



MEETING : LICENSING COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : THURSDAY 3 NOVEMBER 2011
TIME : 4.30 PM

MEMBERS OF THE COMMITTEE:

Councillor M McMullen (Chairman).
Councillors W Ashley, P Ballam, E Bedford, R Beeching, E Buckmaster,
A Burlton, Mrs R Cheswright, K Crofton, J Demonti, N Poulton, J Taylor,
A Warman, N Wilson and B Wrangles.

Substitutes:

Conservative Group: Councillors D Abbott, G Jones and P Ruffles.
Liberal Democrat Group: -
Independent Group: Councillor M Newman.

(Note: Substitution arrangements must be notified by the absent Member to Democratic Services 24 hours before the meeting).

CONTACT OFFICER: Linda Bevan
01279 502175

PERSONAL AND PREJUDICIAL INTERESTS

1. A Member with a personal interest in any business of the Council who attends a meeting of the Authority at which the business is considered must, with certain specified exemptions (see section 5 below), disclose to that meeting the existence and nature of that interest prior to the commencement of it being considered or when the interest becomes apparent.
2. Members should decide whether or not they have a personal interest in any matter under discussion at a meeting. If a Member decides they have a personal interest then they must also consider whether that personal interest is also prejudicial.
3. A personal interest is either an interest, as prescribed, that you must register under relevant regulations or it is an interest that is not registrable but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of the Council more than it would affect the majority of inhabitants of the ward(s) affected by the decision.
4. Members with personal interests, having declared the nature of that personal interest, can remain in the meeting, speak and vote on the matter unless the personal interest is also a prejudicial interest.
5. An exemption to declaring a personal interest applies when the interest arises solely from a Member's membership of or position of general control or management on:
 - any other body to which they have been appointed or nominated by the authority
 - any other body exercising functions of a public nature (e.g. another local authority)

In these exceptional cases, provided a Member does not have a prejudicial interest, they only need to declare their interest if they speak. If a Member does not want to speak to the meeting, they may still vote on the matter without making a declaration.

6. A personal interest will also be a prejudicial interest in a matter if all of the following conditions are met:
 - the matter does not fall within one of the exempt categories of decisions
 - the matter affects your financial interests or relates to a licensing or regulatory matter
 - a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.

7. Exempt categories of decisions are:
 - setting council tax
 - any ceremonial honour given to Members
 - an allowance, payment or indemnity for Members
 - statutory sick pay
 - school meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends
 - housing; if you hold a tenancy or lease with the Council, as long as the matter does not relate to your particular tenancy or lease.

8. If you have a prejudicial interest in a matter being discussed at a meeting, you must declare that interest and its nature as soon as the interest becomes apparent to you.

9. If you have declared a personal and prejudicial interest, you must leave the room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose. However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe proceedings.

AGENDA

1. Apologies

To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

To receive any Member(s)' declaration(s) of interest

4. Minutes (Pages 7 - 10).

To approve the Minutes of the meeting of the Committee held on 1 September 2011.

5. Licensing Sub-Committee (Pages 11 - 42).

To receive the Minutes of meetings of the Licensing Sub-Committee :

23 August 2011

7 September 2011

19 September 2011

10 October 2011.

6. Attendance at Licensing Sub-Committee (Pages 43 - 48).

7. Licensing Update Quarter 3 2011 (Pages 49 - 54).

8. DCMS Consultation on De Regulation of Regulated Entertainment
(Pages 55 - 108).

9. Amendments to Licensing Act by Police Reform and Social Responsibility Act 2011 (Pages 109 - 114).

10. Diamond Jubilee (Pages 115 - 128).

11. Feedback on Consultation with the Taxi Trade (Pages 129 - 132).
12. Attendance at Magistrates' Court - Verbal Update
13. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information

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MINUTES OF A MEETING OF THE
LICENSING COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON THURSDAY 1
SEPTEMBER 2011, AT 5.30 PM

PRESENT: Councillor M McMullen (Chairman).
Councillors W Ashley, P Ballam, E Bedford,
E Buckmaster, Mrs R Cheswright, K Crofton,
J Demonti, N Poulton, J Taylor, A Warman,
B Wrangles and P Ruffles.

OFFICERS IN ATTENDANCE:

Linda Bevan	- Committee Secretary
Paul Newman	- Interim Licensing Manager
Brian Simmonds	- Head of Community Safety

253 APOLOGIES

Apologies for absence were submitted on behalf of Councillors R Beeching, A Burlton and N Wilson. It was noted that Councillor P Ruffles was in attendance as a substitute for Councillor R Beeching.

254 MINUTES

RESOLVED – that the Minutes of the meeting held on 21 July 2011 be confirmed as a correct record and signed by the Chairman subject to the deletion of “further” from (A) of Minute 214 page 251 and the insertion of “additional”.

255 DELEGATING OF ALL NON STATUTORY FUNCTIONS TO A TAXI LICENSING PANEL

The Director of Neighbourhood Services submitted a report on delegation of non-statutory taxi licensing decisions to a Licensing Panel.

The Head of Community Safety and Environmental Health explained that he had been asked to make savings and introducing a Panel instead of the Licensing Sub-Committee to consider matters concerning taxi drivers would help towards this. He said East Herts considered a high percentage of such cases at committee compared with some nearby Councils.

The Chairman pointed out that about 300 applications were processed by the Licensing section every year. In approximately 4 years only about 60 cases had been considered by committee. He felt this was a small percentage.

Members raised a number of concerns including the following matters.

They said that East Herts was a much larger District than other ones nearby and this made the situation different in East Herts. It contained a number of towns with different circumstances.

They wanted further details of the exact savings which could be achieved by setting up a panel.

They were also concerned that the public perception was that elected representatives took decisions on these matters. In addition, hearing from the applicants in person sometimes gave a better understanding of their situation.

Members decided that they preferred a panel including the Chairman of the Licensing Committee, a trained Member of the Licensing Committee on a rotational basis and a representative of the Director of Neighbourhood Services. They asked that the panel include a female Councillor or Officer where appropriate e.g. offences of a sexual nature.

The Committee decided on a Panel as now detailed.

RESOLVED that - (A) a financial breakdown of the costs of Licensing Sub-Committees and income from fees be provided;

(B) a Licensing Selection Panel be set up consisting of the Chairman of the Licensing Committee, a trained Member of the Licensing Committee on a rotational basis and a representative of the Director of Neighbourhood Services;

(C) the Licensing Selection Panel review which taxi applications should be considered by a Licensing Sub-Committee or be delegated to Officers for approval or refusal for a period up to April 2012; and

(B) the financial situation and operation of the Panel be reviewed at the end of the initial period.

The meeting closed at 6.45 pm

Chairman
Date

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MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON TUESDAY 23 AUGUST
2011, AT 2.00 PM

PRESENT: Councillor Phyllis Ballam (Chairman)
Councillors N Wilson and B Wrangles

ALSO PRESENT:

Councillors E Bedford, E Buckmaster and
M McMullen

OFFICERS IN ATTENDANCE:

Linda Bevan	- Committee Secretary
Paul Newman	- Interim Licensing Manager
George Robertson	- Legal Services Manager

CONSIDERATION OF WHETHER TO SUSPEND OR
REVOKE HACKNEY CARRIAGE AND DUAL DRIVER
LICENCE DD 181 – MR O

Mr O	- Taxi driver
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CONSIDERATION OF APPLICANT TO CONTINUE WITH
AN APPLICATION FOR A PROPRIETOR'S LICENCE

Mr C	- Taxi driver
Mrs C	- Taxi driver's wife
Mr Rix	- Barrister

4 APPOINTMENT OF CHAIRMAN

Councillor B Wrangles proposed and Councillor N Wilson seconded that Councillor P Ballam be appointed Chairman of

the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor P Ballam be appointed Chairman of the Licensing Sub-Committee for the meeting.

5 MINUTES

RESOLVED – that the Minutes of the Licensing Sub-Committee held on 24 June 2011 be confirmed as a correct record and signed by the Chairman.

6 CONSIDERATION OF A STAGE OF AN APPLICATION FOR A TAXI DRIVER'S LICENCE - MR W

The Chairman introduced everyone present. On being asked the applicant agreed Members in training, the Chairman of the Licensing Committee and another applicant could stay in the meeting. The procedure to be followed was outlined

The Interim Licensing Manager explained that the applicant had points on his driving licence as he had driven without insurance.

The applicant explained that this was a serious oversight on his part. He had been using a firm which used e-mail only for all correspondence. He had been without access to e-mail for a period and because of this had failed to renew his insurance. He realised this was a very serious offence and was very sorry it had happened. He wanted to work as a taxi driver because he had been made redundant from the City of London. He wanted to start a new line of work to support his family. He had been offered work with a reputable company but eventually would like to run his own company. He was honest, hardworking and liked dealing with people.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Manager and Committee Secretary to consider the evidence.

Following this, they returned and the Chairman announced the decision of the Sub-Committee which was that the application should be allowed to proceed subject to the comments now detailed.

RESOLVED - that the application be allowed to proceed to the subsequent stages but the applicant be informed that he must make sure he keeps his insurance up-to-date at all times and it is his responsibility to ensure it is in place.

7 CONSIDERATION OF WHETHER TO SUSPEND OR REVOKE HACKNEY CARRIAGE AND DUAL DRIVER LICENCE DD181 - MR O

The Chairman stated that everyone present had been introduced and referred to the procedure which would be followed.

On being asked the applicant agreed that the Members in training and the Chairman of the Licensing Committee could stay in the meeting.

