Committee: **LICENSING COMMITTEE**

Date: 19 October 2011

Agenda item: 4

Subject: Licensing Section Progress Report

Lead officer: Marc Dubet, EH Licensing & Pollution Manager

Lead member: Cllr Martin Whelton, Cabinet Member for Community & Culture

Forward Plan reference number: n/a

Contact officer Marc Dubet, EH Licensing & Pollution Manager

RECOMMENDATIONS

A. The Licensing Committee notes the recommendations arising from the Overview and Scrutiny Commission's review of the night-time economy.

B. The Licensing Committee notes the report regarding noise arising from this year's Filipino Festival in Morden Park

C. The Licensing Committee notes the report concerning possible changes affecting the Licensing Authority.

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1. Purpose of Report and Executive Summary

1.1 The report provides information for Members regarding the recommendations from the Overview and Scrutiny Commission on the review of the night-time economy, the enforcement in respect of the licensing team together with the proposed changes in the Police Reform and Social Responsibility Act 2011. Also to note the Noise Report from Environmental Health (Pollution Team) following the Filipino Festival at Morden Park.

2. Recommendations From The Overview and Scrutiny Commission Review of the Night-time Economy.

2.1 The Overview and Scrutiny Commission undertook a review of the night-time economy looking at Wimbledon, which aimed to enhance the work of council departments in delivering a safe night-time economy on the borough.

2.2 Appendix 1 to this report outlines the recommendations of the Commission and action plan to be taken by the organisations responsible, the timescales for completion and work undertaken to date. Recommendations 11 & 12 are those which the licensing committee and licensing team should consider. To summarise, these recommendations are concerned with improving the night-time economy and the perceived culture of binge drinking through the robust use of legislation.

2.3 As noted in this report, some of the changes to the Licensing Act proposed in the Police and Reform and Social Responsibility Act would, if ratified, empower the authority to take more direct action, if considered appropriate. The proposed provisions in the Act will be discussed later in this report.

2.4 It is the view of the licensing team that any proposed actions concerning the night-time economy and binge drinking should be considered after the Police and Reform and Social Responsibility Act has come into force, which is likely to be April or October 2012 .In this way, all options can be considered, before deciding what action is appropriate and lawful.

2.5 It should also be noted that, as per recommendation 12, a mandatory condition applicable to all on licence premises licences states that provision must be made for drinking water to be made reasonably available.

2.6 Another factor that should be taken into consideration concerning the night-time economy generally is the fact that the Safer Merton Team is currently undertaking a feasibility study into adopting the Purple Flag Scheme in Wimbledon town centre.

2.7 Purple Flag (recommendation 8).

Purple Flag is a new accreditation scheme, which was launched in October 2009, the scheme recognises excellence in the management of town and city centres at night. Entertainment areas that achieve the standard will be those that offer a better night out to visitors. The aim of Purple Flag is to raise standards and improve the quality of our towns and cities at night. There are a number of organisations that will feed into this process:

Public Protection – health, licensing, police, security, safety

Infrastructure – transport, lighting and cleansing

Hospitality – restaurants, licensed trade, tourism, hotels, retail, cinema, culture and late night entertainment

Development – investment and planning

Management – town centre management and BIDS

Community – residents and consumers – including those consumers who would go out if things were better

2.8 The officer dealing with the Purple Flag feasibility study is Angela Bishop (Ext.3137) angela.bishop@merton.gov.uk

3. Enforcement Activities

The following table outlines the investigations undertaken by the licensing team over the past three months.

