4.4. In recent years though, whilst music in large venues is thriving, music in small venues has been gradually dwindling. Many pubs – the traditional venue of much live music - have closed, and there has been a downward trend in music provision in secondary venues⁵.

⁴ Lord Clement Jones' Bill was tabled last year, and can be read in full at: <http://services.parliament.uk/bills/2010-11/livemusichl/documents.html>

⁵http://webarchive.nationalarchives.gov.uk/%2B/http://www.culture.gov.uk/reference_library/research_and_statistics/4854.aspx

Our proposal

4.5. This proposal is to deregulate public performance of live music (both amplified and unamplified) for audiences of fewer than 5,000 people.

4.6. As outlined in Chapter 3, other legislative protections already exist in respect of each of the four licensing objectives, and it is those measures that should be used as controls for music events, rather than an inflexible and burdensome licensing system.

Audience size

4.7. The issues around size and time of events are often raised in relation to events such as large music festivals, which would continue to require a licence under Government proposals if they have capacities of 5,000 people or greater. As explained in chapter 3, the 5,000 limit is already recognised as an audience threshold for larger events in the sporting and entertainment sectors. This limit features also as a capacity boundary for fees in the Licensing Act 2003, recognising intrinsic issues associated with controls for events above that size of audience.

4.8. With regard to unamplified music, there is a potential argument that no audience limit is necessary due to the self-limiting possibilities from the event's acoustic reach. So we would thus welcome views on whether unamplified music should simply be deregulated with no restrictions on numbers or on the time of day.

Performance of Live Music: Questions

Q23: Are there any public protection issues specific to the deregulation of the performance of live music that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q24: Do you think that unamplified music should be fully deregulated with no limits on numbers and time of day/night? If not, please explain why and any evidence of harm.

Q25: Any there any other benefits or problems associated specifically with the proposal to deregulate live music?

Chapter 5: Performance of plays

Introduction

5. The regulation of plays has a long and famous history. The Licensing Act 2003 provided the first amendments to theatre licensing since the Theatres Act 1968, which released playwrights from the strict censorship of the Lord Chamberlain that had been in place since the introduction of the Licensing Act 1737.
- 5.1 It made clear that licensing authorities could not generally refuse a theatre licence on content grounds. The 1968 Act updated other aspects of law which still stand on the statute book – around obscenity, defamation and provocation of a breach of peace.

Venue sizes

- 5.2. Each year, there are an estimated 92,000 performances of plays by voluntary or amateur groups alone, with the vast majority held in small venues or by touring productions. For many of these venues existence is hand to mouth, and individual productions are in constant jeopardy due to the need to recoup staging costs. We believe that deregulation of some of the requirements where alcohol is not sold or supplied offers a real opportunity to help make the staging of plays and performances in smaller venues much easier, as well as enabling greater opportunity for “site specific” theatre (for example, productions set in factories or forests) to flourish.

Regeneration and renewal

- 5.3. The British theatre ecology is wide and varied, with amateur groups and fringe productions playing an important role in feeding into larger venues. The importance of theatre to the UK economy is well documented, with studies such as the Shellard Report (2004) showing a positive annual economic impact of £2.6bn.
- 5.4. We have seen the impact of theatre on small and large scale cultural festivals across the regions –the Edinburgh Festivals are thought to contribute £245m to the local economy. Cultural festivals have a huge regenerative effect and provide a highly positive community self-image.

Educative value

- 5.5. Plays offer an almost unique opportunity to engage children, enhancing self-value, attendance within education, and participatory skills. At present it is not necessary for a school to apply for a licence where parents are admitted for free, but if the school wishes to perform for the wider public or charge a small entry fee to benefit the Parent-Teacher Association (PTA), a licence is required. As with dance and live music, this is one example of how removing the regulatory burden will free up schools (and similarly community and volunteer groups) to put on low risk productions in the community.
- 5.6. But the educational effect of theatre does not stop at schools. The effects of prison theatre for example have a major role in rehabilitation, and public performance can have a similarly beneficial effect on self-value as seen in other educational forums.

Our proposal

- 5.7. This consultation proposes that we remove theatre from the list of regulated entertainment in Schedule One to the Licensing Act 2003 for audiences of fewer than 5,000 people.
- 5.8. Existing controls from the 1968 Theatres Act on obscenity, defamation and provocation of a breach of peace remain on the statute book, and separate rules on health and safety and children's protection are set out in Chapter 3.

Performance of Plays: Questions

Q26: Are there any public protection issues specific to the deregulation of the performance of plays that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q27: Are there any health and safety considerations that are unique to outdoor or site specific theatre that are different to indoor theatre that need to be taken into account?

Q28: Licensing authorities often include conditions regarding pyrotechnics and similar HAZMAT handling conditions in their licences. Can this type of restriction only be handled through the licensing regime?

Q29: Any there any other benefits or problems associated specifically with the proposal to deregulate theatre?

Chapter 6: Performance of dance

Introduction

6. The main reasons for licensing performance of dance have historically centred around ensuring audience protection from unsuitable content, health and safety issues related to venues and performers, and generic noise control issues as outlined in Chapter 3.
- 6.1. At present dance in England and Wales is undergoing an explosion of interest across a very wide socio-demographic, with heightened interest in various forms of dance from street dance to ballroom as typified by television shows like *Britain's Got Talent*, *Strictly Come Dancing* and *So You Think You Can Dance?*.
- 6.2. There are multiple benefits from participation in this type of activity. As well as healthier lifestyles, there are social bond benefits in participation and performance. In addition the performance aspect of dance leads to awareness of teamwork and self esteem. As with plays, there is an empowering Big Society effect where local public place and local performance meet.
- 6.3. On many occasions, dance performance will be licensable, creating burdens on amateur dance groups and schools across England and Wales. At present schools are exempt from licensing requirements where parents are admitted for free, but if a school wished to admit the public or charge a small entry fee to benefit the Parent-Teacher Association (PTA), a licence or TEN would be required. This is one simple example of how removing the regulatory burden will free up schools (and similarly community and volunteer groups) to put on low risk productions in the community.

Our proposal

- 6.4. **This consultation proposal is to remove dance from the definition of “regulated entertainment” in Schedule One to the Licensing Act 2003 for events for audiences of fewer than 5,000 people.**
- 6.5. Please note that Chapter 10 outlines that the Government is not proposing any relaxation of adult entertainment that could be classified as a performance of dance.

