

**Date: 17 October 2011**

**To: Members of the Licensing Committee**

Mr K Nichols (Chairman)	Mr MT Mullaney
Mr MS Hulbert (Vice-Chairman)	Mr LJP O'Shea
Mr PR Batty	Mrs J Richards
Mr SL Bray	Ms H Smith
Mr M B Cartwright	Mrs. S. Sprason
Mr DS Cope	

Copy to all other Members of the Council  
(other recipients for information)

Dear Councillor

There will be a meeting of the **LICENSING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **WEDNESDAY 26 OCTOBER 2011** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely



Denise Bonser  
Democratic Services Officer

**LICENSING COMMITTEE**  
**26 OCTOBER 2011**  
**A G E N D A**

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED 2. MINUTES

To confirm the minutes of the meeting held on 24 November 2010 - copy attached marked L1.

3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.

4. DECLARATIONS OF INTEREST

To receive verbally from members any disclosures which they are required to make in accordance with the Council's code of conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the Agenda.**

RESOLVED 5. CONSULTATION TO DEREGULATE REGULATED ENTERTAINMENT

Report of Deputy Chief Executive (Community Direction) attached marked L2 (pages 1- 65)

**NOTE: AGENDA ITEMS AGAINST WHICH THE WORD "RESOLVED" APPEARS ARE MATTERS WHICH ARE DELEGATED TO THE COMMITTEE FOR A DECISION. OTHER MATTERS ON THIS AGENDA WILL BE THE SUBJECT OF RECOMMENDATIONS TO COUNCIL.**

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL**  
**LICENSING COMMITTEE**  
**24 NOVEMBER 2010 AT 6.48 PM**

**PRESENT:** Mr. K. Nichols – Chairman  
Mr C.J. Joyce – Vice Chairman

Mr. J.C. Bown, Mr. S.L. Bray, Mr. M.B. Cartwright,  
Mr. D.M. Gould, Mr. P.A.S. Hall, Mr. R. Mayne, Mr. K. Morrell,  
Mr L.J.P. O’Shea, Mrs S. Sprason and Mr. B. E. Sutton

Officers in attendance: Mr. Mark Brymer, Mrs. P.I. Pitt and Mr.  
M. Rice

312 **APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Mrs S. Francks, Dr. J.R. Moore (for whom Mr. Mayne substituted in accordance with Council Procedure Rule 4.3) and Dr. A.J. Smith.

313 **MINUTES (L4)**

On the motion of Mr. Cartwright, seconded by Mr. Morrell, it was

**RESOLVED** - the minutes of the meeting held on 2 September 2010 be confirmed and signed by the Chairman.

314 **DECLARATIONS OF INTEREST**

No interests were declared at this stage.

315 **LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY (L5)**

Further to Minute No 186 of 2 September 2010 and prior to adoption by Council Members were requested to endorse the final draft of the revised Statement of Licensing Policy, significant changes to which were shown in italics. Once agreed, the new Policy would be in force for three years from the date of adoption.

It was moved by Mr. Cartwright, seconded by Mr O’Shea and

**RECOMMENDED** - having been endorsed by the Licensing Committee the revised Statement of Licensing Policy be referred to Council for approval.

(The meeting closed at 6.55 pm)

## LICENSING COMMITTEE – 26 OCTOBER 2011

### REPORT OF DEPUTY CHIEF EXECUTIVE COMMUNITY DIRECTION

#### RE: CONSULTATION TO DEREGULATE REGULATED ENTERTAINMENT

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#### **1. PURPOSE OF REPORT**

- 1.1 To seek the views of the Committee on the Department for Culture Media & Sport (DCMS) proposal to deregulate Schedule 1 of the Licensing Act 2003.

#### **2. RECOMMENDATION**

- 2.1 Members give consideration to the proposals and questions asked and respond to the Principal Licensing Officer who will collate the responses and forward them to the DCMS.

#### **3. BACKGROUND TO THE REPORT**

- 3.1 The Licensing Act 2003 brought together nine separate outdated licensing related regimes, and created instead a single Act that controlled alcohol supply and sale, late night refreshment, and "regulated entertainment". In tidying up the old licensing regimes new problems were created for many wishing to host entertainment events.
- 3.2 The regulatory burdens imposed by the Licensing Act 2003 (the Act) were intended to prevent potential adverse impacts on the four licensing objectives: preventing crime and disorder; public safety; preventing public nuisance; and protecting children from harm. However, the Government agrees with a number of stakeholders who believe the requirements of the 2003 Act are unduly restrictive and burdensome for many forms of regulated entertainment and there is some evidence of negative impact in deterring the staging of entertainment events.
- 3.3 The Government is therefore proposing a reform of activities currently classed as "regulated entertainment" in Schedule 1 of the Act. The consultation seeks views on the removal in certain circumstances of the requirement for a licence in England and Wales to host a performance of a play, an exhibition of a film, an indoor sporting event, a performance of live music, any playing of recorded music, or a performance of dance.