The Interim Licensing Manager explained the taxi driver had XXXXXXXXXXXXXXXX (redacted). The Sub-Committee was asked to consider whether he was a suitable person to be a taxi driver in the light of this.

The taxi driver said XXXXXXXXXXXXXXXX (redacted).

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Manager and Committee Secretary to consider the evidence.

Following this, they returned and the Chairman announced

the decision of the Sub-Committee which was that the taxi driver's licence should not be suspended or revoked subject to the comments detailed below.

RESOLVED - that the licence be not suspended or revoked but the taxi driver be reminded that if he XXXXXXXX (redacted) he will automatically lose his licence and therefore his job as a taxi driver.

8 CONSIDERATION OF AN APPLICANT TO CONTINUE WITH AN APPLICATION FOR A PROPRIETOR'S LICENCE - MR C

The Chairman introduced everyone present and referred to the procedure which would be followed. On being asked, Mr Rix, barrister for the taxi driver, agreed on behalf of his client that the Members in training and the Chairman of the Licensing Committee could stay in the meeting.

Mr Rix said he had not received any evidence from the Council concerning his client. He said the tape of the interview had not been received by his solicitors in time for his representative to consider it and the taxi driver had not received a copy. The Interim Licensing Manager said the interview concerned an issue separate from that under consideration at the meeting. The Interim Licensing Manager informed the meeting that solicitors for the applicant had received the tape on the morning of the previous day, and had by now had a day and a half to consider it.

Mr Rix was given a copy of the report submitted to the Sub-Committee. The taxi driver confirmed that he had received a copy of the report.

The Interim Licensing Manager explained that the taxi driver had failed to inform Officers, when applying for a taxi driver's licence, that XXXXXXXXXXXX (redacted). He had been given an East Herts taxi driver's licence but this had been

suspended by the Director Neighbourhood Services, and no vehicle proprietor's licence had been issued when the omission came to light.

The Sub-Committee was asked to consider whether the taxi driver was suitable to continue as a taxi driver and to hold a vehicle proprietor's licence. In addition, the Sub-Committee was asked to decide whether his fee for a vehicle proprietor's licence should be returned if they considered he should not hold this licence.

Under examination by Mr Rix, the taxi driver explained the circumstances XXXXXXXXXXXX (redacted).

When the driver completed the application for a licence with East Herts Council he XXXXXXXXXXXXXXXXXXXX (redacted).

Mr Rix said the driver had not been dishonest and on compassionate ground he should be allowed to continue with his work as a taxi driver.

Mr Rix continued with details of the financial hardship suffered by the driver and his family because he could not continue driving his taxi.

Mr Rix said the driver did realise how important it was to give the Licensing Authority all the information they required. He knew he had been wrong and apologised. It would not happen again. Welwyn and Hatfield Borough Council had sent him a form to reapply but he preferred to work in East Herts where he could use a dual driver's licence.

Mr Rix referred to various cases relevant to the issue under discussion.

The taxi driver said he had a clean licence and no criminal record.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Manager and Committee Secretary to consider the evidence.

Following this, they returned and the Chairman announced the decision of the Sub-Committee which was that the dual driver's licence should be reinstated and the driver was considered to be a proper person to hold a vehicle proprietor's licence subject to the comments below.

RESOLVED - that (A) the applicant's dual driver licence be reinstated as the Sub-Committee accepts his reasons for not appealing against the decision at Welwyn Hatfield Borough Council and his difficulty in completing the application form but reminds him he must comply with the administrative requirements of the Licensing Authority; and
(B) the Sub-Committee considers the applicant is a fit and proper person to hold a proprietor's licence.

The meeting closed at 3.25 pm

Chairman
Date

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE MEETING ROOM A AND B -
CHARRINGTONS HOUSE, BISHOP'S
STORTFORD ON WEDNESDAY 7
SEPTEMBER 2011, AT 10.00 AM

PRESENT: Councillor Michael McMullen (Chairman)
Councillors N Poulton and J Taylor.

ALSO PRESENT:

Councillors E Buckmaster, Mrs R Cheswright
and P Ruffles.

OFFICERS IN ATTENDANCE:

Monica Bett	- Legal Services Advisor
Linda Bevan	- Committee Secretary
Paul Newman	- Interim Licensing Manager

ALSO IN ATTENDANCE:

REVIEW OF A PREMISES LICENCE AT KING WILLIAM IV,
VANTORTS ROAD, SAWBRIDGEWORTH CM21 9AJ

Laura Trunle	- DPS
David Walters	- Owner
John Ivens	- Herts Constabulary
Chris Hunt	- “
Ross Lauders	- “
Tina Mustoe	- “
Richard Turner	- “

9 APPOINTMENT OF CHAIRMAN

Councillor N Poulton proposed and Councillor J Taylor
seconded that Councillor M McMullen be appointed Chairman

of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor M McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

10 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT KING WILLIAM IV, VANTORTS ROAD, SAWBRIDGEWORTH CM21 9AJ

Everyone present for the review was introduced. The Chairman outlined the procedure to be followed.

The Interim Licensing Manager outlined the application by the Police for a review of the licence at the King William IV pub in Sawbridgeworth. This had arisen because of disorder on the evening of the May Fayre. The Police had provided witness statements regarding this and would show a U tube video of incidents. An e-mail with further documents had been sent to Members of the Sub-Committee. The Interim Licensing Manager informed the meeting that the statement by Rachel Moore had been retracted. The Police had asked for the pub to be licensed for on sales only and for a reduction in opening hours. It had also been requested that the pub close on May Day.

John Ivens, for the Police, said that they had asked for a review on the grounds that all of the Licensing Objectives were not being upheld. Police Officers were in attendance to offer their support of the review. On May Day there had been serious disorder outside the pub and access along the streets nearby had been blocked. Bottles had been thrown at vehicles. Lack of control at the pub had made it impossible to control the DPPO area on the day. There had been criminal damage to a fence and a Police Officer had been assaulted. Efforts had been made by Police to engage with staff at the pub but they had been found to have a casual attitude. The pub had refused to have registered door staff. The manager of the pub lived on the premises but needed control by the Designated Premises Supervisor (DPS) who was Mr Trunle.

Duncan Wallace played the U tube footage and explained what was happening on it. It showed the crowd outside the pub on May Day. This had been split in two in order to help control it. The Police at the point shown were waiting for reinforcements. The footage showed a hostile and unruly gathering. Mr Wallace pointed out one Officer he knew to have been present on the day when asked for proof that this footage was taken on May Day.

John Ivens went through the statements provided picking out the main points. These statements showed a failure of the management to engage with the Police and a breach of mandatory conditions of the licence. The manager of the pub, Mrs Hoddle had failed to understand her responsibilities. Mr Ivens said similar problems had been experienced on May Day for 3 years. He said that trouble had been building up on May Day this year and had been predictable but the DPS had left the pub at 6 p.m. He also referred to a statement from one of the Council's Licensing Enforcement Officers about the road outside the pub being blocked on another occasion in July.

Mr Walters, for the management of the pub, said he apologised for the disorder shown on the video. He accepted this was totally unacceptable. He said he jointly owned the pub with a friend (Mrs Trunle's husband). Mrs Trunle was the DPS and Mrs Hoddle managed the pub for them on a daily basis. He had retired from the City because of ill health and he and his friend had wanted to set up a business together. They were not greedy people, selling alcohol as cheaply as possible and wanting to make as much money as possible. He said that on May Day the supermarket and local shop had sold out of beer. It was much cheaper than at his pub so the pub alone was not responsible for any drunkenness.

Mr Walters said they realised it had been a mistake not to have a registered doorman on duty on May Day.

He questioned the evidence given of public nuisance by a neighbour. He said he had been told by a mutual

acquaintance that she wanted the pub closed down. The Council's Legal Services Advisor pointed out that the Sub-Committee could take this hearsay evidence into account but must give it appropriate weight in their deliberations.

Mr Walters said the DPS, Mrs Trunle had been present until 6 p.m. on May Day but had left to take her children home. She had left her husband and the manager in charge.

Mrs Trunle said they had tried to control access to the pub through the barbeque area but accepted this had not worked.

Mr Walters said the pub promoted all the Licensing objectives from day to day. The pub did not usually cause problems. They were all parents and did not want to encourage under age drinking. Mrs Trunle was the heart of the pub and her parents had run it before her. The pub would not open on May Day again. They had spoken to the manager at length and she had received a verbal warning. She had led them to believe she had been co-operating with the Police and asked that in future any correspondence be sent to Mrs Trunle. They understood they could not delegate responsibility for this in future. They realised they had not done enough to prevent disorder. They had enjoyed the May Fayre for many years with their families. It was disappointing that the current social climate had led to this result.

He said he had a regular clientele although a nearby pub sold cheaper beer. He had arranged for a SIA registered doorman at the pub on Friday and Saturday. In future, Mrs Trunle would be able to have greater involvement as her children were now all of school age.

Mr Walters questioned the statement of the Council's Licensing Enforcement Officer. He said he was at the pub on that date for a birthday party and was not aware of a crowd outside in the street.

He was encouraging people to go into the courtyard of the pub to smoke and drink rather than on to the street. He would remove the benches from the front of the pub.

Mr Walters said the management was happy to restrict live music to 8.30 p.m. to 10.30 p.m. on Saturdays only. They were also happy to remove off-sales from the licence and to reduce the hours. However, they did not want to relinquish recorded music as background and said the noise limiter was used and in working order.

Richard Turner said it was normal for doormen to work in pairs and the Police would prefer this.