Performance of Dance: Questions

Q30: Are there any public protection issues specific to the deregulation of the performance of dance that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q31: Any there any other benefits or problems associated the proposal to deregulate the performance of dance?

Chapter 7: Exhibition of film

Introduction

7. The exhibition of a film (defined as “any exhibition of moving pictures”) for public performance in England and Wales requires a licence.
- 7.1. Aside from any venue-specific operating conditions, as outlined in Chapter 3, the Licensing Act 2003 stipulates that licences to exhibit film must include as a mandatory condition that exhibitors comply with age classification restrictions on film content.
- 7.2. Section 20 of the Licensing Act 2003 sets out that that the licensing authority may itself provide the age restriction classification, or may defer to a qualified body under the Video Recordings Act 2004 (currently this is a role designated to the British Board of Film Classification “BBFC”).
- 7.3. Although licensing authorities use the BBFC ratings almost without exception, occasionally some licensing authorities have chosen to impose their own film classification to reflect local concerns.
- 7.4. In addition, licensing authorities are able to classify films that have not been given a BBFC rating. This can be because the film is not intended for national distribution - perhaps it is a local film or documentary intended mainly for streaming over the internet - or because a national classification will follow at a later point, as is the case with some film festivals, where a film is previewed before the final cut is made for distribution.

Current situation - discrepancies

- 7.5. The existing BBFC and local licensing authority classification situation is, in our view, an effective mechanism to ensure child protection from unsuitable content and the Government has no intention of deregulating the exhibition of film unless it is able to continue the classification system which is well understood and is working effectively. However, the Government believes the licensing of film under the 2003 Act is largely unnecessary and disproportionate.
- 7.6. Examples have been where pre-school nurseries have required a licence to show children’s DVDs. There have been cases where pubs or clubs have wished to host a “tribute night” showing, for example, a recording of the 1966 World Cup final, but have been prevented from doing so by not having a licence. The list could extend to many other low risk activities, such as a members clubs wanting to show reruns of Virginia Wade’s Wimbledon victory during Wimbledon fortnight. Similarly if a venue without a licence permission for the exhibition of film wanted to run a film theme night, showing foreign film, or seasonal showing such as “It’s a Wonderful Life” at Christmas time – they would require a licence or a TEN.
- 7.7. Additionally, where a venue wants to show a live broadcast of a football match there would not be a problem, but showing a broadcast that had been pre-recorded – even

by a few minutes – would be classed as a licensable activity.

7.8. Besides these practical problems with the legislation as it stands, we have considered the potential benefits to film societies and community based film projects by removing the need for a licence – removing costs and bureaucracy. We would be grateful for your views on this aspect in the questions below.

Our proposal

7.9. **This consultation proposal is to remove “exhibition of film” from the definition of “regulated entertainment” in Schedule One to the Licensing Act 2003 for events with audiences of fewer than 5,000 people. But before doing so we would ensure that the age classification safeguards could be retained.**

7.10. To do this we would use primary legislation to amend existing legislation before removing the activity from the Licensing Act 2003, so that there are no gaps in child protection. We see no reason to disrupt the arrangement where local licensing authorities are able to make local decisions on classifications, and we see the practical advantages in doing so.

Cinema advertising

7.11. A separate consultation will be launched in the near future examining whether there is an ongoing need for both BBFC regulation and industry co-regulation of cinema advertising shown in auditoriums. **This is not the subject of this consultation.**

Exhibition of Film: Questions

Q32: Do you agree with the Government’s position that it should only remove film exhibition from the list of regulated activities if an appropriate age classification system remains in place?

Q33: Do you have any views on how a classification system might work in the absence of a mandatory licence condition?

Q34: If the Government were unable to create the situation outlined in the proposal and above (for example, due to the availability of Parliamentary time) are there any changes to the definition of film that could be helpful to remove unintended consequences, as outlined earlier in this document - such as showing children’s DVDs to pre-school nurseries, or to ensure more parity with live broadcasts?

Q35: Are there any other issues that should be considered in relation to deregulating the exhibition of film from licensing requirements?

Chapter 8: Indoor sport

Introduction

8. Indoor sport held before a public audience is also regulated by the Licensing Act 2003, unlike outdoor sport (excluding Boxing and Wrestling). It is unclear why indoor sport should be subject to this additional level of regulation. Sport in outdoor venues, including those with moveable roofs, is regulated by a different regime and does not require a licence under the 2003 Act.

8.1. Indoor sport is defined as: a sporting event which takes place wholly inside a building in front of spectators. Sport includes any game in which physical skill is the predominant factor, and any form of physical recreation which is also engaged in for purposes of competition or display. This includes activities such as gymnastics, netball, ice hockey and swimming as well as acrobatic displays at a circus or, where there is an audience, darts and snooker.

Outdoor sport

8.2. Football is obviously one of the key spectator sports in England and Wales, and in the past has a history of crowd management problems. Football is regulated by the Safety of Sports Grounds Act 1975, modified by the Safety of Sports Grounds (Accommodation of Spectators) Order 1996, which makes use of a capacity spectator threshold of 5,000 before the specific designations need to be put in place for Premiership or Football League grounds. A higher limit, of 10,000, applies to other sports grounds.

Indoor sport

8.3. The Government believes that the different approaches to outdoor and indoor sports are not justified and that indoor sport should be brought more in line with the arrangements for outdoor events.

8.4. This consultation therefore seeks views on the removal of indoor sport, for venues with under 5,000 spectators. Deregulating indoor sports with a capacity of below 5,000 spectators would put sports such as snooker, gymnastics and swimming on a par with football, which is often seen as a greater risk due to incidents of public disorder.

Indoor Sport: Questions

Q36: Are there any public protection issues specific to the deregulation of the indoor sport that are not covered in chapter 3 of this consultation? If yes, please outline the specific nature of the sport and the risk involved and the extent to which other interventions can address those risks.

Q37: Are there any other issues that should be considered in relation to deregulating the indoor sport from licensing requirements?

Chapter 9: Boxing and Wrestling

Introduction

9. Public exhibition of boxing and wrestling and events of a similar nature are classed as regulated entertainment under Schedule One of the Licensing Act 2003.
- 9.1. Boxing and wrestling have historically been subject to licensing controls to ensure there is a safe environment for spectators with regard to crowd control and certain health and safety aspects connected with the physical activity on display. In addition, the licence requirement has provided additional safeguards for participants.
- 9.2. **This consultation proposes that boxing exhibitions, and events of a similar nature, should in general continue to be licensed.** However, we would welcome views as to whether boxing and wrestling events that are organised by the governing bodies of the sport recognised by the Sports Councils should continue to require licences under the 2003 Act. In addition, we would welcome views on whether the definition of boxing and wrestling should be refined to ensure it includes, for example, martial arts and cage fighting.