Location	Complaint	Resolution
Cavern	Noise	No breach of licence conditions apparent. Advice given re alternative solutions. Information to noise team.
Figges Marsh	Noise	Allegation withdrawn no offences apparent. TEN issued for event.
Leather Bottle	Noise	No breach of licence conditions apparent. Advice given re alternative solutions
Horse and Groom	On-going enquiry re allegation of unlawful use of outside area	On-going.
Watershed	Anti-Social Behaviour	Matter investigated. No issues relate directly to the premises. No breach of licence conditions apparent. Advice given re alternative solutions. Liased with police, who are now negotiating with the management of the premises direct and setting up meetings with all parties.
Merton Abbey Mills (AbbeyFest)	General complaint re event concerning noise at the Abby Fest event.	Advice re possible solutions. No specific premises named.
Alexandra	Anti-Social Behaviour	No breach of licence conditions apparent. Liased with police, who are now negotiating with the management of the premises direct. Also advice given re alternative solutions.
Raynes Park Social Club	Noise	No breach of licence conditions apparent. Advice given re alternative solutions

Wibbas Down Inn	Information re possible use of gaming machines by underage.	Observations kept no offences disclosed at this stage. Further enquiries in hand. Investigation is on-going.
Apostles	Noise	Allegation not substantiated. Enquiries reveal no offences apparent at this stage.
Colliers Tup	Noise	Allegation not substantiated. Enquiries reveal no offences apparent at this stage. There appears to be compliance with conditions. Advice give re reviews etc.
Ting N Ting	Noise	Complainant wished to seek review. No review received. Licence holder contacted and advised re licence conditions. No further complaint received. There now appears to be compliance with conditions
Tescos Wimbledon Hill Rd	Opening hours	Parties advised. Situation being monitored to ensure compliance
Burn Bullock	Noise	Noise issue under a TEN, so no breach of licence conditions apparent Matter referred to noise team.
Merton Institute	Noise	Investigation revealed noise was coming from a private dwelling. NFA appropriate as parties on private dwellings are not licensable.

4. Noise Report on the Filipino Festival, Morden Park

Following a review hearing of the premises licence for Morden Park, a council held licence, the committee recommended that officers attend the event and requested that a report be submitted to the licensing committee regarding noise activity. The recommendations of the licensing sub-committee are below and the report, authored by an environmental health officer is attached as appendix 2.

Recommendations of the licensing sub-committee:

1. An officer will be at the event on each day and will specifically be charged with monitoring noise levels on the site and in the surrounding areas at the perimeter of the park and specifically in Rougemont Avenue.
2. The Noise Pollution Team will either also be in attendance to carry out noise assessments and set acceptable sound levels for this and future events in Morden Park or the Noise Pollution Team will train Greenspaces staff to do this and supply the specialist equipment.
3. A report on noise monitoring of this year's Filipino Festival shall be brought to the Licensing Committee of Merton Council at their meeting on 19 October 2011.

5. Update on Police Reform & Social Responsibilities Bill 2010

Following agreement by both Houses on the text of the Bill it received Royal Assent on 15 September 2011. The Bill is now an Act of Parliament (law). A number of orders and regulations will now be rolled out over the next 6-12 months with enactment dates for the different parts of the Act (but it is anticipated that it will be fully in force by October 2012). The main proposed changes are:

5.1 Responsible Authorities

Licensing authorities are to become responsible authorities. This means that licensing officers will be able to make representations on applications and reviews and to bring review applications in their own right (and their impartial position on receiving applications will inevitably change). Currently, there are two licensing officers, which creates a potential resource implication, through the need to keep a separation between the officers acting as a responsible authority and those processing the application and reporting to licensing sub committees. Clearly, granting officers the power to act directly to uphold the licensing objectives will add to their enforcement capabilities. It must be noted, however, that it will inevitably create an extra workload.

Primary Care Trusts (and Local Health Boards in Wales) are to be responsible authorities under the Act. Hospital data on A & E statistics for alcohol related injuries could be used. Committees will need to consider the relevance of any evidence submitted.

5.2 Representations/Request for Review

The term "Interested parties" is being deleted and the 'vicinity test' is no longer applicable. Representations will be able to be made by responsible authorities and

"other persons", so that almost anyone will be able to make representations and reviews, no matter where they are based. This has potentially serious resource implications, as it may not be possible to refuse a representation just because, for example, it comes from a society at the other end of the country.

5.3 Advertising

Applications will have to be advertised in a manner, which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it. This may not be too onerous on the council as it is likely that the regulations may state that applications must be displayed on the council's web site. This is already done by this council.