- 3.4 The consultation document is attached at Appendix A and responses from the Leicestershire Licensing Forum are attached at Appendix B for information purposes.

### **Existing Legislation**

- 3.5 The Licensing Act 2003 (the Act) came into force in November 2005 in England and Wales. It replaced nine separate licensing regimes in order to streamline the process to regulate the sale and supply of alcohol, the sale of late night refreshments, and the provision of regulated entertainment.
- 3.6 The Licensing Act 2003 devolves responsibility for the administration of the Act to local licensing authorities, which are mainly local authorities. They must carry out their functions with a view to promoting the following licensing objectives:
1. the prevention of crime and disorder;
  2. public safety;
  3. the prevention of public nuisance; and
  4. the protection of children from harm

Subject to some exemptions (such as incidental music), the provision of the following constitutes regulated entertainment if it is put on for the public or for profit:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment;
- a performance of live music (or of facilities for making music or dancing);
- any playing of recorded music; and
- a performance of dance

### **Effect of Proposals**

- 3.8 If the proposals go forward the only activities which would continue to be licensed are:-
- 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.
- 3.9 The main impact of these proposals would relate to the 'Prevention of Public Nuisance' licensing objective from uncontrolled music (live or recorded). As entertainment activities would not require a licence there would be no opportunity for responsible authorities, local residents or Members to make any representations about potential noise nuisance as part of any licence application for alcohol. No conditions could be imposed on a licence in respect of noise.

- 3.10 The sale of alcohol will continue to be licensed as before.

#### **Detail of Existing Legislation**

- 3.11 Section 2 of the 2003 Act requires anyone who wishes to carry on a licensable activity to obtain an appropriate authorisation in the form of one licence covering all permissions i.e. a premises licence, a club premises certificate, or a temporary event notice (TEN). Venues are limited to 12 TENs per year (of which a maximum of five can be granted to an individual applicant). Any changes to a licence or club premises certificate, such as the addition of regulated entertainment, must be authorised through the full or minor variation process.
- 3.12 Regulations made under section 17(5) of the Act stipulate that an application for a premises licence or a full variation must be advertised in a local newspaper and outside the premises for a certain period to give local residents and responsible authorities (the police, environmental health, etc.) the opportunity to make representations against, or in favour of, the application to the licensing authority.
- 3.13 The government estimated that the administrative cost of making new applications, full and minor variation as between £385 and £950 plus a fee payable to the licensing authority which can vary typically from between £89 - £635 depending on the rateable value of the premises. If representations are made, section 18 of the Act requires the licensing authority to hold a hearing to consider the evidence and, if necessary, impose conditions on the licence to remove or mitigate any risks to the licensing objectives, refuse authorisation for a specific licensable activity or, in extreme cases, reject the application outright.
- 3.14 In many cases, licence conditions typically include; sound proofing measures when music is being performed, restrictions on capacities, opening hours and restriction on performance times, as well as health and safety measures. The licence holder may incur a cost in meeting some of these conditions; for example, at the top end, a noise limiter can cost around £2,000. The minor variation process is intended only for changes that will not impact adversely on the licensing objectives, such as the addition of low risk entertainment provision. The process is quicker and cheaper than the full variation process, but there is still an estimated administrative cost to applicants of £35 and a flat rate fee of £89. People who wish to hold regulated entertainment on an occasional basis can do so by sending a Temporary Event Notice to the licensing authority at a flat rate fee of £21 and an admin burden estimated at £16 to the applicant.
- 3.15 There is no annual fee or premises licence fee payable for an application or variation for regulated entertainment in educational institutions where the entertainment is for and on behalf of the educational institute, or to authorise regulated entertainment in church halls, village halls, parish halls, community halls or similar buildings.

### **Problems under consideration**

- 3.16 The burdens imposed by the Act were justified by the need to prevent potential adverse impacts on the four licensing objectives: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. However, stakeholders in particular from the music industry, but also from wider arts and sports bodies as well as various charitable / third sector organisations, believe the requirements of the 2003 Act are unduly restrictive and burdensome in respect of performance of live music and there is some evidence of negative impact in deterring the staging of entertainment.
- 3.17 The Government considers that deregulating entertainment regulated under the Act would increase opportunities for such entertainment to take place, and is unlikely to have an adverse impact on the promotion of the licensing objectives, as there are already other robust laws in place to safeguard the public and to provide remedy in the event of disturbance. The new arrangements would retain the key protections of the Act in relation to alcohol licensed premises (such as the retention of licence reviews, which allow local residents and businesses a say in local licensing matters) and would dovetail neatly with other protections, rather than “double-regulation” of these low risk events that are at the heart of many local communities.

