

A meeting of the **LICENSING COMMITTEE** will be held in **CIVIC SUITE 1A, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **WEDNESDAY, 26 OCTOBER 2011** at **THE RISING OF THE LICENSING AND PROTECTION PANEL** and you are requested to attend for the transaction of the following business:-

**Contact
(01480)**

APOLOGIES

1. MINUTES (Pages 1 - 6)

To approve as a correct record the Minutes of the meetings of the Committee held on 19th May 2010 and 26th Oct 2010.

2. MEMBERS' INTERESTS

3. ELECTION OF CHAIRMAN

4. APPOINTMENT OF SUB-COMMITTEES (Pages 7 - 8)

To receive a report by the Head of Legal and Democratic Services on the appointment of sub-committees.

**Mrs C Allison
388010**

5. LICENSING ACT 2003 AMENDMENTS (Pages 9 - 14)

To receive a report by the Head of Legal and Democratic Services on amendments to the Licensing Act 2003 arising from the Police Reform and Social Responsibility Act 2011.

**Mrs C Allison
388010**

6. DEREGULATION OF ENTERTAINMENT (Pages 15 - 24)

To receive a report by the Head of Legal and Democratic Services on a consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003.

**Mrs C Allison
388010**

Dated this 18 day of October 2011



Head of Paid Service

Notes

1. *A personal interest exists where a decision on a matter would affect to a greater extent than other people in the District –*

- (a) *the well-being, financial position, employment or business of the Councillor, their family or any person with whom they had a close association;*
 - (b) *a body employing those persons, any firm in which they are a partner and any company of which they are directors;*
 - (c) *any corporate body in which those persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or*
 - (d) *the Councillor's registerable financial and other interests.*
2. *A personal interest becomes a prejudicial interest where a member of the public (who has knowledge of the circumstances) would reasonably regard the Member's personal interest as being so significant that it is likely to prejudice the Councillor's judgement of the public interest.*

Please contact Mrs A Jerrom, Democratic Services on Tel No. 01480 388009/e email: Amanda.Jerrom@huntingdonshire.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Committee/Panel.

Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.

Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.

Agenda and enclosures can be viewed on the District Council's website – www.huntingdonshire.gov.uk (under Councils and Democracy).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Democratic Services Manager and we will try to accommodate your needs.

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.

Agenda Item 1

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING COMMITTEE held in Civic Suite, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Wednesday, 19 May 2010.

PRESENT: Councillors K M Baker, J T Bell, K J Churchill, J J Dutton, R S Farrer, N J Guyatt, Mrs P A Jordan, Van De Kerkhove, A Monk, Mrs P E Shrapnel and J S Watt.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillor T D Sanderson.

22. ELECTION OF CHAIRMAN

RESOLVED

that Councillor J T Bell be elected Chairman of the Committee for the ensuing municipal year.

23. MEMBERS' INTERESTS

No declarations were received.

24. APPOINTMENT OF VICE-CHAIRMAN

RESOLVED

that Councillor K M Baker be appointed Vice - Chairman of the Committee for the ensuing municipal year.

25. APPOINTMENT OF SUB-COMMITTEES

The Committee agreed that its Membership should be divided into three groups, from which the Director of Central Services, after consultation with the Chairman, is authorised to convene Sub-Committee hearings comprising three Members, therefore it was

RESOLVED

that the Committee establish three groups from which Members would be appointed

RESOLVED

- Group (1) i. Bell, Farrer, Van De Kerkhove
ii. Bell, Farrer, Watt
iii. Farrer, Van De Kerkhove, Watt
iv. Bell, Watt, Van De Kerkhove
- Group (2) i. Baker, Churchill, Guyatt
ii. Baker, Guyatt, Jordan
iii. Baker, Churchill, Jordan
iv. Churchill, Guyatt, Jordan
- Group (3) i. Dutton, Sanderson, Shrapnel
ii. Dutton, Sanderson, Monk
iii. Sanderson, Shrapnel, Monk
iv. Dutton, Shrapnel, Monk

Chairman

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING COMMITTEE held in the Civic Suite, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Tuesday, 26 October 2010.

PRESENT: Councillor J T Bell – Chairman.