5.4 Promotion of the Licensing Objectives

The "necessary" test in relation to the licensing objectives will now refer to the licensing authority taking such steps as are" appropriate" to promote the licensing objectives. Decisions will still need to remain "proportionate".

5.5 Temporary Event Notices

Gives local authorities "minimising or preventing the risk pollution of the environment or of harm to human health") the ability to object to a temporary event notice. All objections (police and local authority) will be able to be made on the basis of all the licensing objectives in the Licensing Act 2003. Licensing authorities will be able to impose conditions on a temporary event notice in limited circumstances, provided there is objection and the authority considers the conditions are appropriate for the promotion of the licensing objectives

Provisions will also enable premises users, in any calendar year, to hold a single event under a temporary event notice for up to seven days (currently 96 hours), use a single premises for up to 21 days (currently 12 notices to an aggregate of 15 days) and to give a limited number of temporary event notices with less notice than the existing process permits. Provisions will permit late temporary event notices to be given with a shorter notice period, being no later than five working days, but no earlier than nine working days, before the day the event period begins.

5.6 Underage Sales

Provision for doubling the maximum fine for premises, which persistently sell alcohol to those under 18 to £20,000, and increasing the period of suspensions, which can be imposed on such premises.

The timescale for a closure notice for persistently selling alcohol to children has been increased from 'up to 48 hours' to 'from 48 hours and up to 336 hours' at the discretion of the officer.

5.7 Early Morning Restriction Orders

Allows licensing authorities to decide the terminal hour for licensed premises in sections of the borough between the hours of midnight and 6am. Different restrictions can be imposed on different days of the week.

5.8 Non-payment of Annual Fee

Gives licensing authorities power to suspend a premises licence or club premises certificate for non-payment of an annual fee (currently there is no sanction other than non payment becoming a civil debt).

5.9 Setting of Fees

Regulations may also be made which allow the licensing authority to charge fees based on full cost recovery, that will be set by the government, which may amount to a national cap.

5.10 Late Night Levy

Licensing authorities may be able to introduce a levy in their borough which will be payable by premises which supply alcohol as a part of the late night economy. Licensing authorities will be able to impose the levy on such premises whose licences give authorization for the sale or supply of alcohol for a period of any duration between midnight and 6am, although some premises may benefit from an exemption or discount, it will apply borough wide. At least 70% of the net funds generated by the levy will be paid to the police and crime commissioner, although it will be up to the police to decide where the funds are directed. It is intended to also pay such funds to bodies which operate measures to address the effect of alcohol related crime and disorder. It is expected that the rate of the levy will be set by Regulations.

5.11 Licensing Policy Statement

Policies will have to be reviewed every 5 years rather than every 3 years (currently).

5.12 Possible Implications

Though the Police Reform and Social Responsibility Act 2011has yet to be fully enacted, there are strong indications that many of its provisions will come into effect after either commencement orders or regulations have come into force. That said, there is an indication that the provision for a late night levy may not. Currently, no official commencement time for these provisions has been stated. However, it would appear likely that some will come into effect by next April, with others being enacted at various times throughout 2012.

In addition to the resource implications already noted, other factors will affect the type and amount of work undertaken by licensing officers. A good example is that of the local authority examining the possibility of adopting Early Morning Restriction Orders, which would involve an extensive research and consultation process. Other changes are also likely to generate greater workloads, both in the need to implement new procedures and the need to advise stakeholders about them, notably those involved in the licensing trade.

6. Government Consultation

The government is currently consulting on its wish to deregulate some classes of regulated entertainment where there are less than 5000 people. The consultation document is attached as Appendix 3 for your information.

7. Alternative Options

None for the purpose of this report

8. Consultation undertaken or proposed

None for the purpose of this report

9. Financial, resource and property implications

None for the purpose of this report

10. Legal and statutory implications

None for the purpose of this report

11. Human rights, equalities and community cohesion implications

These are statutory functions and are applied globally. An equalities impact assessment of the attached policy and other related functions of the Service are undertaken on a regular basis.