Boxing and Wrestling, and Events of a Similar Nature: Questions

Q38: Do you agree with our proposal that boxing and wrestling should continue to be regarded as “regulated entertainment”, requiring a licence from a local licensing authority, as now?

Q39: Do you think there is a case for deregulating boxing matches or wrestling entertainments that are governed by a recognised sport governing body? If so please list the instances that you suggest should be considered.

Q40. Do you think that licensing requirements should be specifically extended to ensure that it covers public performance or exhibition of any other events of a similar nature, such as martial arts and cage fighting? If so, please outline the risks that are associated with these events, and explain why these cannot be dealt with via other interventions

Chapter 10: Recorded Music and Entertainment Facilities

Background: recorded music

10. The playing of recorded music to an audience is licensable under the Licensing Act 2003, where music is more than merely incidental to another activity that is not, in itself, regulated entertainment. For example, recorded music playing in a hotel lobby or a shop is not likely to be thought to be the primary reason for attendance at that location and does not require a licence – but a performance of a set by a famous DJ is likely to be currently licensable in pursuance of the four licensing objectives of the Licensing Act 2003
- 10.1. We see no reason why recorded music needs to be licensed. If live music should be deregulated, as is our proposal, then we feel that the same principles should apply to recorded music, with the same controls and sanctions available to ensure that good practice is followed.
- 10.2. Please note that this is not the same issue as a requirement to pay the Performing Rights Society or similar organisation for use of their artists' intellectual copyright – the proposal is simply to deregulate from a licensing regime in pursuance of the four licensing objectives of the Licensing Act 2003.

Our proposal

- 10.3. **We propose to remove the need for a special licence for the playing of recorded music to audiences of fewer than 5,000 people.** In the case of premises licensed to sell alcohol, we feel that this proposal is very sound. The possibility of a licence review, which can lead to the removal of an alcohol licence, a heavy fine, or even a sentence of up to six months imprisonment for the licence holder, provides a compelling reason for licensed premises to comply.
- 10.4. Where recorded music is played in other situations (such as a disco in a village hall with no alcohol licence) local management arrangements are likely to provide a common sense solution to any potential problems, coupled with the protections available in the Environmental Protection Act 1990. Nonetheless we welcome views on the subject below.
- 10.5. We have also received representations on the subject of “raves” and whether this proposal would open up any loopholes in the law with regard to illegal raves, and again, we pose questions below to ensure that this proposal does not open up any gaps in the law.

Entertainment facilities

- 10.6. The definition of “entertainment facilities” in the Licensing Act 2003 has proved to be a thorny issue.
- 10.7. Entertainment facilities are defined in the Licensing Act 2003 in the following manner:
- “entertainment facilities” means facilities for enabling persons to take part in entertainment of a description falling within sub-paragraph (2) for the purpose, or for purposes which include the purpose, of being entertained.
- (2)The descriptions of entertainment are—
- (a) making music,
 - (b) dancing,
 - (c) entertainment of a similar description to that falling within paragraph (a) or (b).
- 10.8. The intention of the principle of “entertainment facilities” in the Licensing Act 2003 was to ensure that as well as ensuring that the activities classified as “regulated entertainment” were properly considered by licensing authorities, any key equipment and its effects were similarly reviewed.
- 10.9. This consultation proposes to remove the need for consideration of entertainment facilities in any eventuality. This would cover, karaoke, musical instruments, dance floors and other equipment needed in support of making music or dancing. We would be grateful for views on this proposal.

Recorded Music and Entertainment Facilities: Questions

Q41: Do you think that, using the protections outlined in Chapter 3, recorded music should be deregulated for audiences of fewer than 5,000 people? If not, please state reasons and evidence of harm.

Q42: If you feel that a different audience limit should apply, please state the limit that you think suitable and the reasons why this limit is the right one.

Q43: Are there circumstances where you think recorded music should continue to require a licence? If so, please could you give specific details and the harm that could be caused by removing the requirement?

Q44: Any there any other benefits or problems associated specifically with the proposal to deregulate recorded music?

Q45: Are there any specific instances where Entertainment Facilities need to be regulated by the Licensing Act, as in the current licensing regime? If so, please provide details.

Chapter 11: Clearing up unintended consequences: clear laws and clear guidance

Introduction

11. There is a great deal of evidence that licensing authorities and event's organisers find parts of the Licensing Act 2003 very difficult to interpret. The 2003 Act is a voluminous and highly complex piece of legislation, and this has led to different interpretations across licensing authorities. In this chapter we would be grateful for views on this issue, and on how best to ensure greater clarity around entertainment licensing, notwithstanding the proposals to remove most regulated entertainment set out earlier in this document.

Clear laws and clear guidance

11.1. Where it is possible to clear up any problematic issues with regard to regulated entertainment we would like to take the opportunity to do so via this consultation.

Unintended consequences: Questions

Q46: Are there any definitions within Schedule One to the Act that are particularly difficult to interpret, or that are otherwise unclear, that you would like to see changed or clarified?

Q47: Paragraph 1.5 outlines some of the representations that DCMS has received over problems with the regulated entertainment aspects of the Licensing Act 2003. Are you aware of any other issues that we need to take into account?

Adult entertainment

11.2. **We see no reason to deregulate adult entertainment and this consultation is not seeking views on this issue.**

11.3. Although adult entertainment is not specified in Schedule One to the Licensing Act 2003 as a licensable activity, the Act does play a part in the current controls process.

11.4. The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 to make provision for the regulation of "sexual entertainment venues". As a result, venues that hold **regular** performance of adult entertainment, such as lap dance, table dancing or striptease require a separate permission from the local authority.

- 11.5. The Licensing Act 2003 does though play a part in controlling performance of this nature that is held **infrequently**. Specifically, a venue is a sexual entertainment venue where live performance or live display of nudity is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 11.6. However, this does not apply when the venues has not been used on more than eleven occasions for such activities in the previous 12 months. In those instances, the activity is regulated under the 2003 Act as a performance of dance. In deregulating dance, the Government would ensure that there was no change in how sex entertainment is regulated.

Adult Entertainment: Question

Q48: Do you agree with our proposal that deregulation of dance should not extend to sex entertainment? Please provide details.

