



LICENSING COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
TUESDAY, 18TH OCTOBER, 2011 AT 10.00 AM

MEMBERSHIP

Councillors

S Armitage - Cross Gates and Whinmoor;
K Bruce - Rothwell;
R Downes - Otley and Yeadon;
J Dunn - Ardsley and Robin Hood;
R D Feldman - Alwoodley;
B Gettings - Morley North;
T Hanley - Bramley and Stanningley;
G Hussain - Roundhay;
G Hyde - Killingbeck and Seacroft;
A Khan - Burmantofts and Richmond Hill;
P Latty - Guiseley and Rawdon;
B Selby - Killingbeck and Seacroft;
C Townsley - Horsforth;
D Wilson - Rothwell;
G Wilkinson - Wetherby;

Agenda compiled by:
Tel No:
Governance Services
Civic Hall
LEEDS LS1 1UR

Helen Gray
247 4355

A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATIONS OF INTEREST</p> <p>To declare any personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES</p> <p>To approve the minutes of the last meeting held on 13th September 2011 as a correct record</p> <p>(copy attached)</p>	1 - 6
7	All Wards;		<p>DCMS CONSULTATION ON THE DEREGULATION OF REGULATED ENTERTAINMENT</p> <p>To consider the report of the Head of Licensing and Registration seeking Members comments on Government proposals to reform activities currently classified as “regulated entertainment” as part of the consultation process on the proposals</p> <p>(Report attached)</p>	7 - 54
8	All Wards;		<p>LARGE CASINO - APPLICATION PROCESS</p> <p>To consider the report of the Head of Licensing and Registration on the process proposed for the determining the Large Casino licence</p> <p>(Report attached)</p>	55 - 82

Item No	Ward/Equal Opportunities	Item Not Open		Page No
9			<p>LICENSING WORK PROGRAMME</p> <p>To note and comment on the contents of the Licensing Work Programme</p>	83 - 86
10			<p>DATE AND TIME OF NEXT MEETING</p> <p>To note the date and time of the next meeting as Tuesday 15th November 2011 at 10:00 am</p>	

Agenda Item 6

Licensing Committee

Tuesday, 13th September, 2011

PRESENT: Councillor S Armitage in the Chair

Councillors R Downes, J Dunn,
R D Feldman, B Gettings, G Hussain,
G Hyde, A Khan, P Latty, B Selby,
C Townsley, D Wilson and G Wilkinson

28 Exempt Information - Possible Exclusion of the Press and Public

No formal agenda items were identified as containing exempt information however West Yorkshire Police (WYP) indicated their intention to request that those documents supplied in support of the WYP presentation be treated as exempt should members of the public attend the meeting (minute 33 refers)

29 Late Items

No formal late items of business were added to the agenda however Members were in receipt of additional documents submitted by West Yorkshire Police in support of the WYP presentation (minute 33 refers)

30 Declarations of Interest

There were no declarations of interest, however during discussions on the Cumulative Impact Area (city centre) Councillor Selby stated that as Chair of City Centre Plans Panel, he wished to make it clear that he would treat individual planning applications on their own merits and within the remit of the Plans Panel and similarly, he would consider any licensing applications in accordance with the Licensing Act 2003, the Guidance and the LCC Statement of Licensing Policy and would not pre-determine any matter before him (minute 33 refers)

31 Apologies for Absence

Apologies were received from Councillors Bruce and Hanley

32 Minutes

RESOLVED –That the minutes of the meeting held 16th August 2011 be agreed as a correct record

33 Presentation - West Yorkshire Police

The Committee welcomed Chief Inspector V Francis, PC C Arkle and Mr B Patterson of West Yorkshire Police to the meeting. Ch.Ins. Francis led the Committee in discussions on the following matters:

Gatecrasher Review

- Issues relating to the volume of paperwork associated with the applications before Sub Committees, the procedure followed at the Magistrates Court, the strength and presentation of the representations made by WYP and the approach of the Judge were raised.
- WYP stated their intention to re-assess and condense wherever possible the paperwork associated with an application. Careful consideration would also

be given to the choice of legal representative and the order of business and procedure likely to be adopted by the Magistrates Court.