Councillors K M Baker, J J Dutton,
R S Farrer, N J Guyatt, Mrs P A Jordan,
S M Van De Kerkhove, Mrs P E Shrapnel and
J S Watt.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors K J Churchill, A Monk and T D Sanderson

8. MINUTES

The Minutes of the meeting of the Committee held on 16th June 2010 were approved as a correct record and signed by the Chairman.

9. MEMBERS INTERESTS

No declarations were received.

10. LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY

Consideration was given to a report by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book) inviting the Committee's endorsement of a revised statement of licensing policy under the Licensing Act 2003 prior to its consideration by Cabinet and subsequent approval by the Council.

The Committee was reminded that following its approval by Council the second and existing statement had come into effect on 7th January 2008 for a period of three years. Consequently the Council would need to review its policy and approve a new statement, having regard to guidance issued by the Secretary of State, to come into effect on 7th January 2011.

The Committee was acquainted with the legislative changes that had taken place since the previous statement of licensing policy had been approved. These included a mandatory code of practice for alcohol retailers, allowing elected members of licensing authorities to become interested parties for the purposes of making representations and applying for reviews, re-classification of lap dancing clubs so that they required a sex establishment licence and new mandatory conditions in relation to the supply of alcohol.

A new draft statement modelled on the existing document, with changes made only where a conflict would arise with the updated guidance had been drawn up and distributed to all Members and comments had been invited from a wide variety of organisations.

Having been informed that the consultation had elicited little response, the Committee

RESOLVED

that the revised statement of licensing policy be endorsed for submission to Cabinet and subsequent approval by the Council.

11. RE-BALANCING THE LICENSING ACT 2003

The Committee noted the contents of a report by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book) arising from a consultation paper issued by the Government on proposals to rebalance the Licensing Act.

The Committee was informed that the new coalition Government was of the view that greater flexibility should be introduced to the licensing legislation to make it easier for local communities to ask for a review of premises licences where alcohol consumption was a cause for concern. The Government contended that the current system was overly prescriptive and weighted in favour of the licensed trade. To counteract that, the Government proposed to return to greater discretion on the part of licensing authorities and the police in determining applications and reviewing problem premises.

Having been informed that the Chairman and Vice Chairman of the Committee had endorsed a response to the consultation which had closed on 8th September and that further information on any changes ensuing from the consultation would be brought to the Committee as they emerged, Members

RESOLVED

that the contents of the report and the changes forecast in the licensing regime be noted.

12. SECRET GARDEN PARTY

With the aid of a report by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book) the Committee was acquainted with the issues that had arisen from the Secret Garden Party festival that had taken place in July 2010.

The Committee was reminded that a premises licence had been granted in perpetuity for the event for a period of 5 days each year as no objections to the application had been received from responsible authorities or interested parties.

Members were informed that the festival had taken place between Thursday 22nd July and Monday 26th July 2010 and had attracted 26,000 people. Licensable activities had taken place throughout that period and officers from the Democratic and Central Services and Environmental and Community Health Divisions had been on site for most of the event's duration in order to ensure that the conditions attached to the licence had been adhered to. Both pre and post event meetings had been arranged with event organisers and other

responsible and relevant organisations.

The Committee was advised that issues arising from the post event safety advisory group meeting which had involved representatives of the District and County Councils, Police, Fire and Rescue and Hinchingsbrooke Hospital had included a significant increase in criminal activity, security and health care issues. The popularity of the festival was thought to have attracted a criminal minority who targeted such events nationwide and had resulted in more people than previously trying to gain access by breaking the security arrangements.

Although over 500 people had required medical care and 36 referred to Hinchingsbrooke Hospital, Members were informed that both the hospital and event paramedics had been satisfied with the arrangements made to treat those in need of assistance. A substantial police presence had been funded by the licence holder and the issues identified would be addressed by the licensing and other responsible authorities in the planning of the 2011 festival. Members were informed that the licence holder had indicated numbers would not increase in 2011 and there would be no opportunity for the licence conditions to be revisited unless an application for a review was made by one of the responsible authorities or an interested person.

No letters of objection had been received concerning the event held in July but the Licensing Manager indicated that he was aware that some residents had raised concerns with their respective parish councils and that he would be attending meetings in the near future to ascertain the extent of those concerns.