Annex B: How to Respond

You can respond to the consultation in the following ways:

Online

Regulated_entertainment_consultation@culture.gsi.gov.uk

By post

You can print out the summary list of questions above and fill in responses by hand. Please send these to:

Nigel Wakelin
Regulated Entertainment Consultation Co-ordinator
Department for Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH

Closing date

The closing date for responses is **3 December, 2011**.

After the consultation

We will post a summary of answers on the DCMS website (www.culture.gov.uk) after the end of the consultation together with an analysis of responses. We will publish the Government's response in due course.

Freedom of Information

We are required to release information to comply with the Environmental Information Regulations 2004 and Freedom of Information Act 2000. We will not allow any unwarranted breach of confidentiality, nor will we contravene our obligations under the Data Protection Act 1998, but please note that we will not treat any confidentiality disclaimer generated by your IT system in e-mail responses as a request not to release information.

Compliance with the Code of Practice on Consultation

This consultation complies with the Code.

Complaints

If you have any comments or complaints about the consultation process (as opposed to comments on these issues that are part of the consultation) please send them to:

Complaints Department (Consultations)
Department for Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH

Annex C: List of Consultees

Anyone can respond to this consultation. This list of consultees indicates those organisations that we will contact to suggest that they may wish to respond.

Agents' Association
Action with Communities in Rural England
Alcohol Concern
Amateur Boxing Association
Arts Council England
Arts Council of Wales
Association of British Insurers
Association of Chief Police Officers
Association of Circus Proprietors of Great Britain
Association of Festival Organisers (AFO)
Association of Independent Festivals
Association of Independent Music (AIM)
Association of Inland Navigation Authorities
Association of Licensed Multiple Retailers
Association of School and College Leaders
Association of Show and Agricultural Organisations
BII (British Institute of Innkeeping)
BPI (The British Recorded Music Industry)
British Arts Festivals Association
British Association of Concert Halls
British Beer and Pub Association
British Board of Film Classification (BBFC)
British Boxing Board of Control
British Film Institute (BFI)
British Holiday and Home Parks Association
British Hospitality and Restaurant Association
British Marine Federation
British Retail Consortium
British Wrestling Association
Business in Sport and Leisure
Cadw
Campaign for Real Ale
Carnival Village
Charity Commission
Chartered Institute of Environmental Health
Chief Fire Officers' Association
Children's Society
Cinema Advertising Association
Cinema Exhibition Association
Circus Arts Forum
Commission for Rural Communities
Committee of Registered Clubs Associations
Community Matters
Dance UK

English Folk Dance and Song Society
English Heritage
Equity
Federation of Licensed Victuallers
Federation of Licensed Victuallers (Wales)
Federation of Private Residents' Association
Federation of Small Businesses
Film Distributors' Association
Fire Officers Association
Football Licensing Authority (FLA)
Foundation for Community Dance
Guild of Master Victuallers
Health and Safety Executive (HSE)
Historic Houses Association
Independent Street Arts Network
Independent Theatre Council (ITC)
Institute of Licensing
International Live Music Conference
Jazz Services
Justices Clerk Society
Lap Dancing Association
Licensing Act Active Residents Network
Local Government Regulation (LGR)
Local Government Association (LGA)
Magistrates Association
Making Music (the National Federation of Music Societies)
Maritime and Coastguard Agency
Metropolitan Police
Musicians Union
National Arenas Association
National Association of Head Teachers
National Association of Local Councils
National Association of Local Government Arts Officers
National Campaign for the Arts
National Confederation of Parent Teacher Associations
National Farmers' Retail & Markets Association
National Governors' Association
National Neighbourhood Watch Association
National Operatic and Dramatic Association
National Organisation of Residents Associations
National Rural Touring Forum
National Village Halls Forum
Noctis
Noise Abatement Society
Open all Hours
Parliamentary Performers Alliance
Passenger Boat Association
Paterson's Licensing Acts
Police Federation
Police Superintendents' Association
Production Services Association

Rotary International in GB and Ireland
Society of Local Council Clerks
Society of London Theatres/ Theatrical Management Association (SLT/TMA)
Sports Council for Wales
Sport England
Sports and Recreation Alliance
The Theatres Trust
Tourism for All
Trading Standards Institute
UK Centre for Carnival Arts
UK Live Music Group
UK Music
UK Sport
Voluntary Arts Network
Welsh Local Government Association
Welsh Music Foundation
Welsh Council for Voluntary Action

CONSULTATION QUESTIONS AND RESPONSES

Q1. Do you agree that the proposal outlined in this consultation will lead to more performances, and would benefit community and voluntary organisations? If yes, please can you estimate the amount of extra events that you or your organisation or that you think others would put on.

Response to DCMS

Do not agree.

Communities and voluntary organisations already have the ability to apply for premises licences without charge. Whilst there is 'some evidence' that there has been a reduction in the number of entertainment venues, there is no research that identifies the licensing regime as the cause of this slight decrease. The reduction in the numbers of available premises could equally be the cause. Pubs, clubs and similar venues are closing because they are not economically viable as a result of the costs of leases, beer supplies and the prevalence of cheap alcohol in the off licence sector.

The clear licensing inconsistencies identified in the consultation document could be rectified by amending the exemptions within the Act to allow for the types of premises to be exempt from the requirement to be licensed, and/or including some activities (eg large screen presentations of football matches) within the definitions for regulated entertainment.

Q2: If you are replying as an individual, do you think this proposal would help you participate in, or attend, extra community or voluntary performance?

Response to DCMS

N/A

Q3: Do you agree with our estimates of savings to businesses, charitable and voluntary organisations as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures that you think need to be taken into account (see paragraph 57 of the Impact Assessment).

Response to DCMS

There is no doubt that there would be an administrative and licence fee saving to the entertainment industry if the licensing regime were abolished for entertainment premises under a capacity of 5,000. (There are only four such premises in Coventry)

However, the cost benefits are not adequately explored. The costs of additional enforcement by Environmental Health staff are partially quantified but the impact of increased nuisance to our communities cannot be quantified in cash terms. Noise is one of the single most significant nuisances blighting our urban communities.

Q4: Do you agree with our estimates of potential savings and costs to local authorities, police and others as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures you think need to be taken into account.

Response to DCMS

Without a clear understanding of a new fee structure it is impossible to clearly examine the overall cost impact on the local authority.

It is clear that there would be reduced administrative burdens by a reduction in the number of applications for variations and TENs, however, the vast majority of premises in

Coventry are also licensed for the sale of alcohol and those licences, annual bills and enforcement visits will still require to be administered and funded.