(Councillor A Khan withdrew from the meeting for a short while at this point)

- Members recalled the circumstances of the case and considered whether the presence of a Sub Committee Member at the Magistrates court hearing would assist
- Overall both WYP and the Licensing Authority agreed it would be beneficial if both parties assessed the strength of their case and sought the best possible representation at hearings, in terms of paperwork, support and legal representation in order to present a robust approach to the Court

(Councillor R Downes withdrew from the meeting at this point)

Cumulative Impact Policy (CIP)

Ch.Ins Vernon referred to the documents tabled showing the number of Licensing Act 2003 applications made for premises within the city centre (CIP Area 1) since January 2011, the type of representation made by WYP and the outcome of subsequent hearings.

(Councillor Downes rejoined the meeting)

- Members noted the amended Statement of Licensing Policy had come into force in January 2011 and CIP Area 1 stated a presumption against the grant of any new licence with that area. WYP asserted that an applicant should therefore be required to prove the exceptional reasons to grant their application rather than the onus being on WYP to make the case to uphold the CIP
- Ch.Ins Francis highlighted the outcomes of the applications considered by a sub committee since January 2011 with particular reference to those which lay within the three hotspots for incidents of crime and disorder identified by WYP. He stated WYP would encourage new premises coming forward with measures and styles of operation which would have a positive impact on a hotspot area and reduce the number of incidents. New premises or variations which did not appear to assist a locality already regarded as a hotspot would attract a strong objection from WYP

The Committee considered the outcomes and what additional information could be required by a sub committee in order to support the CIP. Members noted that receipt of a WYP representation should act as a trigger for them to consider the CIP and identify what evidence was submitted to convince them that an application was exceptional. Members acknowledged that there may appear to be inconsistencies in the approach of the Sub Committees and identified the following issues:

- That a strong barrister/applicant could divert consideration of the presumption against granting applications stated in the CIP
- That Members may benefit from monthly/quarterly updates on the outcomes of CIP area applications and sharing “best practice” on dealing with CIP applications

- That the Licensing Authority could benefit from establishing a sub committee to deal purely with CIP applications as and when required
- The different approaches demonstrated by WYP with regards to representations made to applications for premises within CIP Area 1 and applications for premises within hotspot areas in CIP Area 1. Members noted that WYP intended to reassess the style of representations
- The benefits of the CIP as a deterrent to prospective applicants seeking long hours and large capacity venues
- The need for the Entertainment Licensing Section to liaise closely with the Department of Development over the possible impact of CIP Area 1 on future developments in the city centre – such as the Eastgate and Harewood Quarter. Members noted the Arena development lay just outside CIP Area 1 and that in developing the current policy consultation had been held with the Development Department. Furthermore a report from the Development Department was scheduled for the October Committee meeting
- PC Arkle briefly outlined the Matrix points system used to identify city premises which needed support from WYP. Ch.Ins. Francis explained his decision making process in seeking to review a premises licence had regard to the type of venue, capacity, nature of entertainment offer, clientele and whether that venue consistently worked with WYP.

The Committee thanked the officers of WYP for their presentation and welcomed the discussions it had generated

RESOLVED –

- a) To note the contents of the presentation and discussions
- b) To request officers report back following further consideration of
 - i) the benefit of monthly/quarterly updates on the outcomes of CIP area applications and sharing “best practice” on dealing with CIP applications and
 - ii) the benefits of establishing a sub committee to deal purely with CIP applications as and when required

34 Leeds City Centre Evening and Night Time Economy Strategy and Action Plan

The Committee received a report from the Chief Officer, Community Safety, on the Leeds City Centre Evening and Night Time Economy Strategy and Action Plan. Ms C McCall, City Centre Community Safety Co-ordinator attended the meeting and highlighted the partnership working established in the city with WYP, operators, agencies, Business Against Crime in Leeds (BACIL), pub watch, Operation Capitol and taxi marshals to ensure a healthy economy.