The Head of Democratic and Central Services advised that the event, which had become well known on the festival calendar, continued to be well managed with a high degree of co-operation on the part of the licence holder with the licensing authority and responsible authorities and was enjoyed by both local people and visitors to the District.

Chairman

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LICENSING COMMITTEE

26 OCTOBER 2011

APPOINTMENT OF SUB-COMMITTEES (Report by the Head of Legal and Democratic Services)

1. INTRODUCTION

- 1.1 The Licensing Act 2003 ('The Act') enables the Licensing Committee to appoint one or more sub-committees and to arrange for the sub-committees to discharge certain of their functions.
- 1.2 At a meeting of the Licensing Committee on 19th January 2005, Members agreed the establishment of three groups of members to sit in nine combinations on those sub-committees.
- 1.3 This report invites the Committee to amend the sub-committee compilation to any combination of three members, thereby providing greater flexibility in the drawing up of member panels to hear sub-committee matters.

2. BACKGROUND INFORMATION

- 2.1 The Act requires that a sub-committee consists of three members of the Licensing Committee. Sub-committees of the Licensing Committee are not subject to political balance requirements.
- 2.2 The current arrangements, agreed in January 2005 provide for three sub groups of committee members, comprising nine different sub-committee combinations in total. This has on occasions caused difficulties in arranging hearings which conform to the agreed combinations.
- 2.3 Having regard to the number of hearings that are required and the urgency in some cases for hearings to be convened in as little as two working days notice, it is suggested that the sub-committee compilation be simplified to comprise any three of the twelve members of the Licensing Committee. This will provide greater flexibility and member availability.

3. CONCLUSION

- 3.1 Where representations are received for applications or variations of licences, the Licensing Act requires that such matters are determined by sub committees within given legislative timeframes.

4. RECOMMENDATIONS

- 4.1 It is therefore
RECOMMENDED
That the Committee establish sub-committees comprising of any three members of the Licensing Committee.

BACKGROUND INFORMATION

Nil

Contact Officer: **Christine Allison, Licensing Manager**

☎ 01480 388010

Filepath: <http://teams.huntsdc.gov.uk/admin/Democratic%20Services/Shared%20Documents/Forms/AllItems.aspx>

LICENSING COMMITTEE

26 OCTOBER 2011

**AMENDMENTS TO THE LICENSING ACT 2003 ARISING FROM THE POLICE
REFORM AND SOCIAL RESPONSIBILITY ACT 2011
(Report by the Head of Legal and Democratic Services)**

1. INTRODUCTION

- 1.1 The purpose of this report is to provide members with an overview of the new Police Reform and Social Responsibility Act 2011 (the Act) which gained Royal Assent on 15th September 2011. The commencement date has yet to be announced, although the majority of the Act is expected to come into force in late spring 2012, with the late night levy and fees elements following in the autumn of 2012.
- 1.2 The Act contains a number of amendments to the Licensing Act 2003 which are summarised below. The amendments are to be reviewed by the Government five years after they come into effect with a view to assessing the effect of the amendments on the scheme established by the Licensing Act 2003.

2. BACKGROUND INFORMATION

- 2.1 **Overview.** The Conservative Party manifesto for the 2010 general election indicated that they would 'overhaul the Licensing Act to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to any premises that are causing problems.' The coalition government consulted for 6 weeks over the summer of 2010 on the reform proposals. The Police Reform and Social Responsibility Bill was given its first reading in the House of Commons in November 2010 and its second reading in the House of Lords in April 2011. The Bill gained Royal Assent on 15th September 2011.
- 2.2 Responsibility for licensing within the Government has also changed from the Department of Culture, Media and Sport (DCMS) to the Home Office, although responsibility for entertainment licensing remains with the DCMS.
- 2.3 Chapter 2, Sections 103 to 139 of the new Act will introduce amendments to the Licensing Act 2003 in a number of distinct areas, outlined below:
- 2.4 **Responsible Authorities.** Two new categories of Responsible Authority have been created, the Licensing Authority and the Primary Care Trust or Local Health Board, who are able to make representations and initiate a review of a premises licence or club premises certificate in their own right.
- 2.5 **Removal of the vicinity test.** The vicinity and interested party tests are removed, enabling any person to make representations in relation to applications for grant or variation, provided they are not frivolous or vexatious. The definition 'interested party' is deleted. Interested parties become 'persons who live, or are involved in a business, in the relevant licensing authority's area' and are referred to as 'other persons'. This potentially increases the number of people who can make representations, with the

possibility of more representations leading to more contested applications and hearings.