### **Reasons for intervention**

- 3.18 The Licensing Act 2003 aimed to simplify processes and reduce red tape and bureaucracy. But the regime has led to a variety of entertainment events facing disproportionate and unnecessary regulation, even though they are unlikely to be detrimental to the licensing objectives.
- 3.19 Live music has often been the standout example of how the 2003 Act has inadvertently led to red tape for entertainment organisers, in particular in small venues which wish to put on occasional live music. However, we know from stakeholders that there are many other instances where other forms of entertainment defined in Schedule 1 of the 2003 Act have been adversely affected. Some of these include:
- Private events where a charge is made to raise money for charity
  - School plays and productions
  - Punch and Judy performances
  - Travelling circuses
  - Children's film shown to toddler groups
  - A school disco where children are charged a ticket price to support the PTA
  - An exhibition of dancing by pupils at a school fete
- 3.20 There are also numerous areas of inconsistency when consideration is given to the types of events which can take place without a licence. For example:

- Stock car racing does not need a licence, but indoor athletics does;
  - Any Live or Recorded Music as part of a Religious Meeting or service in a large arena without a licence, a licence would be required for a play in the same venue.
  - A performance of Morris Dancing with live or recorded music accompanying it is exempt from licensing requirements, but not the performance of mime.
  - Other such activities which do not require a licence include country fairs and outdoor sport to crowds of fewer than 10,000 (5,000 for football)
- 3.21 The DCMS consider, using the football example as a bench mark, if events where 5,000 people or fewer are present are removed from the requirements of the Licensing Act, the necessary protection to address noise, crime, disorder, and public safety will continue because there is a range of robust legislation already in place, including Health and Safety at Work, Fire Order, Noise Nuisance, and Environmental Protection. Additionally, a licence will still be required for events at which alcohol is sold, where the risks to the public are higher, ensuring that controls still remain.

#### **4. FINANCIAL IMPLICATIONS [CB]**

- 4.1 Any changes to the criteria effecting which premises and events require licences could potentially affect the amount of income currently being received by the Council. After an analysis of the premises currently requiring licences within the Borough if the changes proposed were to be adopted there would be no change in fee income under the current pricing structure. However, potentially about 10% of Temporary Event Notices issued annually would no longer be required. Based on the receipts for 2010/11 this would equate to a loss of £360.

#### **5. LEGAL IMPLICATIONS [MR]**

- 5.1 Set out in the report.

#### **6. CORPORATE PLAN IMPLICATIONS [RP]**

- 6.1 Objective 3 – Safer and Healthier Borough.

#### **7. CONSULTATION**

- 7.1 It is the officers opinion that this will involve duplication for many organisations as the DCMS have consulted all Local Authorities as well as 115 other National organisations including some of the following:-
- Action with Communities in Rural England
  - Arts Council England
  - Association of Circus Proprietors of Great Britain
  - British Board of Film Classification (BBFC)
  - Charity Commission
  - Chartered Institute of Environmental Health



- Children's Society
- Health and Safety Executive (HSE)
- Institute of Licensing
- Musicians Union
- National Association of Head Teachers
- National Association of Local Councils
- Sport England

## 8. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment.

### **Risk Description**

- 8.1 Impact on environment, customers, social & economic issues from delivering objectives:-

The removal of the licensing requirement will result in the licensing authorities and other responsible authorities (planning, police, environmental health) not being given prior notification about events, and there have been concerns raised about this leading to increased disorder, crime, nuisance, disturbance.

### **Mitigating actions**

- 8.2 The licensing authority respond to all questions posed in the consultation and include the following options:-
- The DCMS do nothing – keep the existing licensing restrictions in place.
  - Increase the number of exemptions under schedule 1 Part 2 of the Act.
  - The DCMS iron out inconsistencies in the Act.
  - Give licensing authorities the power to grant exemptions over low risk events such as those listed under 3.15 of this report. As a minimum the licensing authority will be notified and can then inform other responsible authorities that would have an interest in the event.

**Owner** – Mark Brymer

## **9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

- 9.1 If the proposals become law there will be some advantages for rural communities, schools and voluntary organisations.
- 9.2 Village halls account for a significant proportion of premises that require an entertainment licence. The halls are often the hub of cultural life in rural communities, so that the proposal will make it easier and encourage activity in village halls for the benefit of the area. Action with Communities in Rural England (ACRE) considers that the impact of these proposals on rural communities will be beneficial.
- 9.3 In their 2009 inquiry into the Licensing Act 2003, the Culture, Media and Sport Select Committee were particularly concerned about the impact of the Licensing Act on the voluntary sector. The process of applying for regulated entertainment licences is burdensome to many third sector organisations that are staffed by volunteers – besides the upfront £21 cost of the TEN, and related administrative time cost, the process is generally off-putting with the result that many events across the country have not taken place.
- 9.4 Although there is no licence fee charged, there will be an administrative saving for community buildings and schools that no longer have to go through the process of making new applications, variations, or TENs in respect of regulated entertainment.