Councillor E Buckmaster, a Ward Member said he had helped to man the barriers for the roads closed for the May Fayre. Crowds had been building up throughout the day. He believed social media had helped to increase numbers. He had cleared some wine bottles from the street but had left at 4.30 p.m. as the stalls closed.

Councillor J Taylor commented on the huge cost to the community of paying for the Police on this occasion and taking them away from other duties.

John Ivens, in summing up for the Police, accepted the pub owner's apology but said this had been a very unpleasant situation for the Police. They had been at full stretch and forced to ask for help from neighbouring Police services. The failures of the management of the pub had led to a loss of confidence by the public. Efforts had been made by local Councillors, the Police and public to avoid trouble. He asked for the additional conditions suggested by the Police to be applied to the licence.

Richard Turner added that this was the minimum that the Police would ask from the Sub-Committee.

Mr Walters concluded by saying they realised they had made a mistake on the day and were truly sorry for it. They felt other pubs and shops had contributed to the problem. Sawbridgeworth was a lovely town and they would like the May Fayre to continue.

Councillor Buckmaster said the closure of the pub on May Day would be welcomed and it would help if this was widely publicised in advance.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Advisor and Committee Secretary to consider the evidence.

Following this, they returned and the Chairman announced the decision of the Sub-Committee which was that the review should be supported as now detailed.

RESOLVED - that the Sub-Committee supports the Police application for a review and imposes the following conditions:

1. The pub to close on May Day Bank Holiday;
2. The current fire risk assessment to be provided to Fire Service Officers;
3. The benches to be removed from the front of the pub;
4. One SIA registered doorman to be provided from 8 p.m. to closing time on Fridays and Saturdays;
5. The Designated Premises Supervisor (DPS) to attend meetings with the Police, including Pub Watch meetings;
6. The existing hours to be amended as follows:

B, C,F,H,I,J and M – 10 a.m. to midnight on Monday to Sunday

E – amended to 8.30 p.m. to 10.30 p.m. on Saturday only

7. “and OFF” be deleted from M;

It is noted that all correspondence should be sent to the DPS.

The Sub-Committee decided not to revoke the DPS' licence on this occasion but reminded her that her

position as DPS will be under review by the Police, public and East Herts Licensing Committee.

The meeting closed at 12.55 pm

Chairman
Date

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MINUTES OF A MEETING OF THE
 LICENSING SUB-COMMITTEE HELD IN
 THE MEETING ROOM A -
 CHARRINGTONS HOUSE, BISHOP'S
 STORTFORD ON MONDAY 19
 SEPTEMBER 2011, AT 10.00 AM

PRESENT:

Councillors P Ballam, A Burlton and
 A Warman.

ALSO PRESENT:

Councillor P Ruffles.

OFFICERS IN ATTENDANCE:

George Robertson	- Legal Services Manager
Peter Mannings	- Democratic Services Assistant
Paul Newman	- Interim Licensing Manager

ALSO IN ATTENDANCE:

APPLICATION FOR A PREMISES LICENCE TO PROVIDE
 LATE NIGHT REFRESHMENT ONLY (NO ALCOHOL),
 FLAMES GRILL, 3 NORTHGATE END, BISHOP'S
 STORTFORD, HERTS, CM23 2ET

Mr Ali Ender	- Applicant's Agent
Mrs Gibson	- Objector
Mr Haslam	- Objector
Mr Mehmet Tekagac	- Applicant
Mr Jerome Wilcox	- Barrister

11 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor A Warman and seconded
 by Councillor A Burlton that Councillor P Ballam be

appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor P Ballam be appointed Chairman of the Licensing Sub-Committee for the meeting.

12 MINUTES

RESOLVED – that the Minutes of the meeting of the Licensing Sub-Committee held on 23 August 2011 be confirmed as a correct record and signed by the Chairman.

13 LICENSING ACT 2003 - LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION FOR A PREMISES LICENCE TO PROVIDE LATE NIGHT REFRESHMENT ONLY (NO ALCOHOL), FLAMES GRILL, 3 NORTHGATE END, BISHOP'S STORTFORD, HERTS, CM23 2ET

The Chairman outlined the procedure to be followed in considering the application. All those present for it were introduced.

The Interim Licensing Manager outlined the application which was for a new premises licence to provide late night refreshment only (no alcohol) at Flames Grill, 3 Northgate End, Bishop's Stortford, Herts, CM23 2ET for Mr Mehmet Tekagac.

Mr Haslam, objector, stated that he had circulated information to the Interim Licensing Manager in support of his objection. The Sub-Committee adjourned to allow the applicant the opportunity to consider whether he was happy for this new evidence to be considered by the Sub-Committee.

The meeting resumed and the Sub-Committee was advised of observations being made that the premises had been trading after 11 pm on 2 and 3 September 2011 without a temporary event notice being in force. Members were referred to paragraphs 2.1, 2.4 and 3.5 of

the report now submitted for more information.

The Interim Licensing Manager referred to a map of Bishop's Stortford Town Centre and explained the location of the premises and the locations of the properties of the principal objectors. The Sub-Committee was advised that the applicant had applied to serve food on or off the premises until 1 am Monday to Wednesday, 2 am Thursday to Saturday and until 12 midnight on Sundays.

The applicant already operated Master Fryer in South Street; this being operated under the terms of a late night licence. The Interim Licensing Manager stated that an applicant had to allow ten working days for a TEN application. The applicant had operated later than the permitted hours at Flames Grill on two occasions as applications had not been received in time by Officers.

Members were advised that 5 local residents' objections had been included with the report now submitted. The Interim Licensing Manager summarised the objections with references to anti-social behaviour, noise, public nuisance, refuse storage problems attracting foxes and the likelihood of significant additional impact for residents. The Police and Environmental Health had not objected to the application.

Mr Jerome Wilcox, barrister for the applicant, acknowledged that there had not been TENS in place on two occasions in September at Flames Grill. He stated that TENS applications had been submitted by the applicant's agent. He sought and was given clarification regarding the location of Master Fryer. He was also given clarification in relation to reviews at Master Fryer.

Mrs Gibson, an objector living at Conifer Court, referred to the area around Flames Grill being part of the Bishop's Stortford conservation area. She referred to an ongoing effort to preserve the character of the town. She stated that other food outlets in the area all closed at 11 pm and the Police presence at this end of the town was minimal.

Mrs Gibson expressed concerns that these premises should also close at 11 pm regardless of the times premises closed elsewhere in the town. She expressed concern at the lack of custodial facilities in Bishop's Stortford, meaning that Police Officers were often being taken away from the town when arrests were made.

Mrs Gibson referred to problems of people urinating and vomiting in the street and windows being smashed in the vicinity of Flames Grill. She stated that residents were entitled to a respite from disturbance at 2 am, particularly for residents of sheltered accommodation. She referred to the application as unsupportable and commented on the likelihood of an increase in rowdy behaviour should the application be approved.

Mrs Gibson referred to a number of irregularities with the application, particularly in relation to contact details for the applicant, his contact address being the premises and the fact that the application did not appear to have been signed.

Mr Wilcox sought clarification from Mrs Gibson regarding her place of residence in relation to Flames Grill. He also queried the location of residents' sheltered housing. Mr Wilcox sought and was given clarification that Mrs Gibson did not have signed authority to act on behalf of other objectors. Mr Wilcox was given a detailed breakdown of the location of other food outlets in the vicinity of Flames Grill.

Mr Wilcox commented on the extent to which residents felt this application was unacceptable. Mrs Gibson stressed that concerns related to noise, sleep deprivation, crime and disorder and concerns similar to those detailed on page 41 of the agenda papers.

Mr Haslam, an objector living at North Terrace, referred in detail to residents' concerns relating to the application failing to satisfy the licensing objectives. He referred to concerns about vandalism and intimidating youths

loitering in the area and urinating in alleyways. He was particularly concerned about inadequate waste storage leading to problems with vermin and issues around litter being left in residents' gardens.

Mr Haslam stressed that customers would dispose of packaging and food waste in residents' gardens, in some cases where there were families with small children. He also cited concerns relating to parking problems and the likelihood of the premises attracting intoxicated persons to a residential area.

Mr Haslam referred to a number of breaches of control in that Flames Grill had been operating later than its' permitted hours without an approved TEN. In response to a query from Councillor P Ballam, the Interim Licensing Manager confirmed the premises had authorised TENS for most weekends in August.

Councillor A Warman sought and was given clarification that the staff of Flames Grill had not been capable of managing the premises well generally, and specifically, in terms of controlling the use of bins and ensuring these were not overfilled to the point where they overflowed. The Sub-Committee was advised that food packaging linked to Flames Grill had been found in Half Acre, Northgate End and Hadham Road.

In response to a query from Councillor A Burlton, Mr Wilcox confirmed that the applicant had been trying to encourage East Herts Council to collect bins twice weekly to alleviate issues with bins getting too full.

Mr Haslam was questioned by Mr Wilcox in relation to the times of the week when the bins were at their worst. He referred to pictures provided by Mr Haslam in relation to whether these portrayed the worst time of the week in terms of the situation with the bins. Mr Wilcox sought and was given extensive clarification regarding the numbers of residents likely to be affected by this application.

Mr Haslam clarified that he was speaking on behalf of other residents. Mr Wilcox challenged this point in that

other residents had not chosen to attend the meeting to object to the application. Mr Haslam explained that debris from the operation of Flames Grill was found in residents' hedges and a number of residents were concerned about the application.

Mr Wilcox explained that the applicant also owned and successfully traded from Master Fryer in South Street. He reiterated that the applicant was seeking to secure twice weekly bin collections from Flames Grill.