- 2.6 Regulations will require the licensing authority to advertise applications 'in a manner which is prescribed and likely to bring the application to the attention of the persons who are likely to be affected by it.'
- 2.7 **Reducing the evidential burden.** The Licensing Act 2003 imposes a general duty on licensing authorities to exercise their licensing functions with a view to promoting the licensing objectives. A number of processes require licensing authorities to take steps which are 'necessary' for the promotion of those objectives. The new Act amends those provisions, instead requiring licensing authorities to take steps which are 'appropriate' for the promotion of the licensing objectives. This has the effect of lowering the threshold which licensing authorities must meet to achieve promotion of the objectives, but ensures that their decisions continue to be solely for the purpose of promoting the objectives.
- 2.8 **Temporary Event Notices (TENS).** A number of changes are being made to TENSs. It extends the right of objection to Environmental Health, whereas previously only the Police could object on crime prevention grounds. Both parties will be able to object on the basis of any of the four licensing objectives. In addition, licensing authorities will be able to impose conditions on a TEN in limited circumstances, following a hearing, if they consider that this promotes the licensing objectives. Other changes include the ability for applicants to submit a limited number of late TEN's and to hold events of up to 168 hours (previously 96 hours) over a maximum of 21 days (previously 15 days). Acknowledgement will be extended from 2 to 3 days.
- 2.9 The changes in processes are likely to involve the receipt of more TEN requests, more hearings and more officer compliance checks to ensure that the conditions on TENSs have been met. Any counter notices and a separate statement of conditions applicable to the TEN must be given to the premises user, police and Environmental Health. The late TEN process is likely to become a normality which although easier for applicants, will be more complicated to administer and may put time pressures on officers.
- 2.10 **Under age Sales.** On conviction, the fine is increased from £10,000 to £20,000 and the closure option extended from a maximum of 48 hours to a minimum of 48 hours and a maximum 336 hours (14 days).
- 2.11 **Early morning alcohol restriction orders.** Where it is appropriate for the promotion of the licensing objectives, a licensing authority can impose an early morning restriction order to prohibit the sale or supply of alcohol between 3am and 6am in the whole or part of its area. This power is extended to give authorities greater flexibility and the ability to make orders in the whole or part of their area between midnight and 6am. Different orders can be made for different periods on different days and can be made on a temporary basis. They may be varied or revoked and can contain exemptions in prescribed cases or circumstances.
- 2.12 Before an order can be made the proposal needs to be advertised, consulted upon and representations considered in accordance with statutory regulations.

- 2.13 **Fees.** The Act now requires that the licensing authority must suspend a premises licence if the holder has failed to pay an annual fee when due. There are exceptions for administrative error. The time frame is prescriptive. The licence must be suspended no less than two working days after the annual fee not being paid within 21 days of it being due. Receipts must be issued within two working days.
- 2.14 This will require compliance checks where the fee remains unpaid. The prescriptive timeframe and need for receipts will need to be carefully monitored. In particular there will be a peak in workload between June and October when the vast majority of fees become due. We will need to ensure that we have efficient systems in place to enable us to comply with the tight prescriptive timeframe requirement.
- 2.15 A new clause was added by the Government at report stage in the House of Commons giving licensing authorities powers to set certain fees, on a cost recovery basis. In addition to administrative costs and the costs acting as the licensing authority, we may also include the costs incurred by the licensing authority acting in a capacity other than as the licensing authority, e.g. planning authority. Regulations will specify constraints on the licensing authority's power to determine the amount of the fee.
- 2.16 **Licensing Policy Statements.** The current requirement to prepare and publish a statement of licensing policy is now extended from three years to five years. A five year period means 6 January 2016 and each subsequent five year period. This will represent an efficiency in not having to review policies as frequently, providing the risk of ensuring our policy is relevant and up to date is managed. The Act will allow, on commencement, for any policy published for three years from 7 January 2011 to be treated as if it were published for five years from 7 January 2011, i.e. to 6 January 2016.
- 2.17 **Personal Licence – relevant offences.** Further relevant offences have been added that may disqualify persons from holding a personal licence.
- 2.18 **Late night levy.** A new power has been created 'the late night levy requirement'. Licensing authorities may decide that a late night levy is to apply in its area, after considering the policing and other costs for reducing or preventing alcohol-related crime and disorder between midnight and 6am and having regard to those costs, the desirability of raising revenue in accordance with regulation, of which not less than 70% must be plied to the local policing body.
- The levy must apply to the whole area, it cannot apply to a part of the area.
 - Premises must pay unless the holder falls within a permitted exemption category or permitted reduction category.
 - The licensing authority may determine the time of day between midnight and 6am, it must be the same throughout the 'payment year'.
 - The amount of the levy and its administration is to be prescribed by regulation.
 - The licensing authority can decide the 'applicable exemption' and 'applicable reduction' categories (e.g. a reduction for Pubwatch members).
 - Regulations will specify how payments are collected, administered and enforced.