## **10. CORPORATE IMPLICATIONS**

By submitting this report, the report author has taken the following into account:

- Community Safety implications - a potential greater impact on resources may arise from increased noise complaints/ASB from exempt entertainment. [Sharon Stacey, ext 5636]
- Planning Implications [Simon Wood, ext 5692] – Nothing to add to the report.

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Background papers: DCMS - A Consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003. Responses to DCMS by 3<sup>rd</sup> December 2011.

Contact Officer: Mark Brymer ext 5645



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

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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

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## 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

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### The current situation - background

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

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

- 2.1. In addition, there is a licence requirement relating to the provision for entertainment facilities (which generally means the provision of facilities which enable members of the public to make music or dance).
- 2.2. Licensable activities can only be carried out under the permission of a licence<sup>1</sup> 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.

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<sup>1</sup> 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](http://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 register<sup>2</sup> 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.

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<sup>2</sup> [http://www.culture.gov.uk/what\\_we\\_do/regulated\\_entertainment/3196.aspx](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

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### 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.<sup>3</sup>
- 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.

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<sup>3</sup> <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

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### 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.<sup>4</sup>
  - 4.2. The second is to examine, through this consultation, whether our proposed deregulation is ambitious enough for the vast quantity of talent in England and Wales that would benefit from a wider deregulation than the Live Music Bill will, alone, permit. In examining live music we would be grateful for responses to the generic questions posed in chapter 3, and also to the live music questions based on the consultation proposal below.
  - 4.3. Live music is at the heart of our national and local cultural traditions, and continues to play a very important part in our national and local identity. As well as being exhilarating and inclusive, music can change the way we view ourselves and how others perceive us. Our musical heritage is strongly felt across England and Wales, with a live line of performance from folk and traditional song through many hundreds of years to our present day with internationally famous local music scenes across so many towns and cities.
  - 4.4. In recent years though, whilst music in large venues is thriving, music in small venues has been gradually dwindling. Many pubs – the traditional venue of much live music - have closed, and there has been a downward trend in music provision in secondary venues<sup>5</sup>.

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<sup>4</sup> 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>

<sup>5</sup>[http://webarchive.nationalarchives.gov.uk/%2B/http://www.culture.gov.uk/reference\\_library/research\\_and\\_statistics/4854.aspx](http://webarchive.nationalarchives.gov.uk/%2B/http://www.culture.gov.uk/reference_library/research_and_statistics/4854.aspx)

## Our proposal

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

## Audience size

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

### Performance of Live Music: Questions

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

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

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

## Chapter 5: Performance of plays

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### 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

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### 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

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### 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

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### 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

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### 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

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### 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 proposals does not open up any gaps in the law.



## Entertainment facilities

10.6. The definition of “entertainment facilities” in the Licensing Act 2003 has proved to be a thorny issue.

10.7. Entertainment facilities are defined in the Licensing Act 2003 in the following manner:

“entertainment facilities” means facilities for enabling persons to take part in entertainment of a description falling within sub-paragraph (2) for the purpose, or for purposes which include the purpose, of being entertained.

(2)The descriptions of entertainment are—

- (a) making music,
- (b) dancing,
- (c) entertainment of a similar description to that falling within paragraph (a) or (b).

10.8. The intention of the principle of “entertainment facilities” in the Licensing Act 2003 was to ensure that as well as ensuring that the activities classified as “regulated entertainment” were properly considered by licensing authorities, any key equipment and its effects were similarly reviewed.

10.9. This consultation proposes to remove the need for consideration of entertainment facilities in any eventuality. This would cover, karaoke, musical instruments, dance floors and other equipment needed in support of making music or dancing. We would be grateful for views on this proposal.

### Recorded Music and Entertainment Facilities: Questions

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

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

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

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

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

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

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## 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

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### 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

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You can respond to the consultation in the following ways:

### **Online**

[Regulated\\_entertainment\\_consultation@culture.gsi.gov.uk](mailto: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

### **After the consultation**

We will post a summary of answers at on the DCMS website ([www.culture.gov.uk](http://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

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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  
United Kingdom Film Council  
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  
[www.culture.gov.uk](http://www.culture.gov.uk)

**Regulated entertainment: A consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003**

[www.culture.gov.uk/consultations/8408.aspx](http://www.culture.gov.uk/consultations/8408.aspx)

Detailed answers to the specific questions raised in the consultation are set below. The main points are summarised as follows:

- The proposals will effectively remove control of all regulated entertainment in England & Wales, with the exception of a very small number of outdoor festivals.
- Removal of the controls is likely to have a significant adverse effect on the licensing objectives of public nuisance, public safety and crime and disorder.
- The control of noise nuisance will become less effective and more costly and some nuisances such as noise outside premises will become impossible to deal with.
- Local residents will have their ability to be involved in the prevention of public nuisance through the licensing process removed.
- Premises selling alcohol are expected to reduce the licensable area to just the bar area, making existing conditions relating to public entertainment unenforceable.
- Local authorities' powers to manage the night time economy will be significantly reduced as there will be no control of the closing time of premises providing entertainment, including night clubs.
- The effectiveness of controls the government is about to introduce in relation to the late night levy and early morning alcohol restriction orders will be reduced.
- **The aims of the proposals could be achieved by introducing exemptions to licensing requirements for some small scale types of entertainment.**

**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?

No. We are of the opinion that this will not significantly increase the number of performances, but will adversely impact on the control of those that are already taking place. Community & Voluntary organisations will benefit from not paying fees

**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).

There is no explanation of the 'estimated' figures to enable anyone to assess if they are reasonable or not. For these reasons, we cannot agree with the estimated savings. We believe that the licensing landscape is likely to change significantly, because business will licence only a small part of their premises for selling alcohol and thereby take the majority of their premises out of licensing control.

**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.

There is no explanation of the 'estimated' figures to enable an assessment of whether they are reasonable or not. For these reasons, we do not agree with the estimated savings.

Dealing with complaints, particularly late at night, is likely to be more expensive than preventing them from occurring by using appropriate licensing controls. As there would be no licensing controls over opening hours for premises solely providing entertainment then police resources are likely to be required throughout the night.

**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.**

One of the principal benefits of the Licensing Act 2003 is the involvement of local residents in decision making about licensed premises. These proposals would bring an end to that and local residents would not be able to make representations about premises providing entertainment or apply for a review of a licence of a premises causing a nuisance.

Another benefit of the Licensing Act is that conditions relevant to the licensing objectives can be agreed between the applicant and responsible authorities (e.g. the Police, Environmental Health Officers, the Fire Service etc.) at the application stage. This enables a relationship to be built



between a potential Premises Licence Holder and enforcement authorities which often reduces the need for formal action at a later stage.

Conditions on licences related to public nuisance will immediately become ineffective if this legislation is brought in. This is because if any attempt to enforce them is made or a licence is reviewed, we believe a new licence will be applied for just covering the serving area in the bar as described below.

Conditions need to be appropriate and proportionate and this means it is unlikely that nuisance prevention conditions would be relevant to the service of alcohol.

We would expect an increase in the number of complaints, because premises currently have to comply with conditions that are designed to prevent noise nuisance. In the absence of regulatory controls these conditions would not exist and it is highly foreseeable that premises would not adopt them voluntarily. This could be due to either not knowing or not caring about the impact their entertainment may have on the surrounding area. Whilst there are controls under the Environmental Protection Act, this provides far weaker controls than a licensing regime. In particular;

- It would be virtually impossible to prevent noise from one off or occasional events;
- The control is via service of notice, forfeiture of equipment and/or prosecution, which is likely to take far longer to achieve a remedy than by review of a licence;
- Management of premises facing potential loss of their licence are more cooperative;
- There is significant demand to gather evidence of nuisance which will be sufficient for a criminal prosecution;
- Business premises have the defence of best practicable means against statutory nuisance action which does not apply as under the Licensing Act
- Noise from customers in the street outside the premises cannot be dealt with as it falls outside the definition of statutory nuisance. This is an aspect which is controlled using time restrictions under the Licensing Act.

**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.**

There is no explanation of the 'estimated' figures to enable an assessment of whether are reasonable or not. For these reasons, we do not agree with the assumptions and are unable to comment further.

**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

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

The Impact Assessment does not consider alternative options other than, 'do nothing', 'deregulate completely' or 'deregulate to a large extent'. There should be at least two more options, namely addressing the problems by means other than deregulating, and deregulating to a much lesser degree than currently proposed.

The government proposes that venues with an alcohol licence would still be subject to conditions to control regulated entertainment. However, it is difficult to see how this would work in the long term. The Licensing Act allows applicants to specify the extent of their premises and conditions must be necessary and proportionate in relation to that premises. So, for example, a premises such as a concert hall could just licence it's bar areas and leave the rest of the premises unlicensed. A pub could licence its serving area and not the rest of the building.

**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.**

The consultation document refers to reducing bureaucracy and cost for community premises, schools, etc. However, there is already an exemption for such premises from the fees for a full licence so there is no cost saving, and any bureaucracy has already happened for many premises because they have got their licence in place.

Indeed, it could be argued that the licensing process serves to ensure that organisers consider certain aspects of holding events that they may otherwise have not given adequate thought to. This is particularly relevant for people and premises who are not usually involved in providing regulated entertainment.

**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?**

No, because we do not support the proposals. If the proposals are taken forward then we believe there must be a formal process to remove activities and conditions from licences, for the sake of clarity. The cost of doing this should not fall on licensing authorities.