Policing costs are not adequately explored.

Q5: Would you expect any change in the number of noise complaints as a result of these proposals? If you do, please provide a rationale and evidence, taking into account the continuation of licensing authority controls on alcohol licensed premises and for late night refreshment

Response to DCMS

We would expect to see a rise in the number of noise complaints from licensed premises and events if entertainment is deregulated. Coventry is an urban area where licensed premises are in the main situated within our residential areas.

Noise complaints from licensed premises are a significant issue in Coventry despite the current licensing regime. Responsible companies will engage in dialogue with Environmental Health about operational changes and events, however, smaller businesses have a poor track record in this area, despite significant efforts to engage them constructively. (Every licensed premise in Coventry is issued with a guide which details a wide range of information including how to deal with potential noise problems.)

Despite the fact that meetings are frequently held with business proprietors and clear advice given, a number of premises every year require the service of abatement notices and/or review proceedings.

Noise nuisance from late night refreshment premises is not a significant problem in Coventry, however, the licensing controls enable effective dispersal of the public late at night when licensed premises are closing

Q6: The Impact Assessment for these proposals makes a number of assumptions around the number of extra events, and likely attendance that would arise, if the deregulation proposals are implemented. If you disagree with the assumptions, as per paragraphs 79 and 80 of the Impact Assessment, please provide estimates of what you think the correct ranges should be and explain how those figures have been estimated.

Response to DCMS

We agree that it is likely that charities and community organisations may increase the amount of entertainment they provide at events. We are not sure whether this would be classed as 'significant'. There may be an increase in the number of licensed premises which allow and/or promote entertainment although there is little evidence to support this.

We have no data which would enable us to question the impact assessment estimates.

Q7: Can you provide any additional evidence to inform the Impact Assessment, in particular in respect of the impacts that have not been monetised?

Response to DCMS

The Impact assessment describes as 'small' the additional number of noise nuisance matters which result in a 'loss of well-being to the public'. ie. residents affected by noise.

In our experience there is no way that the number of additional incidents could be expected to be small in a deregulated environment. We believe that the 'loss of well-being to the public' will be significant for our communities and disproportionately so for our more disadvantaged communities who are less able to voice their concerns.

In our view this deregulation will have a negative impact on health inequalities which cannot be 'monetised'.

Q8: Are there any impacts that have not been identified in the Impact Assessment?

Response to DCMS

The potential costs in Police resources are not effectively calculated. Currently enforcement is proactive through the licensing regime, mainly through daytime visits and activity. In a deregulated situation, Police activity, like Environmental Health activity, will be response driven and often late at night with additional costs. The impact on communities of additional crime & disorder or antisocial behaviour is not addressed.

Again this is likely to disproportionately affect our more disadvantaged communities

Q9: Would any of the different options explored in this consultation have noticeable implications for costs, burdens and savings set out in the impact assessment? If so, please give figures and details of evidence behind your assumptions.

Response to DCMS

Savings would not be expected for schools and community premises, as they are still required to apply for authorisation if they wish to provide alcohol at an event. Temporary Event Notices (TENs) received from these types of premises are rarely for entertainment only. No savings anticipated to licensing authorities as any time saved through not processing applications would be increased by dealing with complaints.

At present 27% of TEN applications received by this authority are for schools and community type premises and include alcohol provision.

If responsible authorities are not advised of regulated entertainment for new venues, it would be expected that initially there would be cost implications due to more reactive work being required following events, rather than being able to provide guidance and business support before entertainment activities were carried out.

Q10: Do you agree that premises that continue to hold a licence after the reforms would be able to host entertainment activities that were formerly regulated without the need to go through a Minor or Full Variation process?

Response to DCMS

DCMS guidance would be needed to clarify this. The few premises in Coventry who would continue to hold a licence are well managed and normally advise the Responsible Authorities in advance of all events and activities so that effective support can be given.

THE ROLE OR LICENSING CONTROL QUESTIONS

Q11: Do you agree that events for under 5,000 people should be deregulated across all of the activities listed in Schedule One of the Licensing Act 2003?

Response to DCMS

No. The concept of classifying the risk of noise and/or crime and disorder merely from the numbers attending a venue is seriously flawed.

Small events and premises are often the main source of problems. It is not necessarily the numbers attending events that cause problems but a combination of the type of entertainment being provided, the actual performer (Police intelligence from other performances around the country), the number of persons attending, the audience profile and the overall management of the premises in question.

Events held at premises in Coventry where there is an audience of 5000+ are rarely the source of problems. They are well managed, have good relations with the responsible authorities and seek advice well in advance so that effective planning can take place for the events and activities.

Smaller venues are more likely to be the cause of complaint, crime and disorder, public nuisance etc., due to poor management, crowd profiles and the nature of the entertainment.

For example, a small venue in the city has recently had to have its licence reviewed despite long term interventions by the responsible authorities, the licensing team and the service of a statutory notice for noise nuisance. Interventions by a local Councillor and residents had little effect. Residents in accommodation nearby were constantly disturbed by noise from live and recorded music.

Q12: If you believe there should be a different limit – either under or over 5,000, what do you think the limit should be? Please explain why you feel a different limit should apply and what evidence supports your view.

Response to DCMS

No. The concept of classifying risk solely by the number attending is seriously flawed.

In Coventry, we have had premises where numbers have been as little as 100, but serious disorder has taken place late at night requiring Police resources from a wide area to be tasked to deal with the matter.

Q13: Do you think there should there be different audience limits for different activities listed in Schedule One? If so, please could you outline why you think this is the case. Please could you also suggest the limits you feel should apply to the specific activity in question.

Response to DCMS

No. This concept would further complicate the licensing regime and would introduce more red tape and confusion for premises if different activities were open to different numbers.

Q14: Do you believe that premises that would no longer have a licence, due to the entertainment deregulation, would pose a significant risk to any of the four original licensing objectives? If so please provide details of the scenario in question.

Response to DCMS

Yes.

In our experience, crime and disorder, antisocial behaviour and noise nuisance are frequently associated with small to medium sized premises (capacities 100-500) where entertainment activities are promoted

- a) Premises which choose to organise under age events (16+) and school leaving 'balls'**
- b) Premises open late at night showing live football**
- c) Premises with DJ's and/or live music**
- d) Premises with noise limiting devices installed which have been bypassed or tampered with**

Q15: Do you think that outdoor events should be treated differently to those held indoors with regard to audience sizes? If so, please could you explain why, and what would this mean in practice.