Mr Wilcox stressed that the applicant accepted a mistake had been made regarding TEN in September. The applicant's agent had accepted responsibility for this error. Mr Wilcox reminded the Sub-Committee that the police and Environmental Health had not objected to this application.

Mr Wilcox submitted that this application was not fraudulent and the only reason the application had not been signed was there had been no option to include an electronic signature when the application had been submitted online. Mr Wilcox challenged the number of residents who were in fact objecting to the application.

Mr Wilcox stated that whilst there would be some noise resulting from this application, this was not sufficiently high to justify refusing the application. He acknowledged that illegal parking would be an issue where such a premises was located. Mr Wilcox stressed that the level of objections seemed to be far lower than was portrayed by Mr Haslam.

Mr Wilcox submitted that his client would actively seek to avoid serving intoxicated customers. The applicant was confident that his management safeguards for Master Fryer would work equally well at Flames Grill. He stated that there were insufficient grounds for refusing the application and commented that the application was serving a local need and CCTV would be installed as a safeguard against problems.

Mr Wilcox stressed that it was not in his client's best interests for problems to occur as he was aware of the possibility of review applications and the risk of being closed down whilst being liable for rent, business rates and staffing costs. The business was also family run so the applicant had a vested interest in ensuring Flames Grill was successful.

Councillor Ballam sought and was given clarification regarding the issue of breaches of Licensing Control and the submission of TENs by the applicant's agent. She expressed her concern as to why the applicant had not checked that his agent was acting correctly when submitting his applications.

Mr Wilcox confirmed that the applicant had been assured by his agent that the TENs applications had been correctly made and he was entitled to operate under the terms of these applications. The applicant accepted that something had gone wrong with the applications and he had believed at the time he was entitled to operate.

In response to concerns from Councillor Burlton on litter and food debris, Mr Wilcox stressed that littering was a fact of life but the applicant had no reason not to make every effort to control this issue in the immediate vicinity of Flames Grill.

Mr Wilcox confirmed to the Sub-Committee and Councillor Burlton that there would be a zero tolerance policy towards any drug use in the premises and this would be monitored by CCTV. Mr Wilcox confirmed that the applicant would apply the same policy of clearing up the area immediately outside Flames Grill as he already had in place at Master Fryer.

Mr Haslam and Mrs Gibson summarised their concerns particularly that the applicant was unable to control what happened to the rear of the premises in terms of the likely impacts of the application. The Sub-Committee was advised that the applicant had no control over the customers once they left the premises. The objectors

stressed that the costs of the problems that would occur would place a financial burden on the public purse, namely the Local Authority.

Mr Wilcox summarised the applicant's case in that there would be a lessening clientele between 1 am and 2 am, a busy period was expected between 12.30 am and 1 am. Whilst it was accepted there would be some impact from this application, the concerns were not sufficient to justify a refusal. He stressed that the lack of significant objections would tend to imply there was a demand for the service to be provided by Flames Grill.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Manager and the Democratic Services Assistant to consider the evidence.

Following this they returned and the Chairman announced the decision of the Sub-Committee, which was that the application for a Premises Licence be approved and residents were reminded of the review process.

RESOLVED - that the application for a Premises Licence to provide late night refreshment only (no alcohol) at Flames Grill, 3 Northgate End, Bishop's Stortford, Herts, be approved, subject to the following conditions:

1. CCTV to be installed in liaison with and the approval of Herts Police;
2. Tops of bins to be kept closed and an adequate number of bins must be provided to ensure this can be achieved at all times and no rubbish to be stored outside the bins; and
3. The applicant must ensure the front of the premises is kept clean and tidy and a Member of staff be employed to clear any debris/rubbish for half an hour after the premises have closed.

The applicant is reminded that he is responsible for

his applications and to ensure all applications are correct and not to rely on his agent. Residents were reminded of the review process.

The meeting closed at 1.15 pm

Chairman
Date

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MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE OLD COURTHOUSE, WINDHILL,
BISHOP'S STORTFORD (ENTRANCE
OPPOSITE CHURCHYARD) ON MONDAY
10 OCTOBER 2011, AT 10.00 AM

PRESENT: Councillor R Beeching (Chairman)
Councillors M McMullen and N Wilson.

OFFICERS IN ATTENDANCE:

Monica Bett	- Legal Services Advisor
Lorraine Blackburn	- Committee Secretary
Paul Newman	- Interim Licensing Manager

ALSO IN ATTENDANCE:

Cimen Cuneyt	- ADA Licensing Agency
David Dadds	- Counsel
Mert Eren	- Employee
PC Howell	- Hertfordshire Constabulary
John Ivens	- Hertfordshire Constabulary
Onder Tepe	- DPS
Kumar Topuz	- Premises Licence Holder

14 APPOINTMENT OF CHAIRMAN

Councillor N Wilson proposed and Councillor M McMullen seconded that Councillor R Beeching be appointed Chairman of the Licensing Sub- Committee for the meeting.

RESOLVED – that Councillor R Beeching be appointed Chairman of the Licensing Sub-Committee for the meeting.

15 CHAIRMAN'S ANNOUNCEMENTS

The Chairman requested that all present turn off their mobile phones.

16 MINUTES

RESOLVED – that the Minutes of the Licensing Sub Committee held on 7 September 2011 be confirmed as a correct record and signed by the Chairman.

17 BISHOP'S FOOD CENTRE, 92 SOUTH STREET, BISHOP'S STORTFORD - POLICE REVIEW

The Chairman introduced everyone present.

Mr Dadds advised that he had been requested to represent Mr Topuz, the premises licence holder. The Interim Licensing Manager reminded Members of the need to provide proper notification of representation prior to a hearing. In accordance with regulation 7. 1 (d) on the Notice of Hearing, if Mr Dadds had been instructed before Friday, then as a matter of professional courtesy to the Sub Committee, he should have informed the Licensing Service. He pointed out that Mr Dadds had been asked when he received his instructions, and Mr Dadds had refused to confirm that it was not before Friday. In reply, Mr Dadds protested about being questioned on this issue, and stated that he was not in a position, on Friday, to confirm to the Licensing Authority that he would be attending the hearing. Members agreed that Mr Dadds be allowed to represent Mr Topuz.

The Chairman outlined the procedure which would be followed. This was set out in detail in the agenda.

The Interim Licensing Manager summarised the application and the licensing objectives. It was noted that the Police were seeking to revoke the licence.

The Chairman drew attention to the fact that there was a

new Premises Licence Holder in place and that Members should only take into account events which had occurred from 22 June 2010.

Mr Ivens put forward the case for the Police. He stated that the Premises Licence Holder and staff were failing to uphold licensing objectives. He referred to the information supporting the application for a Section 51 review and went through each of the incidents detailed chronologically. Mr Ivens referred to additional information which he had submitted in relation to two incidents in July and August 2011. The Interim Licensing Manager pointed out that Mr Ivens was here in person, and available to be cross examined, and should be allowed to give any first person evidence. Mr Dadds nonetheless sought a short adjournment so that this information could be evaluated and a decision taken as to whether it was considered to be amplification or new evidence. Following a short adjournment Mr Dadds had no objection to Mr Ivens paraphrasing the information relating to the events on 22 July 2011 and 25 August 2011.

Mr Dadds referred to the Police standards in relation to process maps and a graduated response to enforcement. He sought confirmation from Mr Iven's that CCTV evidence had been obtained to support each of the incidents. Mr. Iven's confirmed that it had not.

Mr Dadds confirmed that under age sales of alcohol was something to be taken seriously but that there was insufficient evidence to revoke the licence. He said that the hearing was not to establish innocence or guilt. It was a fact that there had been one conviction for which a fine had been paid. He stated that there was a lack of graduated enforcement by the Police and of the problems of obtaining information held on CCTV. He referred to how the Police should have taken a graduated response in terms of keeping a record of meetings, developing an action plan, and monitoring the situation via monthly meetings and providing a warning letter. He suggested

that there was no evidence to revoke the licence. He referred to the statements which had cited the Bishop's Food Centre as the source of providing alcohol to those under age and said that it was "unlikely" that young people would say who was the actual source. He said that the Police evidence was not adequate.

Mr Dadds suggested a measured approach as a way forward in dealing with the review in terms of the need to have a personal licence holder present when alcohol was being sold, the need to install an ID scanning device within 30 days; the need for all staff to having training to BII level 1 (or equivalent). Mr Ivens suggested that CCTV outside of the premises should be initiated.

At the request of the Chairman, Mr Dadds explained the difference between a Fixed Penalty Charge Notice and a fine.

Mr Dadd's referred to the fact that there were no objections submitted by local residents. The review had been properly advertised.

Mr Iven's reiterated the position of the Police that the licence should be revoked. Mr Dadd's stated that there was no evidence to support a revocation. He referred to the fact that there was only one conviction for one sale. He urged Members to take action which was proportionate and measured in line with guidance under Section 182 (paragraphs 11.8, 11.6 and 11.22) of the Licensing Act. He stated that revoking the licence would not be proportionate or measured.

The Interim Licensing Manager stated that Trading Standards did not immediately advise the licensing section when "failed test sales" had been carried out.

At the conclusion of the representations, the Sub-Committee withdrew with the Legal Services representative and Committee Secretary to consider the evidence.

Following this, they returned and the Chairman announced the decision of the Sub-Committee which was that, the licence should not be revoked but a number of additional conditions should be imposed as now detailed.