12. Crime and Disorder implications

The Service has a statutory duty to contribute to the reduction of crime and disorder in Merton under section 17 of the Crime and Disorder Act 1988. Furthermore the prevention of crime and disorder is also one of the objectives of the Council's statement of Licensing policy. In determining applications it will be the policy of the Service to consider the adequacy of measures proposed to deal with related crime and where appropriate it will attach conditions to permissions and licences to deter and prevent crime and disorder both inside and within the vicinity of the premises.

13. Risk management and health and safety implications

All risk and health and safety implications have been considered in arriving at the final package of Service Plan measures. Risk ratings are determined for specific activities, including the delivery of outcomes, measures and targets in the Plan, and are included within the Councils corporate risk management strategy. Identified risks and actions to minimise them are assessed on an annual basis.

14. Appendices – the following documents are to be published with this report and form part of the report

Appendix 1 - Recommendations from the Overview and Scrutiny Commission

Appendix 2 - Noise report regarding the Filipino festival

Appendix 3 - Government consultation on the deregulation of regulated entertainment

15. Background papers

The following documents have been relied upon in compiling this report and the policy but do not form part of this report

The Licensing Act 2003 (As amended)

The DCMS Guidance to Licensing Authorities issued under S182 (October 2010)

The Police Reform and Social Responsibility Act 2011

Appendix 1

Response to the recommendations - night time economy review

	Responsible decision making body
Recommendation 1 (paragraph 9)	
We recommend that the Overview and Scrutiny Commission agree to receive a further report from the task group in September 2011, which will examine the night time economy in Mitcham, Morden, Raynes Park and Colliers Wood town centres as well as the impact on local Accident and Emergency services.	Overview and Scrutiny Commission (JR)
Action: this is an O & S agenda item	
Date: October 2011	
Recommendation 2 (paragraph 28)	
We recommend that NHS Sutton and Merton and its successors continue with its plans to reconfigure alcohol treatment services so that these will meet the needs of lower level drinkers as well as those who will continue to require in-patient detox services.	Drug and Alcohol commissioning (MP)
Action: NHS S&M are currently writing a strategy in partnership around alcohol commissioning and this can be shared with the Commission at the next meeting. The funding for this service is health money and consideration needs to be given as to how this will be handled when the Public Health Boards manage the finances.	
Date: Due Autumn 2011 dependant on legislative changes	
Recommendation 3 (paragraph 34)	
We recommend that Safer Merton works with the Council, Police, NHS and other partner agencies to continue to run the “be social, be sensible, be safe” or a similar campaign.	Cabinet Safer Merton (MP)
Action: A campaign will be over the Christmas period 2011 run utilizing existing stocks of campaign material and working with local businesses. There is no funding at present for future years	
Date: Christmas 2011	
Recommendation 4 (paragraph 35)	
We recommend that these campaigns should include	Cabinet

information about what constitutes a unit of alcohol and the "safe" level of alcohol consumption plus health messages about the impact that alcohol misuse can have.	Drug and Alcohol commissioning (MP)
Action: The communications around the next campaign (briefings to the press) will include this information - however not everything submitted is used. Some stock of 'unit wheels' is left and these will be distributed during the campaign.	
Date: Throughout the year ongoing	
Recommendation 5 (paragraph 42)	
We recommend that the Council and the Police make greater use of the powers currently available to them in order to deal more stringently with alcohol related anti-social behaviour in local town centers.	Cabinet Police ASB team (CC)
Action: At present the ASB powers are being reviewed and new legislation being written until that time the Police will continue to use the powers available to them.	
Date: new legislation due October 2012	
Recommendation 6 (paragraph 43)	
We recommend that the Council and the Police continue, and increase where appropriate, with mystery shopping and other initiatives to ensure that off-licenses do not sell alcohol to under 18s.	Cabinet Police Trading Standards
Action: There is a programme of work underway to ensure that this continues. The Trading Standards team intends to undertake 100 underage test purchases throughout 2011/12 informed by intelligence received but focusing mainly on 'off licensed' premises.	
Date: rolling programme throughout the year	
Recommendation 7 (paragraph 45)	
We therefore recommend, on the basis of the evidence presented to us that the existing Controlled Drinking Zone remain in place and is not extended at present.	Cabinet
Action: The cumulative impact zone was extended following Full Council decision in April 2011. There are no further proposals to extend. The Controlled Drinking Zone is a bye law and there are no proposals to change this.	
Date: N/A	
Recommendation 8 (paragraph 49)	
We recommend that the Council's Environment and Regeneration Department investigate the costs and potential benefits of purple flag award in order to assess	Cabinet Safer Merton