Response to DCMS

Issues are different for outdoor events which may be less risky in terms of means of escape, but pinch points and crowd surges still need to be controlled. There is also a risk of noise pollution with different controls required. Outdoor events require more time and resources at the pre-event planning stage to reduce risks to public safety and public nuisance.

A revised version of the 'Pop Code' is awaited to assist in these matters. If the licensing regime is deregulated how will the revised code be implemented?

Q16: Do you think that events held after a certain time should not be deregulated? If so, please could you explain what time you think would be an appropriate cut-off point, and why this should apply.

Response to DCMS

Yes. If deregulation occurs, it important that a cut off time is included in the deregulation measure. If the decision was taken to deregulate then a cut off time of 11pm should be imposed.

However, many of our towns and cities are 24/7 economies and whilst crime and disorder is statistically associated with late nights and weekends, problems can occur at any time of the day. Noise nuisance is more of a problem at night, but for those who work shifts, day time noise is equally disturbing.

Q17: Should there be a different cut off time for different types of entertainment and/or for outdoor and indoor events? If so please explain why.

Response to DCMS

No. If the deregulation measure goes ahead, then 11pm should be a standard cut off time. A range of different times for different activities would complicate matters for businesses, charities, community groups and enforcement agencies alike.

Q18: Are there alternative approaches to a licensing regime that could help tackle any potential risks around the timing of events?

Response to DCMS

Communication would be critical with the onus being on businesses to risk assess and control their activities. Business need to provide information to Responsible Authorities and discuss matters with interested parties in advance of events. A voluntary code will not necessarily help in the communication process. Licensed premises have a poor track record of communicating and/or consulting with local residents.

Q19: Do you think that a code of practice would be a good way to mitigate potential risks from noise? If so, what do think such a code should contain and how should it operate?

Response to DCMS

No. From our experience, the organisers of events and activities often pay scant regard to advice and written guidance from the enforcement agencies. Statutory notices are contravened and licence conditions breached. A voluntary code of practice would have little impact.

Q20: Do you agree that laws covering issues such as noise, public safety, fire safety and disorder, can deal with potential risks at deregulated entertainment events? If not, how can those risks be managed in the absence of a licensing regime?

Response to DCMS

At times, separate legislation can be effective.

The important feature of the current licensing regime is the proactive licensing process, the issuing of guidance and the agreement to sensible operating conditions to reduce the impact on local communities. To deregulate means that enforcing authorities can only take action once problems have arisen and communities are adversely affected.

Through the Licensing Act, the Responsible Authorities work very closely together and support/regulate premises and events dependent upon the risk they pose. This is consistent with the government's approach to light touch regulation.

Q21: How do you think the timing / duration of events might change as a result of these proposals? Please provide reasoning and evidence for any your view.

Response to DCMS

TENs are consistently used by premises to extend their hours for entertainment and specific events, they are rarely used to 'add on' an entertainment activity. If there are no licensing provisions for late night or occasional regulated entertainment activities, local Police will not be made aware of these events, which may mean that they do not deploy the appropriate level of resources that may be required.

Q22: Are there any other aspects that need to be taken into account when considering the deregulation of Schedule One in respect of the four licensing objectives of the Licensing Act 2003?

Response to DCMS

The current system of licensing allows the responsible authorities to have accurate information about the nature of activities which are planned at premises across the city. This information allows:

- a) A light touch application process at the majority of premises. Licence applications and TENs are granted with minimum burden on business.**
- b) Intelligence led inspection and enforcement by all the responsible authorities. The majority of premises receive business advice and support from the licensing authority and minimal interference in their activities. A small number of premises where the combination of activity, audience profile and management capabilities cause concerns, can be targeted to reduce the risk of crime, disorder and public nuisance.**
- c) The ability to review licences because of issues related to regulated entertainment is a valuable tool.**

Crime and disorder - the intelligence gained from the licensing process about regulated entertainment allows the Police to target their resources effectively and deploy their scarce night time resources in the areas of higher risk. Special events involving certain performers can attract serious crime and disorder involving gangs, guns and other weapons, giving rise to serious risk to the general public.

Public nuisance - the ability of Environmental Health to negotiate operating conditions at premises with regulated entertainment is an extremely valuable preventative tool protecting the lives of our local communities. Deregulating entertainment places many of our most vulnerable communities at risk.

Public safety - the Fire Service and Health & Safety rely on the information gained through the licensing process to target their advice and business support activities. Without this information, it is possible that more regulatory visits will need to be made to licensed premises to check compliance with existing statutory provisions in the light of the range of activities carried out on site.

Protection of children from harm - if entertainment is deregulated there is more risk that certain activities will be promoted at 'family' venues where children may be put at risk.

PERFORMANCE OF LIVE MUSIC QUESTIONS

Q23: Are there any public protection issues specific to the deregulation of the performance of live music that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Response to DCMS

No. The issues are the same

Q24: Do you think that unamplified music should be fully deregulated with no limits on numbers and time of day/night? If not, please explain why and any evidence of harm.

Response to DCMS

There are a range of activities which would fall in this category and it is not possible to apply a blanket rule. One person with a guitar, unamplified is less likely to cause localised nuisance or crime and disorder. A steel band with 40 musicians, a jazz band, and accordion band, an orchestra or a brass band could give rise to localised noise nuisance depending on the setting and the premises in question.

We would strongly oppose the complete deregulation of live music

Q25: Any there any other benefits or problems associated specifically with the proposal to deregulate live music?

Response to DCMS

The consultation does not detail any evidence which suggest that deregulation would encourage live music performances.

The barriers to any live music performance are minimal under the present regime. TENs are rarely contested by the Police and most community premises can have a permanent licence for regulated entertainment without paying a fee.

There may be problems associated with the types of premises and location, whereby controls would need to be in place.

PERFORMANCE OF PLAYS QUESTIONS

Q26: Are there any public protection issues specific to the deregulation of the performance of plays that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Response to DCMS

Plays can take many forms and can include amplified music, sound effects, pyrotechnics, nudity, powerful lighting, strobe effects, temporary structures, outdoor electrical installations etc..

There can be public nuisance, health and safety and crime and disorder issues dependant on the location, nature of the theatrical activity and audience profile. Whilst the vast majority of licence applications for theatre performance are granted with minimal intervention, there are some touring and one-off theatre performances which give rise to concern and Responsible Authorities currently have the opportunity to proactively intervene.