RESOLVED – that the licence not be revoked but the following conditions be imposed:

- (1) there should be a personal licence holder on the premises at all times when the sale of alcohol is taking place;
- (2) an ID scanning device be installed within 30 days;
- (3) CCTV be installed outside the premises within 30 days; and
- (4) all staff receive and achieve BII level 1 (or equivalent) training and must produce evidence to the Licensing Authority.

Members drew attention to the three conditions already in place in relation to the use of the refusal and training registers when appropriate and the need to produce CCTV evidence when requested.

Members also recommended the adoption of adequate signage in relation to sales of alcohol to underage drinkers. The Licensing Officer was requested to contact Trading Standards with a request that he be advised of any Test Cases carried out within the District and be advised of the results of those cases.

The meeting closed at 11.50 am

Chairman

Date

EAST HERTS COUNCIL

LICENSING COMMITTEE – 3 NOVEMBER 2011

REPORT BY DIRECTOR OF INTERNAL SERVICES

6. ATTENDANCE AT LICENSING SUB-COMMITTEE

WARD(S) AFFECTED: None.

Purpose/Summary of Report:

Members have asked for details of attendances at Licensing Sub-Committees including Members attending as observers. This was in order to show work was being shared equally. These are provided in **Essential Reference Paper 'B'**.

<u>RECOMMENDATION FOR DECISION:</u> that	
A	The report be received.

1.0 Background

1.1 Members of Licensing Sub-Committees are drawn from the Council's Licensing Committee. These Members are required to complete appropriate training and attend meetings before serving on Licensing Sub-Committees.

2.0 Report

2.1 The tables in **Essential Reference Paper 'B'** give details of attendances at Licensing Sub-Committee during the current civic year.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Licensing Sub-Committee minutes.

Contact Member: Councillor M Alexander, Executive Member for
Community Safety and Environment.

Contact Officer: Jeff Hughes, Head of Democratic and Legal Support
Services – Extn: 2170.

Report Author: Linda Bevan, Committee Secretary, Extn: 2175.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i>
Consultation:	None
Legal:	The Council is required to ensure that licensing matters are dealt with by suitably qualified Members in an impartial manner.
Financial:	No financial implications
Human Resource:	No Human Resource implications
Risk Management:	The Council's reputation could be at risk if licensing matters are not dealt with in a correct manner.

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ESSENTIAL REFERENCE PAPER 'B'

**Training and attendance needed

* Attendance needed

Licensing Committee Members attending as Members of Sub-Committee									
Members	Total	From 18 May 2011							
Ashley W									
Ballam P	3	24/6	23/8	7/9					
Bedford E**									
Beeching R	1	10/10							
Buckmaster E									
Burlton A	1	7/9							
Cheswright R	1	24/6							
Crofton K **									
Demonti J									
McMullen M	3	24/6	7/9	10/10					
Poulton N	1	7/9							
Taylor J	1	7/9							
Warman A	1	7/9							
Wilson N	2	23/8	10/10						
Wrangles B	1	23/8							

Substitutes:									
Abbott D **									
Jones G **									
Newman M **									
Ruffles PA Training needed									

Licensing Committee Members attending as Observer

Members	Total	From 18 May 2011							
Ashley W									
Ballam P									
Bedford E **	1	23/8							
Beeching R									
Burlton A									
Buckmaster E	2	23/8	7/9						
Cheswright R	1	7/9							
Crofton K **									
Demonti J									
McMullen M	1	23/8							
Poulton N									
Taylor J									
Warman A									
Wilson N									
Wrangles B									

Substitutes:									
Abbott D **									
Jones G **									
Newman M **									
Ruffles PA Training needed	3	24/6	7/9	19/9					

EAST HERTS COUNCIL

LICENSING COMMITTEE – 3 NOVEMBER 2011

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

7. LICENSING ACTIVITY QUARTER 3 2011

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

To update members on activity in the licensing department re:

- processing licences,
- enforcement activity, and
- other implementation of the Service Plan.

<u>RECOMMENDATION FOR DECISION:</u> that	
A	The report be received.

1.0 Background

1.1 This report presents data by full quarters on processing and enforcement data, and Licensing Sub Committee involvement, on licences, notices, and permits, and applications including:

- Alcohol, entertainment, and late night refreshment licences under the Licensing Act 2003,
- Gaming under the Gambling Act 2005,
- Taxi drivers, vehicle proprietors and operators.

1.2 This report also records developments in the service that implement the Service Plan.

2.0 Report

2.1 See **Essential Reference Paper B** for performance data for quarter 3: 1 July – 30 September 2011. This contains the numbers of applications or notices received, and totals of current licences.

2.2 Data on Enforcement activity will be presented at the hearing.

- 2.3 A significant part of the enforcement team's work is to ensure that all documentation for taxi drivers and vehicles are current and licenses are valid.
- 2.4 Under the penalty points system a total of 26 points have been imposed against 12 licence holders. It is hoped that this will contribute to improving drivers and proprietors behaviour.
- 2.5 1 existing taxi driver was brought to Licensing Sub-Committees for a decision on licence renewal following an accumulation of 9 DVLA penalty points during this quarter.
- 2.6 Officers continue to explore ways to reduce service costs in line with the service plan.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None.

Contact Member: Councillor Malcolm Alexander – Portfolio holder for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and Licensing, Extn: 1498.

Report Author: Paul Newman – Interim Licensing Manager, Extn: 1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate)</i> :	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	For information only, and no partner or external consultation has taken place.
Legal:	No issues identified by report author or contact officer
Financial:	No issues identified by report author or contact officer
Human Resource:	No issues identified by report author or contact officer
Risk Management:	No issues identified by report author or contact officer

ESSENTIAL REFERENCE PAPER B

Q3 2011 – 1 July 2011 to 3 September 2011:

Licensing Act 2003			
Premises Licences			
Variation;		0	
Reviews;			
<i>King William IV Sawbridgeworth</i>		1	
Minor Variation;		3	
Other Processes;			
Disapply DPS		0	
Transfer		5	
Change Name/ address of holder		3	
Change DPS		16	
Replace lost/stolen licence		2	
Total number of premises licences re-issued			30
New;			
<i>Delicious Tea Room (South Street Bishops Stortford)</i>			
<i>Church Farm Shop (Ardeley)</i>			
<i>Bluebell Cafe (Bakers Walk, Sawbridgeworth)</i>			
<i>1-3 West Road (Sawbridgeworth)</i>		4	
Club Certificates			4
		0	
Other licences and notices			
Personal Alcohol Licence			
New applications		8	
Other processes		6	
			14
Temporary Event Notices			
1 June to 30 September 2011			
Served		148	
Abandoned		1	
Police Objections		0	
Objections upheld		0	
			147
Gambling Act 2005			
New and varied premises;		0	
Gaming Machine Notices		0	
Small Society Lotteries – New		6	

	Small Society Lotteries –renew	2	
			8
Taxis			
	New Dual Drivers	9	
	Renewed Dual Drivers	48	
	New Private Hire Drivers	1	
	Renewed Private Hire Drivers	0	
	Total driver applications processed this quarter		58
	New Operators	0	
	Renewed Operators	1	
	Total Operator applications processed this quarter		1
	New Hackney Carriage	3	
	Renewed Hackney Carriage	38	
	New Private hire Vehicles	1	
	Renewed Private hire Vehicles	12	
	Change of Vehicle		54
	Total vehicle applications processed this quarter		
	All applications this quarter		316

Sub Committee hearings arranged this quarter:

19 September	Flames Grill, 3 Northgate End Bishops Stortford.	New application for Late Night Refreshment only Premises Licence
7 September	King William IV, Vantorts Road, Sawbridgeworth.	Review application
23 August	New applicant Taxi driver – Mr W	with points for driving no insurance
23 August	Review existing taxi driver – Mr O	9 points for speeding on 2 separate occasions
23 August	New applicant – Mr C	Applicant failing to disclosure convictions for illegal plying for hire.

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 3 NOVEMBER 2011

REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES:

8. DCMS CONSULTATION ON DE-REGULATION OF REGULATED ENTERTAINMENT

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

To seek members views for response to DCMS consultation on the de-regulation of Regulated Entertainment under the Licensing Act.

<u>RECOMMENDATION FOR DECISION:</u> that	
A	The draft response to consultation, subject to Licensing Committee amendments, be approved.

1.0 Background

1.1 The Department for Culture, Media and Sport (DCMS) are consulting on proposals to amend the Licensing Act 2003, so that any form of regulated entertainment apart from Boxing and Wrestling, and any entertainment of a sexual nature, will no longer require a licence, for audiences fewer than 5001.

1.2 Licensing Committee members are consulted for their views, and are invited to amend as they see fit, a draft response.

2.0 Report

2.2 The DCMS proposals aim to harmonise regulation among all types of entertainment, some of which are presently regulated, and some not, to make it easier for community groups to operate and participate in cultural activities, to lift burdens on performing musicians, and to promote creativity.

2.3 A draft response is set out in **Essential Reference Paper 'B'**.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background papers:
DCMS consultation.

Contact Member: Councillor Malcolm Alexander – Portfolio holder for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and Licensing, Extn: 1498.

Report Author: Paul Newman – Interim Licensing Manager, Extn: 1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	See report
Legal:	No issues have been identified by Contact Officer or Report Author that require approval.
Financial:	There may be some future loss of revenue; licences that provide regulated entertainment only may become exempt from licensing, however the majority of these premises also provide alcohol.
Human Resource:	No issues that require approval identified by Contact Officer or Report Author.
Risk Management:	No issues that require approval identified by Contact Officer or Report Author.

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?

Probably not. Most of these events will also seek to supply alcohol, and therefore the administrative burden will not be substantially reduced.