whether it would be worth applying for on behalf of Wimbledon Town Centre.	(CC/LR)
Action: Investigative work is being undertaken by Safer Merton into the costs and time required to evidence the requirement to obtain a purple flag. A report will be brought to Cabinet as appropriate once this work is complete.	
Date: September 2012	
Recommendation 9 (paragraph 53)	
We recommend that the Council maintain the current level of night time street cleaning resources in the town centres.	Cabinet Street Scene and Waste (CS)
Action: There are no current plans to reduce night time street cleansing resources however the financial challenge facing the Council requires that we explore all opportunities to make savings whilst protecting services as far as possible. Cabinet would be asked to make any such decision and Sustainable Communities Scrutiny Panel would be consulted in such an event.	
Date: N/A	
Recommendation 10 (paragraph 61)	
We recommend that Safer Merton meets the street pastors to discuss the most appropriate way for ward councilors, the Council and its partners to provide support so that the street pastors can continue to provide valuable services in Mitcham and Wimbledon.	Cabinet Safer Merton Street Pastors (CC/LR)
Action: The Street Pastors and SM are in dialogue and are planning joint work for the future, one project is underway, and partnership working is already improving. The Police have secured funding to support the Street Pastors.	
Date: underway and ongoing	
Recommendation 11 (paragraph 78)	
We recommend that the Licensing Committee should consider how it could be more proactive in using its current powers and, where necessary, propose changes to the Council's Licensing Policy in order to: • begin to reduce opening hours in order to maintain balance within the Cumulative Impact Zone in Wimbledon town centre; • impose licence conditions such as earlier closing and no admissions to premises after midnight in	Licensing Committee Licensing Team

order to gradually reduce very late licences and the intensity of late night drinking; • have greater opportunity to take into account the views of residents, police and other stakeholders when reviewing a licence; • impose conditions that will reduce noise nuisance for residents who live nearby. These conditions could include lobby areas between outer door and inner door to reduce noise on street.	
Action: The Police Reform and Social Responsibility Bill [PRSRB] will potentially have a positive impact on licensing and in particular the role of 3rd parties and their part in being consulted / ability to make representations. The Council has responded to the consultation on this pending legislation which we do not expect it to be enacted before the end of the year. We shall look to utilize any changes thereafter. The Councils Licensing Policy has only recently been revised and adopted. Disucssions are due to be held with Licensing Committee to consider how existing policy and powers can be used more effectively and what if any policy changes might be required to address the concerns identified .	
Date: Autumn 2011	
Recommendation 12 (paragraph 79)	
We further recommend that the Licensing Committee consider how they might use the opportunity of the proposed legislation to further practices that would reduce binge drinking. These may include providing soft drink from vending machines, providing water dispensers, banning selling of shots from trays, stipulate a minimum provision of tables and seating to encourage people to drink more slowly.	Licensing Committee Licensing Team
Action: The proposed legislation [PRSRB] is currently at House of Commons Committee stage. The Council has responded to the consultation however we do not expect any significant change in this area. This will be discussed further with Licensing Committee as the Councils future licensing Policy is developed.	
Date: to be confirmed	

Appendix 2

Noise report regarding the Filipino festival 4th & 5th June 2011

Officers from the Environmental Health (Pollution and Licensing) Team were present at both days of the event undertaking sound checks, monitoring sound levels from the event, responding to any complaints made regarding the noise from the event and liaising with the Greenspaces section and the event organisers including their sound engineer.