Q27: Are there any health and safety considerations that are unique to outdoor or site specific theatre that are different to indoor theatre that need to be taken into account?

Response to DCMS

See above response. Outdoor electrical installations and temporary structures on uneven ground require specialist installation and the licensing process allows the responsible authorities to have due notice of such activities.

Prior notice of an event in Coventry allowed a site visit to take place and a large Marquee was prohibited from use as it had not been safely constructed or anchored on a paved area. Enforcement staff worked with the production company to ensure that the event was relocated.

Q28: Licensing authorities often include conditions regarding pyrotechnics and similar HAZMAT handling conditions in their licences. Can this type of restriction only be handled through the licensing regime?

Response to DCMS

Health & Safety and the Fire Service would be able to be deal with these issues through their own legislation, if they were aware of their presence.

Q29: Any there any other benefits or problems associated specifically with the proposal to deregulate theatre?

Response to DCMS

Amplified music and sound effects may be deemed to be incidental to the production. Voices may be amplified. These may give rise to local nuisance.

PERFORMANCE OF DANCE QUESTIONS

Q30: Are there any public protection issues specific to the deregulation of the performance of dance that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Response to DCMS

The performance of dance in itself does not pose significant risks to the licensing objectives. Of concern are:

- a) the provision of amplified music to facilitate such dance (incidental to the performance)
- b) The nature of any dance activity which may act as a focal point for crime, disorder and anti-social behaviour.

Q31: Any there any other benefits or problems associated the proposal to deregulate the performance of dance?

Response to DCMS

No further issues

EXHIBITION OF FILMS QUESTIONS

Q32: Do you agree with the Government's position that it should only remove film exhibition from the list of regulated activities if an appropriate age classification system remains in place?

Response to DCMS

No. The age classification system in itself is only effective because the majority of film exhibition is carried out at premises where the management of admission is carried out responsibly.

If the exhibition of film is completely deregulated, then film could be exhibited in any premises, and a wide range of technologies are currently available to facilitate this. In some circumstances, poorly controlled premises could expose children and young people to risk of exposure to unsuitable material.

Most cinemas are specially constructed for the purpose. The exhibition of film in unsuitable premises could give rise to noise nuisance generated by the amplified soundtrack (music, special effects, etc.)

Q33: Do you have any views on how a classification system might work in the absence of a mandatory licence condition?

Response to DCMS

This would require additional resource from regulatory bodies to ensure compliance with any additional regulations or codes of practice.

Q34: If the Government were unable to create the situation outlined in the proposal and above (for example, due to the availability of Parliamentary time) are there any changes to the definition of film that could be helpful to remove unintended consequences, as outlined earlier in this document - such as showing children's DVDs to pre-school nurseries, or to ensure more parity with live broadcasts?

Response to DCMS

There are other existing statutory provisions and copyright licensing issues which prevent the showing of DVD's to groups of people within a business or community setting. They are licensed for private viewing only. There would need to be a wide review of commercial licensing before this could be permitted.

Q35: Are there any other issues that should be considered in relation to deregulating the exhibition of film from licensing requirements?

Response to DCMS

No other issues

INDOOR SPORT QUESTIONS

Q36: Are there any public protection issues specific to the deregulation of the indoor sport that are not covered in chapter 3 of this consultation? If yes, please outline the specific nature of the sport and the risk involved and the extent to which other interventions can address those risks.

Response to DCMS

No other issues

Q37: Are there any other issues that should be considered in relation to deregulating the indoor sport from licensing requirements?

Response to DCMS

No other issues

BOXING AND WRESTLING, AND EVENTS OF A SIMILAR NATURE QUESTIONS

Q38: Do you agree with our proposal that boxing and wrestling should continue to be regarded as “regulated entertainment”, requiring a licence from a local licensing authority, as now?

Response to DCMS

Being aware of boxing/wrestling events allows for intelligence gathering for planning purposes. This entertainment can have significant audience numbers and can attract people from across the country. Boxing and wrestling events do not currently need to be licensed by the British Board of Boxing Control and other national sporting bodies and therefore don't have to comply with all the rules which are in place for safety for competitors and spectators.

A recent boxing evening in Coventry attracted a large audience and was not licensed by the BBBC. There was considerable concern expressed by the Police about this match and the potential for crowd disturbances at the premises in question. Police resources had to be deployed in response.

We do not see that this type of entertainment should be treated any differently from entertainment under the 2003 Act.

Q39: Do you think there is a case for deregulating boxing matches or wrestling entertainments that are governed by a recognised sport governing body? If so please list the instances that you suggest should be considered.

Response to DCMS

Yes. If boxing or wrestling is deregulated then it should only be permitted if it is licensed by the sport governing body and operated in accordance with their conditions.

Unlicensed activity (i.e. not licensed by the governing body) should still be regulated as entertainment under this Act.

Q40. Do you think that licensing requirements should be specifically extended to ensure that it covers public performance or exhibition of any other events of a similar nature, such as martial arts and cage fighting? If so, please outline the risks that are associated with these events, and explain why these cannot be dealt with via other interventions.

Response to DCMS

Yes. Licensing these kinds of activities would ensure a more consistent approach to licensing and public safety. Being aware of other types of sporting events allows Responsible Authorities to use the intelligence for resource planning purposes.

RECORDED MUSIC AND ENTERTAINMENT FACILITIES QUESTIONS

Q41: Do you think that, using the protections outlined in Chapter 3, recorded music should be deregulated for audiences of fewer than 5,000 people? If not, please state reasons and evidence of harm.

Response to DCMS

No. As previously reported the numbers at events are not always the issue but a combination of the nature of the music, a crowd profile and the competence of premises management. We have a premise that holds 150 persons that has been reviewed under the 2003 Act twice for reasons of public nuisance. This premises has caused considerable problems for the local neighbourhood despite a wide range of statutory controls being applied.

Q42: If you feel that a different audience limit should apply, please state the limit that you think suitable and the reasons why this limit is the right one.

Response to DCMS

Numbers are not the key issue, for the reasons previously outlined.

Q43: Are there circumstances where you think recorded music should continue to require a licence? If so, please could you give specific details and the harm that could be caused by removing the requirement?

Response to DCMS

Incidental or background music does not currently require a licence. Amplified music which is the main entertainment, or music for dancing (DJ), is constantly associated with public nuisance. We would oppose the deregulation of recorded music for the reasons previously outlined.

Q44: Any there any other benefits or problems associated specifically with the proposal to deregulate recorded music?