- Failure to pay will be recovered as a civil debt and lead to suspension of the premises licence provisions for non payment of the annual fee.
- Regulations will specify the relevant expenses that can be deducted in calculating the net amount of levy payments to be taken into account.
- Licensing Authorities must publish statements of estimated and net deductions at the start and end of the levy year.
- The procedure and decisions on the introduction, variation or revocation of a levy will be subject to regulations. It will require consultation with the local policing body and chief officer of police, holders of relevant late night authorisations and other prescribed persons. Notices of decisions must be published.
- Premises subject to a proposed levy may amend their licence for free prior to the levy coming into force, so as to exempt them from having to pay the levy

2.19 **Alcohol Disorder Zones.** The relevant sections of the Violent Crime Reduction Act 2006 giving power to designate an alcohol disorder zone have been repealed.

4. CONCLUSION

4.1 As the new custodian of licensing, the Home Office has launched a number of measures designed to 'shake up' the licensing regime through the new Act. The Home Secretary has said the system needs to be 'rebalanced in favour of local communities' and promised 'tougher action to crack down on the small number of licensed premises which cause problems'.

4.2 We now await regulations to be made under secondary legislation to enable implementation of the Act. Until those details are available it is not possible to gauge the full impact on the Council, however initial indications are that the changes will impact considerably upon both members and officers. In addition, the role of the licensing authority will need to remain separated from its new powers as a responsible authority in the representation and review processes.

5. IMPLICATIONS

5.1 **Staffing and financial implications.** There will be an efficiency arising from the extension of the statement of licensing policy from 3-5 years, however the rest of the proposed changes are all likely to add to the licensing workload in terms of staff resource and financial implications. The new ability to apply fees on a full cost recovery basis should provide for the resultant funding of the proposed amendments. The main implications are as follows:

- The impact of removing the vicinity test and replacing 'interested parties' with 'other persons', will allow greater scope for representations and will likely result in the need for more hearings.
- There will be an added advertising burden on the council in terms of cost and administration.
- The increased complexity of procedures, timeframes and changes to the TEN provisions, coupled with ensuring compliance with conditions will add to the administrative burden and could result in more hearings and pressures on officer time.

- Fees are currently prescribed by regulation. Exercises on the setting of fees will need to be undertaken to show transparency and justification of full cost recovery.
- Powers of suspension for non payment of fees will need to be monitored and complied with. Receipts will need to be issued.
- Should the council decide it wishes to consult on the introduction of a late night levy, then to set up and administer will require additional staff resource. Any early morning alcohol restriction order would also require consultation.

5.2 **Community.** Amendments to the Act bring about a number of positive changes for the community with the ability for wider representation, increased advertising of applications and wider responsible authority provisions. Further assurances relating to the licensing objectives are also achieved through the addition of the Primary Care Trust or Local Health Body as a new responsible authority, the ability for Environmental Health to make representations on temporary event notices and the ability to put conditions on temporary event notices.