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?

N/A

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

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.

No saving to Local Authority, as the reduction in licensing burden will be more than offset by increased burden from noise complaints.

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

Yes. Most noise complaints about licensed premises at present occur when premises are in breach of their licence. If it is not possible to breach the licence, then complaints will increase.

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.

No data

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

No data

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.

No data

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?

No

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.

Under 500. Most small events can go below this. Most professional events will go over this.

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.

No.

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.

No, however some premises licensed for alcohol will undermine the objective for prevention of public nuisance when no longer licensed for regulated entertainment.

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.

Yes. There are public safety implications for the construction of temporary structures.

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.

Midnight. Most premises providing entertainment after this time have the greatest potential for causing public nuisance.

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.

No

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?

A code of practice is unlikely to provide the level of control that licensing does.

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?

Yes but only if given adequate increased funding.

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?

Yes

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?

No if the others are deregulated. These sports are adequately regulated by their own governing bodies.

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.

Yes

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.

Yes

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?

No

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

No

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.

No, it is only useful as an additional control over karaoke.

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

Yes. Local communities expect the Local Authority to have effective control over this type of entertainment.



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.

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Foreword

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

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

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

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

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

John Penrose
Minister for Tourism and Heritage

Chapter 1: Regulated Entertainment - a proposal to deregulate

Introduction

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

- Children’s films shown to toddler groups;
 - Music performances to hospital patients;
 - Brass bands playing in the local park;
 - School discos where children are charged a ticket price to support the PTA;
 - Exhibitions of dancing by pupils at school fetes;
 - Costumed storytellers;
 - Folk duos in pubs;
 - Pianists in restaurants;
 - Magician’s shows;
 - Performances by street artists;
 - And even performances by a quayside barber shop quartet.
- 1.6. Before the General Election both Coalition parties recognised the need for reform, and in the Coalition Programme for Government we made a firm commitment to remove red tape affecting live music in small venues. Then, as part of the Growth Review which was published alongside the Budget this year, we announced an examination of “regulated entertainment”, with the aim of removing licensing regulation that unnecessarily restricts creativity or participation in cultural and sporting events. This consultation is the result of that work.
- 1.7. In the chapters to come we will explore each of the entertainment activities regulated by the Licensing Act 2003 and ask for views on the key question: “what would happen if this activity were no longer licensable?”
- 1.8. In many areas, early discussions with stakeholders have indicated that deregulation would be welcome and straightforward. With other forms of licensable activity though, we recognise that there may be some inherent difficulties. In such circumstances, this consultation outlines where we feel particular protections will be needed, and indeed where full deregulation may not be possible at all.
- 1.9. This consultation is predicated on the fact that we think there is ample scope to sensibly deregulate most, but not all, of Schedule One to the 2003 Act. Removing the need for proactive licensing for regulated entertainment could provide a great boost for community organisations, charities, cultural and sporting organisations, for artists and performers, for entertainment venues, and for those local institutions that are at the heart of every community, such as parent/teacher organisations, schools and hospitals.
- 1.10. We do, though, need to request and examine evidence from this consultation in order to fully evaluate the proposals and to ensure we have a complete picture with regard to any potential benefits or impacts to ensure there are no unintended consequences.

Chapter 2: The Current situation, and our detailed proposal

The current situation - background

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

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

- 2.1. In addition, there is a licence requirement relating to the provision for entertainment facilities (which generally means the provision of facilities which enable members of the public to make music or dance).
- 2.2. Licensable activities can only be carried out under the permission of a licence¹ or a Temporary Event Notice (TEN) from a local licensing authority. Licences (or TENs) are required for any of the activities above (subject to limited exemptions set out in part 2 of Schedule 1) whether they are free events to which the general public is admitted, or public or private events where a charge is made with the intention of making a profit - even when raising money for charity.
- 2.3. Applications for licences to host regulated entertainment can often occur as part of an application for an alcohol licence, particularly in venues such as pubs, clubs, and hotels, but there are also many venues that are primarily “entertainment venues” that operate a bar, such as theatres, which still require alcohol licence permissions to do so.

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

Licensing powers and national scale

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

This proposal

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

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

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

Next steps and methodology

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

Who will be interested in this proposal?

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

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

Impacts and benefits

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

benefits.

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

Effect on the current licensing regime

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

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

Proposal Impacts: Questions

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

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

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

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

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

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

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

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

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

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

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

Chapter 3: The role of licensing controls

Introduction

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

The four licensing objectives

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

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

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

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

Crime and disorder

- 3.4. Where problems do occur, it is often because of the presence of alcohol sales and consumption.
- 3.5. Most existing venues offering regulated entertainment are already licensed for alcohol and **existing controls will continue to apply under these proposals**. The existing alcohol safeguards provide a powerful incentive to ensure that licensing objectives are safeguarded, and as outlined earlier, failure to comply can result in a licence review,

which can lead to closure of the premises, a very heavy fine, and a potential prison sentence for the licensee. However, under our proposals, there would be no requirement to notify the licensing authority or the police of an event of up to 4999 people that did not involve the sale of alcohol.

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

Public Nuisance (noise)

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

Public Safety

- 3.17. The Health and Safety at Work Act 1974 together with disability legislation, offers protection in relation to the safety of the public at an event, placing a clear duty to take reasonable steps to protect the public from risks to their health and safety. In addition, the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) imposes fire safety

duties in respect of most non-domestic premises.

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

Protection of Children

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

Size of events

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

Time of events

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

resourcing issues, including where there may be other issues, such as “out of hours” resourcing.

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

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

The Role of Licensing Controls: Questions

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 4: Performance of Live Music

Introduction

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

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

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

Our proposal

- 4.5. **This proposal is to deregulate public performance of live music (both amplified and unamplified) for audiences of fewer than 5,000 people.**
- 4.6. As outlined in Chapter 3, other legislative protections already exist in respect of each of the four licensing objectives, and it is those measures that should be used as controls for music events, rather than an inflexible and burdensome licensing system.

Audience size

- 4.7. The issues around size and time of events are often raised in relation to events such as large music festivals, which would continue to require a licence under Government proposals if they have capacities of 5,000 people or greater. As explained in chapter 3, the 5,000 limit is already recognised as an audience threshold for larger events in the sporting and entertainment sectors. This limit features also as a capacity boundary for fees in the Licensing Act 2003, recognising intrinsic issues associated with controls for events above that size of audience.
- 4.8. With regard to unamplified music, there is a potential argument that no audience limit is necessary due to the self-limiting possibilities from the event's acoustic reach. So we would thus welcome views on whether unamplified music should simply be deregulated with no restrictions on numbers or on the time of day.

Performance of Live Music: Questions

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

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

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

Chapter 5: Performance of plays

Introduction

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

Venue sizes

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

Regeneration and renewal

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

Educative value

- 5.5. Plays offer an almost unique opportunity to engage children, enhancing self-value, attendance within education, and participatory skills. At present it is not necessary for a school to apply for a licence where parents are admitted for free, but if the school wishes to perform for the wider public or charge a small entry fee to benefit the Parent-Teacher Association (PTA), a licence is required. As with dance and live music, this is one example of how removing the regulatory burden will free up schools

(and similarly community and volunteer groups) to put on low risk productions in the community.

- 5.6. But the educational effect of theatre does not stop at schools. The effects of prison theatre for example have a major role in rehabilitation, and public performance can have a similarly beneficial effect on self-value as seen in other educational forums.

Our proposal

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

Performance of Plays: Questions

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

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

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

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

Chapter 6: Performance of dance

Introduction

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

Our proposal

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

Performance of Dance: Questions

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

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

Chapter 7: Exhibition of film

Introduction

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

Current situation - discrepancies

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

they would require a licence or a TEN.

- 7.7. Additionally, where a venue wants to show a live broadcast of a football match there would not be a problem, but showing a broadcast that had been pre-recorded – even by a few minutes – would be classed as a licensable activity.
- 7.8. Besides these practical problems with the legislation as it stands, we have considered the potential benefits to film societies and community based film projects by removing the need for a licence – removing costs and bureaucracy. We would be grateful for your views on this aspect in the questions below.

Our proposal

- 7.9. **This consultation proposal is to remove “exhibition of film” from the definition of “regulated entertainment” in Schedule One to the Licensing Act 2003 for events with audiences of fewer than 5,000 people. But before doing so we would ensure that the age classification safeguards could be retained.**
- 7.10. To do this we would use primary legislation to amend existing legislation before removing the activity from the Licensing Act 2003, so that there are no gaps in child protection. We see no reason to disrupt the arrangement where local licensing authorities are able to make local decisions on classifications, and we see the practical advantages in doing so.

Cinema advertising

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

Exhibition of Film: Questions

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

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

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

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

Chapter 8: Indoor sport

Introduction

8. Indoor sport held before a public audience is also regulated by the Licensing Act 2003, unlike outdoor sport (excluding Boxing and Wrestling). It is unclear why indoor sport should be subject to this additional level of regulation. Sport in outdoor venues, including those with moveable roofs, is regulated by a different regime and does not require a licence under the 2003 Act.
- 8.1. Indoor sport is defined as: a sporting event which takes place wholly inside a building in front of spectators. Sport includes any game in which physical skill is the predominant factor, and any form of physical recreation which is also engaged in for purposes of competition or display. This includes activities such as gymnastics, netball, ice hockey and swimming as well as acrobatic displays at a circus or, where there is an audience, darts and snooker.