Response to DCMS

Rebalancing the licensing act was all about providing greater control to communities. Most of the review/objection hearings in Coventry have been called for by local residents, demonstrating the effectiveness of the current regime. This proposal would remove from local communities some of the control they have over their locality and work counter to the government's localism agenda.

Prosecution and/or the use of Abatement Notices are longer, slower processes for trying to deal with persistent noise nuisance, whereby reviews of licences can provide a positive solution to issues, often prompting dialogue between parties which leads to a solution even before a hearing is held. It would be more difficult to respond if the activity is deregulated under the Act

Q45: Are there any specific instances where Entertainment Facilities need to be regulated by the Licensing Act, as in the current licensing regime? If so, please provide details.

Response to DCMS

There are concerns that without regulation the activity would become high risk for those events that are aimed at younger people. At present we can require premises to provide risk assessments for 16+ events through the licensing regime; it is also important to require premise to provide details of the organisers of these type of events in relation to child protection.

UNINTENDED CONSEQUENCES QUESTIONS

Q46: Are there any definitions within Schedule One to the Act that are particularly difficult to interpret, or that are otherwise unclear, that you would like to see changed or clarified?

Response to DCMS

No

Q47: Paragraph 1.5 outlines some of the representations that DCMS has received over problems with the regulated entertainment aspects of the Licensing Act 2003. Are you aware of any other issues that we need to take into account?

Response to DCMS

No

ADULT ENTERTAINMENT QUESTION

Q48: Do you agree with our proposal that deregulation of dance should not extend to sex entertainment? Please provide details.

Response to DCMS

Yes, we agree with this view.

Whilst the new licensing regime introduced by the Police and Crime Act 2009 gives effective control over sexual entertainment venues, the exemptions (10 events per year at unlicensed premises) still requires exempt entertainment to be regulated under the 2003 Act. This is an important licensing provision and has significant implications for local communities and the protection of children.



To
Cabinet

29th November 2011

Subject:
Response to DCMS Consultation Proposal to examine the Deregulation of Schedule One of the Licensing Act 2003

1 Purpose of the Note

- 1.1 To inform Cabinet of the Licensing and Regulatory Committee recommendations following their consideration of the Response to DCMS Consultation Proposal to examine the Deregulation of Schedule One of the Licensing Act 2003 on 1st November 2011.

2 Recommendations

- 2.1 Cabinet are asked to note that the Licensing and Regulatory Committee endorse the consultation response specifically:
- a) Rationalisation of the licensing regime would be welcome if it -
 - i) deregulated licensing controls at community premises which do not sell alcohol. This would encourage communities to hold events with entertainment. For example, church and parish halls, schools, community centres.
 - ii) brought within the licensing regime matters which require regulatory control in order to protect the public eg cage fighting/martial arts.
 - iii) the deregulation of film exhibition would not be welcome as premises may choose to show films which may be unsuitable for children, without the effective admission controls seen in established cinema premises.

 - b) Any deregulation which could potentially increase noise nuisance for residents and communities would be unwelcome. The City Council would also not have additional resources to deal with the suggested rise in noise complaints from entertainment premises. It is worth noting that whilst statutory noise controls exist, the authority's experience shows that licensed premises can choose to ignore statutory abatement notices and pending prosecutions, whilst continuing to provide significant nuisance problems for local communities.

 - c) The current licensing regime requires advance notice of entertainment activities, by application for licence or TEN. This allows the Police and Responsible Authorities to work with licensed premises in advance of events to minimise any community impacts and effectively task resources in the night time economy. Complete deregulation of up to 4,999 attendees could see a return to large 'Rave' styled music events where people bring their own alcohol and no control is legally required over the presence of children.

d) Coventry has a very good track record in working with local businesses to ensure a vibrant night time economy which has regard for the rights of local communities to have a safe and pleasant local environment. The removal of the licensing regime for entertainment would have a negative effect on the impetus that encourages business to work in partnership with local regulators.

3 Information/Background

- 3.1 The Coalition Government have made a commitment to remove red tape affecting live music in small venues as part of the Growth Review. They are suggesting that removing the need for proactive licensing for regulated entertainment could provide a great boost for community organisations, charities, cultural and sporting organisations, for artists and performers, for entertainment venues, and for those local institutions that are at the heart of every community, such as parent/teacher organisations, schools and hospitals.
- 3.2 The Department for Culture, Media and Sport (DCMS) are seeking views on the proposal to remove the licensing requirement for activities currently defined as Regulated Entertainment in Schedule One to the Licensing Act 2003.
- 3.3 The Licensing and Regulatory Committee were asked to note the consultation response and forward any comments to Cabinet.

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To
Cabinet

29th November 2011

Subject: Response to DCMS Consultation Proposal to examine the Deregulation of Schedule One of the Licensing Act 2003

1 Purpose of the Note

- 1.1 To inform Cabinet of the Environment and Community Safety Scrutiny Board (4) recommendations following their consideration of the Response to DCMS Consultation Proposal to examine the Deregulation of Schedule One of the Licensing Act 2003 on 2nd November 2011.

2 Recommendations

- 2.1 Cabinet are asked to note that the Environment and Community Safety Scrutiny Board (4) endorse the consultation response specifically:
- a) Rationalisation of the licensing regime would be welcome if it
 - i) deregulated licensing controls at community premises which do not serve alcohol, therefore encouraging communities to hold events with entertainment;
 - ii) brought within the licensing regime matters which require regulatory control in order to protect the public eg cage fighting/martial arts; and
 - iii) the deregulation of film exhibition would not be welcome as premises may choose to show films which may be unsuitable for children, without the effective admission controls seen in established cinema premises.
 - b) Any deregulation which could potentially increase noise nuisance for residents and communities would be unwelcome. The City Council would also not have additional resources to deal with the suggested rise in noise complaints from entertainment premises.

3 Information/Background

- 3.1 The Coalition Government have made a commitment to remove red tape affecting live music in small venues as part of the Growth Review. They are suggesting that removing the need for proactive licensing for regulated entertainment could provide a great boost for community organisations, charities, cultural and sporting organisations, for artists and performers, for entertainment venues, and for those local institutions that are at the heart of every community, such as parent/teacher organisations, schools and hospitals.
- 3.2 The Department for Culture, Media and Sport (DCMS) are seeking views on the proposal to remove the licensing requirement for activities currently defined as Regulated Entertainment in Schedule One to the Licensing Act 2003.

3.3 The Environment and Community Safety Scrutiny Board were asked to note the consultation response and forward any comments to Cabinet.

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