6. RECOMMENDATION

6.1 The Committee are invited to note the contents of this report.

BACKGROUND INFORMATION

Police Reform and Social Responsibility Act 2011
Responses to Consultation. Rebalancing the Licensing Act (Home Office)

Contact Officer: Christine Allison, Licensing Manager
☎ 01480 388010

Filepath: <http://teams.huntsdc.gov.uk/admin/Democratic%20Services/Shared%20Documents/Forms/AllItems.aspx>

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LICENSING COMMITTEE

26 OCTOBER 2011

**A CONSULTATION PROPOSAL TO EXAMINE THE DEREGULATION OF
SCHEDULE ONE OF THE LICENSING ACT 2003.
(Report by the Head of Legal and Democratic Services)**

1. INTRODUCTION

- 1.1 The purpose of this report is to advise members of a consultation exercise currently being undertaken by the Department of Culture, Media and Sport (DCMS). The aim of the consultation exercise is to examine the deregulation of Schedule One of the Licensing Act 2003 and remove the need for a licence from as many types of entertainment as possible.

2. BACKGROUND INFORMATION

- 2.1 Responsibility for licensing within the Government has changed from the Department of Culture, Media and Sport (DCMS) to the Home Office. Amendments to the Licensing Act 2003 are currently being made through the Police Reform and Social Responsibility Act 2011, giving local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to any premises that are causing problems.
- 2.2 Responsibility for entertainment licensing, however, has remained with the DCMS. The Coalition Programme for Government made a firm commitment to remove red tape affecting live music in small venues. Then, as a part of the Growth Review, the Government announced an examination of 'regulated entertainment' with the aim of removing licensing regulation that unnecessarily restricts creativity or participation in cultural and sporting events. The Minister for Tourism and Heritage considers this to be a golden opportunity to deregulate, reduce bureaucratic burdens and costs by removing the need for a licence from as many types of entertainment as possible.
- 2.3 The starting point for the 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, the Government propose to remove the licensing requirement, subject to the views and evidence generated through the consultation.
- 2.4 However it is also acknowledged that licensing will be retained either in full or in part where there is a genuine need. The consultation paper makes it clear that licensing requirements will be retained for performances:
- where the audience is of 5000 people or more;
 - for boxing and wrestling; and
 - any performance classed as sexual entertainment, but is exempt from separate sexual entertainment venue regulations.
- 2.5 It is expected that the proposals will be of interest to a wide range of interested parties, including charities, schools, the music industry, licensed premises, cultural, creative and sporting development organisations and the

responsible authorities with an interest in public safety and crime and disorder.

- 2.6 It is proposed that premises currently holding a licence only for activities formerly classed as regulated entertainment would no longer need a licence. The licensing requirements would cease and the fees and licence conditions would end when a licence is surrendered. Venues would be able to host events formerly classed as regulated entertainment without the need for a licence.
- 2.7 For premises that continue to hold a licence after the reforms, the proposals would allow them to host entertainment activities that were formerly regulated without the need to go through a minor or full variation process. Conditions would continue to apply unless there was a variation to remove or amend them.
- 2.8 Guidance would be issued to licensing authorities and other interested parties before any changes were made

3. CONSULTATION

- 3.1 The consultation exercise is available on line at Regulated entertainment consultation@culture.gsi.gov.uk and contains 48 individual questions. A summary list of the questions are attached as Annex A of the consultation document and have been appended to this report. Responses can be returned on line or by post to the Regulated Entertainment Consultation Co-ordinator, DCMS, 2-4 Cockspur Street, London SW1 5DH.
- 3.2 The closing date for responses to the consultation is 3rd December 2011. A summary of the responses will be posted on the DCMS website www.culture.gov.uk after the end of the consultation, together with an analysis of the responses.

4. CONCLUSION

- 4.1 The aim of the consultation is to gain the views of the public to the proposals of deregulating regulated entertainment wherever possible.
- 4.2 The Government will collate and review comments from the consultation exercise and publish a Government response. Where deregulation is an activity that is supported, they 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 feasible.
- 4.3 Where changes require new exemptions or provisions in the Licensing Act 2003, or amendment to other legislation, the Government will assess the needs and legislative options and set out a forward plan in the consultation response.

5. RECOMMENDATION

- 5.1 The Committee are invited to note the contents of this report.

BACKGROUND INFORMATION

Regulated Entertainment – A consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003 - DCMS

Contact Officer: Christine Allison, Licensing Manager
☎ 01480 388010

Filepath: <http://teams.huntsdc.gov.uk/admin/Democratic%20Services/Shared%20Documents/Forms/AllItems.aspx>

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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 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.

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