Outdoor sport

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

Indoor sport

- 8.3. The Government believes that the different approaches to outdoor and indoor sports are not justified and that indoor sport should be brought more in line with the arrangements for outdoor events.
- 8.4. This consultation therefore seeks views on the removal of indoor sport, for venues with under 5,000 spectators. Deregulating indoor sports with a capacity of below 5,000 spectators would put sports such as snooker, gymnastics and swimming on a par with football, which is often seen as a greater risk due to incidents of public disorder.

Indoor Sport: Questions

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

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

Chapter 9: Boxing and Wrestling

Introduction

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

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

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

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

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

Chapter 10: Recorded Music and Entertainment Facilities

Background: recorded music

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

Our proposal

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

Entertainment facilities

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

Recorded Music and Entertainment Facilities: Questions

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

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

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

Q44: Any 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 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**

2-4 Cockspur Street
London SW1Y 5DH

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www.culture.gov.uk

EAST HERTS COUNCIL

LICENSING COMMITTEE – 3 NOVEMBER 2011

REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES:

9. AMENDMENTS TO LICENSING ACT INTRODUCED BY POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

To inform members about amendments to the Licensing Act 2003 introduced by the Police Reform and Social Responsibility Act 2011.

<u>RECOMMENDATION FOR DECISION:</u> that
A The report be received.

1.0 Background

1.1 The Police Reform and Social Responsibility Act 2011 has received Royal Assent. The amendments are presently uncommenced, and are likely to be implemented in October 2012 after the Olympics. The Act will introduce a number of changes to the Licensing Act 2003.

2.0 Report

2.2 Under the Act Licensing Authorities will become responsible authorities. This will allow the Licensing Committee to commence Reviews on resolution of the Licensing Committee, or recommendation from its own Enforcement Officers.

2.3 Primary Care Trusts will become responsible authorities. Research by Alcohol Concern indicates that 10% of admissions among under 18 year olds are alcohol related. Data is collected by some Accident and Emergency departments on whether injuries are alcohol related, whether injured parties are intoxicated, and the circumstances in which the individual became intoxicated. This may create links to specific premises that are selling alcohol to young

people and intoxicated people. It should be noted however that there is no A and E department in East Herts, that alcohol related admissions data is collected at the Lister in Stevenage only on weekends, and persons taken to hospital from the East of the District, including from Bishop's Stortford and Sawbridgeworth, are more likely to be taken to Harlow, which is in Essex.

- 2.4 The definition of "interested parties" is deleted. This is intended to create a stronger local influence on licensing by allowing everyone to comment on decisions. Objectors will no longer need to live or work 'in the vicinity' of the subject premises, and civic pride or interest in the whole town or settlement will be a valid reason for making a representation.
- 2.5 Notices of applications will have to be advertised by the Licensing Authority, in a way to be prescribed in new regulations. This will have financial implications for newspaper advertisement and/or printing and postage costs, for the Licensing Service. The scale of these costs is as yet unknown, but will have to be borne out of budgets already set for 2012-2013. This may result in an unavoidable overspend on one or more budget heads. It may be prudent at this stage to request Director of Finance to identify any increase in the Rate Support Grant made to allow for this additional cost, and ask for this amount to be held in a purpose created budget, to offset any increases in Service costs.
- 2.6 Rather than authorities being limited to decisions that are "necessary" for the promotion of the Licensing Objectives, the test will be "appropriate".
- 2.7 Both Police and EHOs will be able to make objections to Temporary Events Notices (TENs), on ground of any of the licensing objectives. This has two implications;
 - 2.7.1 At present the only Licensing Objective that may be considered is 'prevention of crime and disorder'. Objections will now be valid on the grounds of 'public safety', 'the prevention of public nuisance', and 'the protection of children from harm'.
 - 2.7.2 Presently Environmental Health do not have the power to object. However this amendment will be less important in the

future if proposals by the DCMS to de-regulate 'Regulated Entertainment' are implemented.

- 2.8 In certain circumstances conditions can be attached to TENs
- 2.9 Late TENs will be introduced. At present, TENs must be served with ten clear working days notice (not including day of service or day of the event, weekends or bank holidays), otherwise the notice is not valid. The Licensing Authority does not have any power to remedy the invalidity. The provision for Late TENs will allow some events to go ahead when the organisers have missed the deadline.
- 2.10 TENs will be able to last for 168 hours. At present the maximum length of time is 96 hours.
- 2.11 Police and EHOs will have three working days to object to TENs. At present the Police only have 48 hours from receipt. This may create logistical problems for the Police when TENs are served late on a Friday afternoon.
- 2.12 Powers for authorities to introduce Early Morning Restriction orders, and a power to charge a Late Night Levy. These provisions are mutually exclusive, and were reported to Licensing Committee in July.
- 2.13 Power to suspend a premises licence if the Annual Fee is not paid. This will create administrative convenience where businesses close down or relocate, without surrendering a Premises Licence that the business does not intend to use on the future. It will also make it easier to recover fees from late payers.

3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background papers:

Link to Alcohol Concern research paper:

<http://www.alcoholconcern.org.uk/publications/policy-reports/one-on-every-corner>

Link to text of Act amending Licensing Act;

<http://www.legislation.gov.uk/ukpga/2011/13/part/2/chapter/1/enacted>

Contact Member: Councillor Malcolm Alexander – Portfolio holder for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and Licensing, Extn: 1498.

Report Author: Paul Newman – Interim Licensing Manager, Extn: 1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	This report is for information only.
Legal:	No issues have been identified by Contact Officer or Report Author that require approval.
Financial:	Changes to advertising requirements and fee recovery may have implications for Licensing Service budgets.
Human Resource:	No issues that require approval identified by Contact Officer or Report Author. It is expected that changes can be managed from within existing resources.
Risk Management:	No issues that require approval identified by Contact Officer or Report Author.

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 3 NOVEMBER 2011

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

10. RELAXATION OF ALCOHOL LICENSING HOURS FOR THE QUEEN'S DIAMOND JUBILEE

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

To inform Members about Home Office Consultation on relaxation of licensing restrictions in alcohol licensed premises 1st to 5th June 2012, and to seek Member's views for a response:

<u>RECOMMENDATION FOR DECISION:</u> that
A The report be received.

1.0 Background

1.1 This report presents information about a consultation on the proposed relaxation of licensing restrictions on 1st to 5th June 2012.

2.0 Report

2.1 The Home Office is holding a public consultation ending on 1st December 2011 to seek the views of the public on whether the usual restrictions on alcohol licenses should be relaxed on evenings from Friday 1st June, and Tuesday 5 June 2011, to facilitate extended public celebration of the Queen's Diamond Jubilee.

2.2 The Government proposes to relax the licensing restrictions on two evenings, to allow additional permitted hours for alcohol sales until 1 am. both evenings.

2.3 The Government seeks views on whether the two evenings for extended sales should be different to those proposed.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Essential Reference Paper B – Consultation: Relaxation of Licensing Hours for the Queen's Diamond Jubilee (Home Office).

Contact Member: Councillor Malcolm Alexander – Portfolio holder for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and Licensing, Extn: 1498.

Report Author: Paul Newman – Interim Licensing Manager, Extn: 1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate)</i> :	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	Please see Background Paper.
Legal:	No issues identified by report author or contact officer
Financial:	No issues identified by report author or contact officer
Human Resource:	No issues identified by report author or contact officer
Risk Management:	No issues identified by report author or contact officer

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CONSULTATION: RELAXATION OF LICENSING HOURS FOR THE QUEEN'S DIAMOND JUBILEE



Home Office

October 2011

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1. Introduction

PROPOSAL

The Government proposes to make a licensing hours order under section 172 of the Licensing Act 2003 to mark the occasion of the Queen's Diamond Jubilee in June 2012. Plans have been announced for a special four-day Jubilee weekend to allow communities the time to come together to celebrate and commemorate the events of the last 60 years. The late May Bank Holiday has been put back to Monday, 4 June and there will be an additional Jubilee Bank Holiday on Tuesday, 5 June.

The proposed order will extend licensed hours on Friday, 1st June to 1am on Saturday, 2nd June 2012 and on Saturday, 2nd June to 1am on Sunday, 3rd June 2012 for the sale of alcohol for consumption on the premises and the provision of regulated entertainment and late night refreshment in licensed premises in England and Wales.

BACKGROUND

Under section 172 of the Licensing Act 2003, the Secretary of State may make an order relaxing opening hours for licensed premises to mark an occasion of 'exceptional international, national or local significance'.

A 'licensing hours order' can be used to override existing opening hours in licensed premises (any premises with a premises licence or club premises certificate) for a period of up to four days. An order may be applied to all licensed premises in England and Wales or be restricted to one or more specified areas. It is also possible to impose different opening hours on different days during the relaxation period and to allow different licensing hours for different licensable activities.

It is likely that many pubs and other licensed premises will wish to open later over the Queen's Diamond Jubilee weekend to take advantage of the celebrations. The Home Office does not hold official figures on closing times (apart from 24 hour licences), but a survey commissioned as part of the 2008 Culture Media and Sport Select Committee into the Licensing Act 2003 by the Department for Culture, Media and

Sport showed that 56% of all premises in survey still closed at 11pm.

Licence holders currently have the option of using a Temporary Event Notice (TEN) to extend their opening hours for a limited period. A TEN currently costs £21 and a premises user must submit a TEN at least 10 working days before the event begins. However, licence holders are subject to annual limits on the numbers of TENs they can seek to use (for example, 12 per premises in any calendar year) and a TEN may be refused if the police object on the grounds of crime and disorder.

Unlicensed premises would not benefit from the proposed licensing hours order and would still need to use TENs to put on events at which alcohol will be sold.