## 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?

We do not agree based on the following:

1. The reasoning behind the need to deregulate is flawed. The examples given include costumed storytellers, pianists in restaurants, magic shows, Punch & Judy, school plays. These events are either not licensable under the current regime or not licensable in certain circumstances. Virtually all of the examples given are 'low level' regulated entertainment and if the government doesn't want them to be licensed, **they could easily make these types of event exempt from licensing controls.**
2. The suggested figure of deregulating entertainment provided for events with 4,999 people or less is too high. This would mean that virtually all regulated entertainment would not be licensable. Basing the level of risk associated with a particular event based solely on the numbers of people involved is far too simplistic. Risk depends on a range of factors.
3. The government proposes that venues with an alcohol licence would still be subject to conditions to control regulated entertainment. However, it is difficult to see how this would work in the long term. The Licensing Act allows applicants to specify the extent of their premises and conditions must be necessary and proportionate in relation to that premises. So, for example, a premises such as a concert hall could just licence its bar areas and leave the rest of the premises unlicensed. A pub could licence its serving area and not the rest of the building (consumption of alcohol is not licensable).
4. The consultation document refers to reducing bureaucracy and cost for community premises, schools, etc. However, there is already an exemption for such premises from the fees for a full licence so there is no cost saving, and any bureaucracy has already happened for many premises because they have got their licence in place.
5. The consultation proposal suggests that regulated entertainment poses little risk to the licensing objectives. We strongly disagree with this. Although alcohol features highly in the enforcement work associated with licensing, so does noise from regulated entertainment and nuisance from people attending events. Public safety refers to physical safety of people attending and in the vicinity of events, and to suggest that this would not be compromised by removing the need to licence premises that just

provide regulated entertainment (cinemas, theatres, music venues) is simply ridiculous.

6. It appears that a two tier system will be created, with alcohol premises being properly regulated and other premises being left to their own devices. The consultation document includes statements such as  
“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 or otherwise run by the local authority”  
“One alternative option ... could be to develop a Code of Practice for entertainment venues”  
“...local management arrangements are likely to provide a common sense solution to any potential problems”

In our opinion, this is a naïve approach to the way a number of premises are run. Whilst there are lots of very well run premises, there are also a number that are poorly run. This may be due to anything from a lack of knowledge and ability, to a total disregard for any rules and regulations. Deregulating on the scale proposed will not mean that the well run premises will stop running their premises well, but it will reduce our ability to do anything about the other premises. In other words, it will be counter-productive.

7. The consultation refers to a number of other regulatory regimes that may be able to deal with issues arising from what is currently regulated entertainment. However, there are currently limited resources in these areas and so it is unlikely that these regimes will be a viable alternative to licensing enforcement and advice. Furthermore, the current system works because people who want to provide entertainment etc. pay for a licence, thus financing the associated work to make sure the provision of that entertainment is provided in an appropriate way. If entertainment is deregulated the money for enforcement will have to be found from other areas, which, frankly does not exist. “The polluter pays” principle is a good one – anyone who wants to provide entertainment should meet the associated costs. Enforcement should not come from general funds collected from the tax payer.

**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.**

The suggested figure of deregulating entertainment provided for events with 4,999 people or less is way too high. This would mean that virtually all regulated entertainment would not be licensable. There are often issues with regulated

entertainment in venues much smaller than this that cause problems arising from regulated entertainment.

Both the government and the police have proposed capacity limits that would remove the need for Temporary Event Notices to be given for events involving only entertainment. This reduces the capacity of enforcement agencies to advise organisers of what may be appropriate control measures to put in place. The TEN system is extremely useful in this regard, and allows agencies to liaise with organisers in advance where there would otherwise have been no contact at all. This liaison is preventative and helps everyone involved (organisers, authorities, customers and neighbours).

**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. It is not simply the type of entertainment that causes a problem, but also the venue, the management, the day of the week and time of day, and the individual people attending.

**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.**

Yes.

All four licensing objectives are likely to be adversely affected because premises would be less likely to be 'on the radar' of the responsible authorities. The RAs and interested parties (IP's) would have much less say in, or control over, the way a premises operates. The rights of entry under the Licensing Act 2003 are very helpful to enforcement agencies, and it is helpful to RAs and IPs alike to have certainty about what is allowed and when.

There have been numerous cases in the past of serious public safety risks and, indeed, tragedies that the public safety objective is intended to prevent happening again. The thought that up to 5,000 people could be at an entertainment venue without the safeguards currently in place through the LA 2003 is very worrying.

**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.**

We believe that the existing legislation works well for both indoor and outdoor events. The 2003 Act enables applicants and, where necessary, responsible authorities, interested parties and licensing authorities, to tailor their decisions to the circumstances. So an indoor event would be subject to different hours, conditions, etc. to an outdoor event.