Noise monitoring was undertaken outside a variety of addresses around the perimeter of Morden Park across the 2 days of the event. This monitoring consisted of both objective (sound levels taken with a sound level meter) and subjective (officer assessment) measurements. Officers routinely monitored around the perimeter and at the addresses below across the 2 days taking into account factors such as wind direction, previous history of complaints and directionality of expected sound travel on the basis of the siting of the stage and PA equipment. Therefore, some of the addresses noted below received more visits than others.

The addresses included:

2A Rougemont Avenue

38 Rougemont Avenue

35 Lower Morden Lane

299 Hillcross Avenue

332 Hillcross Avenue

90 Cardinal Avenue

152 Cardinal Avenue

16 Holne Chase

50 Woodstock Avenue (Sutton)

The sound levels set were set objectively in line with the Code of Practice on Environmental Noise Control at Concerts as stipulated within condition 4 of the premises licence. The Code of Practice allows some latitude with respect to noise levels, stipulating that the Music Noise Level should not exceed the Background Noise Level by more than 15 dB(A) over a 15 minute period. For technical and practical reasons, we were unable to measure the background noise level as is suggested within the Code of Practice as this would require 4 hours worth of noise monitoring on each day of the preceding weekend which is very resource intensive. To account for this, we therefore set the noise level as being 10 dB(A) above a shorter (15 minute) background noise measurement (which was taken on each morning of the event). This should therefore have offered a greater level of protection to the residents than the

recommendation within the Code of Practice, in conjunction with the requirement of condition 3 of the code of practice which requires a subjective assessment by Officers of whether any sound escape from the park is at a level which would cause disturbance to local residents.

The sound levels were found to be within the parameters set for the majority of the event. The exception to this were for a period on Saturday afternoon at Cardinal Avenue at 16:50 where it was exceeded by 1 dB (i.e. 11 dB over the background compared to the specified 10 dB) However, as this was a minor breach (particularly as the code of practice sets 15 dB), the event was due to finish shortly and at that point the Officer on duty was not aware that a complaint had been made about the sound levels at Cardinal Avenue (see detail in paragraph below) it was not felt appropriate for any corrective action to be recommended.

Complaints received during the event were from residents living on Cardinal Avenue, one complaint was received on Saturday and one complaint received on Sunday. In both instances, the complainants were contacted (the complaint logged on Saturday was not passed to the officer until Sunday and so the complainant was contacted then) and their concerns discussed. One resident advised that the sound was at a level that was "bearable" (Sunday complaint) and the other advised that the sound was not audible in their property at that time (Saturday complaint). Both were advised to call back should there be any further concerns regarding the noise levels.

An observation from a Greenspaces Officer (not on duty for this event) at the sports ground at Marina Avenue at 16:10 pm on the Sunday afternoon that the sound was audible there, led to Officers to visit that area and as the sound was audible at that point, a request was made to the organisers to reduce the volume for the remainder of the event. It was raining at this point so it was not possible to take measurements using a sound level meter (as they do not operate in the rain).

Following the event, a complaint was received by a resident of Queen Mary Avenue advising that they could hear the sound from the event clearly over the 2 days. No noise monitoring was undertaken in this road and it is suggested that this road be included in the monitoring programme for any future events.

Future Recommendations:

1) Mascot to be provided with clear instruction to pass on any complaints received to a nominated Officer as soon as possible.

2) Noise monitoring to be undertaken in Queen Mary Avenue.

department for
culture, media
and sport

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.

Contents

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 licence[1] 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 <u>any</u> instance, Government intends to <u>retain</u> the licensing requirements for:**

- Any performance of live music, theatre, dance, recorded music, indoor sport or exhibition of film where the audience <u>is of 5,000 people or more</u>.
- 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 wholescale 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 register[2] 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 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.

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 venues[5].

[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

[5] http://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 statue 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. <u>But before doing so we would ensure that the age classification safeguards could be retained</u>.**

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 his 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 proposals 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 A: Summary list of questions

Proposal Impacts: Questions

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?

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 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.

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?

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?

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?

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?

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?

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?

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.

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.

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: 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

department for
culture, media
and sport

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www.culture.gov.uk