2. About this consultation

SCOPE OF THE CONSULTATION

Topic of this consultation:	This consultation seeks your views on whether to extend licensing hours to 1am on the nights of Friday 1st and Saturday 2nd June 2012.
Scope of this consultation:	Licensing Authorities, the police, licensed trade, residents
Geographical scope:	England and Wales
Impact assessment (IA):	A consultation stage IA is included with the consultation document.

BASIC INFORMATION

To:	We are keen to hear from everyone who will be affected by the measure, including: members of the public who consume alcohol, those who live close to licensed premises, those that own or work in pubs, clubs, supermarkets and shops, best practice scheme representatives, criminal justice agencies, the police, licensing authorities and trade associations representing those who produce and sell alcohol.
Duration:	The consultation runs for 7 weeks from 12 October to 1 December 2011.
Enquiries:	alcohol.consultation@homeoffice.gsi.gov.uk
How to respond:	<p>Information on how to respond to this consultation can be found on the Home Office Website at http://www.homeoffice.gov.uk/about-us/consultations. Responses can be submitted online through the Home Office website or by post by sending responses to:</p> <p>Drugs and Alcohol Unit, Home Office, 4th Floor Fry Building, 2 Marsham Street, London, SW1P 4DF</p>
Additional ways to become involved:	Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The Department is obliged to both offer, and provide on request, these formats under the Equality Act 2010.
After the consultation:	Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

BACKGROUND

Getting to this stage:	The Home Office has worked closely with key partners; including the Association of Chief Police Officers (ACPO) to develop these proposals.
Previous engagement:	The government has already consulted a number of key partners, including ACPO, the Metropolitan Police, Transport for London, Westminster Council, and London 2012 prior to publishing this consultation.

DETAILS OF PROPOSAL

The Government proposes that all licensed premises in England and Wales should be open for the sale of alcohol for consumption on the premises and the provision of regulated entertainment and late night refreshment to 1am on the nights of Friday 1st and Saturday 2nd June 2012.

EXTENT OF ORDER

The Queen's Diamond Jubilee is an event of national significance, and on this basis the Government considers that the proposed order should apply to all licensed premises in England and Wales so that everyone who wants to can participate.

Question 1: Do you agree that the order should apply to England and Wales?

- Yes
 No

EXTENSION OF LICENSING HOURS

The Government wishes to strike a balance between allowing people to celebrate the Queen's Diamond Jubilee and protecting the public from potential crime and disorder and public nuisance late at night. Statistics from the British Crime Survey (2009/10) indicate that around 64% of violent crime occurs in the evening or at night. The Government considers that licensing hours should be extended to no later than 1am. This will allow celebrations to continue to a reasonable hour and the majority of pubs and other licensed premises that would normally close earlier than 1am will benefit from the extension in opening hours. The Government considers that the extension

should apply on the nights of Friday, 1st June and Saturday, 2nd June 2012 as these are the days when people are most likely to want to go out to socialise. However, instead of the relaxation of licensing hours order being limited to Friday and Saturday nights it could cover any two nights of the Diamond Jubilee weekend.

Question 2: Do you agree that the order should extend licensing hours until 1am?

- Yes
 No

Question 3: The order could cover any two nights, Friday 1st or Saturday 2nd or Sunday 3rd or Monday 4th June 2012. Which two nights would you prefer the order to cover?

- Friday 1st June
 Saturday 2nd June
 Sunday 3rd June
 Monday 4th June

LICENSABLE ACTIVITIES

An order can be used to relax licensing hours for any or all of the activities licensable under the 2003 Act.

These are:

- the sale and supply of alcohol (on and off the premises)
- the provision of regulated entertainment (plays, live and recorded music, indoor sport, films and boxing and wrestling); and
- late night refreshment (the sale of hot food and drink between 11pm and 5am)

The Government considers that the proposed order should not apply to the sale of alcohol for consumption off the premises (i.e. in supermarkets and off-licences) as anyone wishing to celebrate at home will be able to buy alcohol at other times of the day and is unlikely to benefit from an extension in opening hours. Late night refreshment venues, by definition, are already licensed to open late at night and would not benefit from a relaxation of licensing hours. The Government therefore considers that the order should apply only to the sale of alcohol for consumption on the premises and the provision of regulated entertainment and late night refreshment. This will allow licensed premises to put on a range of different events and entertainment to celebrate the Queen's Diamond Jubilee.

Question 4: Do you agree that the order should apply to the sale of alcohol for consumption on the premises?

- Yes
 No

Question 5: Do you agree that the order should apply to the provision of regulated entertainment?

- Yes
 No

Question 6: Do you agree that the order should apply to the provision of late night refreshment so that restaurants and pubs can continue to serve food until 1am?

- Yes
 No

IMPACT OF THE ORDER

An Impact Assessment has been published separately.

We do not hold detailed official statistics on closing times, but a survey commissioned as part of the 2008 Culture, Media and Sport Select Committee into the

Licensing Act 2003 by the Department for Culture, Media and Sport showed that 56% of all premises in the survey still closed at 11pm.

We do not know how many of these premises would have used a TEN in the absence of an order, but clearly there will be savings for those that were intending to trade later and additional takings from the extended opening time. The order would also relieve local authorities and the police from the burden of considering (potentially) thousands of TENs in the run-up to the Diamond Jubilee.

Question 7: Do you agree with the impact assessment?

- Yes
 No

THE ROYAL WEDDING OF HIS ROYAL HIGHNESS PRINCE WILLIAM AND MISS CATHERINE MIDDLETON

A similar order was made for the Royal Wedding covering the nights of Friday 29th April and Saturday 30th April 2011.

Question 8: Compared with the usual level of crime and anti-social behaviour in your local area, do you think the extension of licensing hours for the Royal wedding on Friday 29th April and Saturday 30th April 2011 increased, decreased, or had no effect on the level of crime and anti-social behaviour in your local area on these nights?

- Increased
 Decreased
 No effect

If the level of crime and anti-social behaviour increased or decreased, please provide more detail on how.

INFORMATION ABOUT YOU

Question 9: Please indicate in what capacity you are responding to this consultation

- Police officer
- Licensing officer
- Licensed trade
- Member of the public
- Other

Police officers only

Which Police Force are you from?

In your experience, were additional police resources required for policing your local area as a result of the relaxation of licensing hours for the Royal Wedding on the nights of 29th April and 30th April 2011?

- Yes, additional policing resources were required
- No, existing resources were reprioritised
- No, usual policing resources were sufficient

Licensed trade

Please tick one of the following boxes which would best describe you / your organisation.

- Individual
- Micro company (1 – 9 employees)
- Small business (10 – 49 employees)
- Small – medium enterprise (50 – 249 employees)
- Large company (over 250 employees)

If you are the owner or operator of a licensed premises, did you extend your usual opening hours as a result of the relaxation of licensing hours for the Royal Wedding on the nights of 29th April and 30th April 2011?

- Yes, opened later than usual opening hours on one day
- Yes, opened later than usual opening hours on both days
- No, already licensed until 1am
- No, closed at usual time

Member of the public

Which Local Authority or London Borough are you from?

Licensing officer

Which Licensing Authority are you from?

Annex A

RESPONSES: CONFIDENTIALITY & DISCLAIMER

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 [FOIA], the Data Protection Act 1998 [DPA] and the Environmental Information Regulations 2004).

If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

GOVERNMENT CODE OF PRACTICE ON CONSULTATION

The Consultation follows the Government's Code of Practice on Consultation the criteria for which are set out below:

Criterion 1 – When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 – Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3 – Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 – Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 – The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 – Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7 – Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The full Code of Practice on Consultation is available at: <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

CONSULTATION CO-ORDINATOR

If you have a complaint or comment about the Home Office's approach to consultation, you should contact the Home Office Consultation Co-ordinator, Adam Mcardle. Please **DO NOT** send your response to this consultation to Adam Mcardle. The Co-ordinator works to promote best practice standards set by the Government's Code of Practice, advises policy teams on how to conduct consultations and investigates complaints made against the Home Office. He does not process your response to this consultation.

The Co-ordinator can be emailed at: Adam.
Mcardle2@homeoffice.gsi.gov.uk or alternatively you
can write to him at:

Adam Mcardle, Consultation Co-ordinator
Home Office
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2 Marsham Street
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EAST HERTS COUNCIL

LICENSING COMMITTEE - 3 NOVEMBER 2011

11. FEEDBACK ON CONSULTATION WITH THE TAXI TRADE

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

To report to Members on feedback from the licensed taxi trade on consultation whether a fare increase is appropriate.

<u>RECOMMENDATION FOR DECISION:</u> that
A The report be received.

1.0 Background

1.1 The last fare increase was brought into effect on 4th January 2011, and was the first increase for 18 months.

1.2 The licensed taxi trade were invited to an open meeting with licensing officers to discuss whether the trade wished to seek a fare increase.

2.0 Report

2.1 No drivers or operators thought a fare increase was sustainable. Trade was already considerably down, and any further increase would only further kill off the existing custom.

2.2 Officers were requested to consult again in January 2012.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Contact Member: Councillor Malcolm Alexander – Portfolio holder for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and

Licensing, Extn: 1498.

Report Author:

Paul Newman – Interim Licensing Manager, Extn:
1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	See report.
Legal:	No issues that require approval identified by Contact Officer or Report Author.
Financial:	No issues that require approval identified by Contact Officer or Report Author.
Human Resource:	No issues that require approval identified by Contact Officer or Report Author.
Risk Management:	No issues that require approval identified by Contact Officer or Report Author.

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