**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.**

We believe that no events should be deregulated, all for the same reasons. Therefore we do not have and reasons to give for an appropriate cut off point.

**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.**

We believe that no events should be deregulated, all for the same reasons. Therefore we do not have and reasons to give for an appropriate cut off point.

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

We believe that no events should be deregulated, all for the same reasons. Therefore we do not have and reasons to give for an appropriate cut off point.

**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?**

There is suggestion of a Code of Practice to ensure preventative best practice, but similar schemes in the past have been shown to be worthless.

In our opinion, this would not be effective because of the way a number of premises are run. Whilst there are lots of very well run premises, there are also a number that are poorly run. This may be due to anything from a lack of knowledge and ability, to a total disregard for any rules and regulations. Deregulating on the scale proposed will not mean that the well run premises will stop running their premises well, but it will reduce our ability to do anything about the other premises. In other words, it will be counter-productive.

**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?**

The consultation refers to a number of other regulatory regimes that may be able to deal with issues arising from what is currently regulated entertainment. However, there are currently limited resources in these areas and so it is unlikely that these regimes will be a viable alternative to licensing enforcement and advice. Furthermore, the current system works because people who want to provide entertainment etc. pay for a licence, thus financing the associated work to make sure the provision of that entertainment is provided in an appropriate way. If entertainment is deregulated the money for enforcement will have to be found from other areas, which, frankly does not exist. "The polluter pays" principle is a good one – anyone who wants to provide entertainment should meet the associated costs. Enforcement should not come from general funds collected from the tax payer.

We do not believe that the risks can 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.

There is a statement in the document that "... most currently regulated entertainment does not go beyond 11pm". This is far from reality.

- There is a strong likelihood that some premises licensed to sell alcohol and provide regulated entertainment will stay open beyond the hours for which they are licensed for the sale of alcohol. As no licensable activities are taking place they will not be committing any offence. This raises several concerns:
- Customers may be allowed to buy alcohol for later consumption. The sale of alcohol and not its consumption is licensable.
- **Customers may bring their own alcohol.**
- Premises will be open for as long as they want, with ensuing problems of nuisance and crime and disorder whilst they are open late or in the street when they close.
- Residential neighbourhoods near late night venues which decide to open late for entertainment are likely to be affected by noise from customers long after the hours which the local authority has set for the sale of alcohol to end.
- Unscrupulous operators may be tempted to sell alcohol after hours, bearing in mind other people on the premises could be legitimately be drinking alcohol they bought earlier. Whilst this could happen now, it is far more likely if the premises is lawfully open for entertainment.
- Enforcement of closing times for the sale of alcohol will become much more problematic.
- Temporary events in premises not permanently licensed for entertainment will be able to allow alcohol to be brought onto the premises by attendees. There will be no licensing control of the event whatsoever. The impact of

these temporary events, which are often quite large, on the licensing objectives could be considerable.

**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?**

The consultation proposal suggests that regulated entertainment poses little risk to the licensing objectives. We strongly disagree with this. Although alcohol features highly in the enforcement work associated with licensing, so does noise from regulated entertainment and nuisance from people attending events. Public safety refers to physical safety of people attending and in the vicinity of events, and to suggest that this would not be compromised by removing the need to licence premises that just provide regulated entertainment (cinemas, theatres, music venues) is simply ridiculous.

We believe the consultation document is ill thought out and unjustified. It makes a number of sweeping and naïve assumptions and does not take account of the fact that regulated entertainment DOES currently cause problems. It also ignores the likelihood that alcohol licensed premises will (understandably) seek to amend their current licences in order to take commercial advantage of these changes. There is no justification for anything other than some minor changes to the LA 2003 in order to exempt certain low risk events (e.g., school plays) and to clarify what is and is not regulated entertainment (e.g., a costumed storyteller is not the performance of a play).

The Home Office has just promoted legislation in parliament to allow local authorities to use early morning alcohol restriction orders to allow local authorities to effectively close the night time economy in all of parts of its area, and a late night levy to enable the local authority to recover some of the costs associated with it. It seems perverse for the Department of Culture, Media and Sport to be proposing a deregulation that will have exactly the opposite effect. Any hoped for reduction in police resources needed or reduction in rowdy late night behaviour as a result of these measures may not materialise if premises stay open for regulated entertainment. The DCMS should consult thoroughly with the Home Office on the potential effect of these proposals.

We are concerned that if these proposals are enacted, we would have premises saying they will be for fewer than 5,000 people but actually going over this limit. Also that we will simply not know what events are planned because TENs are no longer required, and which may be encouraged to operate without the retail sale of alcohol but on a 'bring your own' basis in order to circumvent licensing controls.



The consultation document gives examples of events that take place outside the licensing regime. These include political rallies and demonstrations, and yet we know that there is massive police and council input into such events.

It appears that a two tier system will be created, with alcohol premises being properly regulated and other premises being left to their own devices.

### **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?**

See general comments to the deregulation of regulated entertainment.

**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.**

No. In the past we have received a significant number of complaints for events involving, for example, steel bands in the city centre. Music involving drums does not need amplifying in order to cause a nuisance in small venues.

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

The impact assessment states that there has been a 5% drop in the provision of live music in secondary venues due, in large part, to a decrease in provision in church halls and community centres. It ignores the general economic state of the country and the fact that premises themselves are closing for that reason.

We have recent experience of a live music event in a very small venue, for which live music is the cornerstone of the business. The enthusiasm of the performers led to a number of actions that could have had serious consequences for the performers, the audience and staff and the venue itself.

Live music events can be very volatile, due to the immediate and sometimes unexpected nature of the interactions between the performers and the audience. Live events can be unpredictable and hence it is important that a suitable regime is in place to control them as far as necessary and practicable.

### **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?**

Our general comments to the deregulation of regulated entertainment apply.

**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?**

Our general comments to the deregulation of regulated entertainment apply.

**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?**

Our general comments to the deregulation of regulated entertainment apply.

#### **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?**

Our general comments to the deregulation of regulated entertainment apply.

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

Our general comments to the deregulation of regulated entertainment apply.

**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?**

No – we do not believe it should be deregulated at all.

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

Not applicable

**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?**

We would be content with proposals to extend the list of circumstances under which showing a film is exempt from the 2003 Act.

**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.**

Our general comments to the deregulation of regulated entertainment apply.

The consultation refers to outdoor sport being excluded from the LA 2003 but then says it is regulated under a different regime. Whilst it is agreed that the LA 2003 goes too far in some cases, it would be more appropriate to simply exempt these activities rather than deregulate the whole thing.

Reference is also made to safety at sports grounds legislation, although we understand there are proposals to change the existing arrangements in relation to this as well.

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

It is not clear why boxing and wrestling is being kept as a regulated activity but not any others. People present at a boxing match are just as likely to be subjected to the same crowd controls, capacity limits, and to make the same amount of noise etc., as people attending a music event. Why retain boxing and wrestling but not other forms of regulated entertainment.

### **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?**

Yes, this is one of the few aspects of the consultation with which we agree!!

**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.**

No. Indeed, we would welcome more clarity on the age of competitors in boxing and wrestling matches, and on which type of events they may participate in. (E.g., children fighting before a paying mainly adult audience)

**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.**

Yes. Why would boxing and wrestling be included in the licensing regime but not other types of martial arts?

#### **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.**

The controls for the public's safety at an event should not vary depending on the size of the audience.

**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.**

All of our earlier comments set out the reasons why we feel that this proposal should not proceed. There is a need for appropriate regulation of entertainment and the four licensing objectives remain valid. There may be circumstances where control is not required, for 'low level' activities such as Punch and Judy, but these can be addressed by simply clarifying and/or extending the exemptions contained in Schedule 1 to the 2003 Act.

**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?**

All of our earlier comments set out the reasons why we feel that this proposal should not proceed. There is a need for appropriate regulation of entertainment

and the four licensing objectives remain valid. There may be circumstances where control is not required, for 'low level' activities such as Punch and Judy, but these can be addressed by simply clarifying and/or extending the exemptions contained in Schedule 1 to the 2003 Act.

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

Our general comments to the deregulation of regulated entertainment apply.

**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.**

Our general comments to the deregulation of regulated entertainment apply.

**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?**

No.

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

Some examples cited are not licensable under the Act. I would like to see 'Carnivals' added to the list and all 'low risk events' shown at 1.5 of the consultation added to the list of exemptions from regulated entertainment Under schedule 1 part 2.

**Adult Entertainment: Question**

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

It is not clear how sexual entertainment could be kept as a regulated activity when dance is to be removed. Premises licensed for dance under the LA 2003 can provide sexual entertainment without a SEV licence in certain limited circumstances. It is very difficult to see how the exemption for performances of sexual entertainment for up to twelve times a year could continue to operate. To this extent the proposals would impose extra burdens on business.

## **Conclusion**

We strongly urge the government to think again about these proposals. There is considerable potential for significant problems of crime and disorder, public nuisance and public safety which are likely to occur if they come into effect. It is not always easy to be certain the ultimate effect of legislative proposals.

The Licensing Act 2003 itself produced changes to the night time economy which were considerably different to the café culture that was intended. The Home Office is now engaged in a process of legislative reform to remedy that. It is our view that these proposals, for the reasons identified throughout this response, will bring about changes quite different to those intended.

Damage to communities is being risked on the basis of a very unconvincing case for savings to business. We would suggest that if the proposals are brought in, they will need to be revisited and probably reintroduced in the very near future. The cost of this to the government, local authorities and business will be considerably more than any possible benefit that could have been achieved.