Members had regard to the discussions on the previous item and commented on the following:

Taxi marshals – noted the success of the scheme and that funding for the Christmas 2011 period had yet to found. Members queried whether private finance could support the project

Street marshals – Ch.Ins. Francis reported that this scheme provided 19 street marshals funded by city centre premises and there had been a 40%

reduction in violent crime in the hotspots on Friday and Saturday nights since the scheme began

Street Chaplains – noted the Leeds and Ripon Dioceses had recently appointed a night time economy minister, who was tasked with revitalising the volunteer street chaplains scheme to provide support to vulnerable persons in the city centre on Friday and Saturday nights

RESOLVED – To note the contents of the report

(Councillor Dunn withdrew from the meeting at this point)

35 Responses to Central Government Consultations on the Primary Authority Scheme and Age Restricted Products

The Head of Licensing and Registration submitted a report outlining proposed responses to two central Government consultations on issues falling within the remit of the Licensing Committee. Copies of the relevant documents were included within the report. Members considered each consultation and proposed response in turn and made the following comments:

The Future of the Better Regulation Office and extending the benefits of the Primary Authority Scheme – which included proposals to include “age restricted” products within the Primary Authority Scheme (PAS)

- Identified the impact this could have on local decision making, particularly in terms of the Licensing Act 2003 which empowered local authorities to regulate relevant products in their area

(Councillor Dunn re-joined the meeting)

- Concern that one PAS could be swamped with regulatory duties by being designated by several operators
- No clear indication of how a local authority will identify and recover “reasonable costs”
- Identified an anomaly that although West Yorkshire Trading Standards were identified as a Primary Authority, West Yorkshire Police were not and this could impact on collaborative working and enforcement outcomes resulting in a two-tier approach by both agencies
- noted the practical example of the impact the scheme could have on measures often conditioned by sub committees based on local considerations specific to individual premises - such as seeking to impose Check 25 when an operator had signed up a PAS with Check 21 age verification. Also, consideration to closed-circuit television measures specific to a premises.
- The Coalition Agreement makes it clear to bring an end to ‘tick-box regulation’.

(Councillors Khan, Townsley and Selby left the meeting at this point)

The Committee broadly supported the proposed response set out in appendix B of the report

(Councillor Selby resumed his seat in the meeting)

Local Better Regulation Office: Age Restricted Products and Services Consultation – on how to encourage a code of practice/engage with operators

- highlighted the responsibility to educate young people on under age sales

- highlighted concern that test purchase volunteers could be allowed to conceal their true age when challenged by an operator. Concerns were expressed about asking young persons to lie about their true age which was morally wrong. Also, if a person were to lie about their true age this could possibly provide a defence against criminal liability on the grounds of entrapment/agent provocateur as it could be argued that the young person incited or lured a person (the operator) to commit a crime they would not otherwise have committed.

(Councillors Downes and Dunn left the meeting at this point)

- Discussed whether a single sale or test purchase would provide sufficient evidence to warrant enforcement action
- Noted the comments that two sales would provide the Authority with a stronger enforcement case

(Councillor Khan withdrew from the meeting for a short time at this point)

- Noted the suggestion that operators could be offered a formal simple caution as an alternative, an operator could avoid court action if they accepted this. If the caution was not accepted, the Authority could then advise that formal court action would follow. Members supported this course of action being included in the response to the consultation

RESOLVED – To note the contents of the report and to endorse the submission of the proposed consultation responses (as attached as Appendix B and D of the report) subject to the inclusion of comments made by the Committee

36 Licensing Work Programme

RESOLVED – To note the contents of the Work Programme

37 Date and time of the Next Meeting

RESOLVED – To note the date and time of the next meeting as Tuesday 18th October 2011 at 10.00 am

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Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 18th October 2011

Subject: DCMS Consultation on the Deregulation of Regulated Entertainment

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

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.
2. The Government is therefore proposing a reform of activities currently classed as "regulated entertainment" in Schedule One of the 2003 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.

Recommendations

3. That Licensing Committee note the contents of this report and provide views on the deregulation of entertainment to inform the council's formal response to this consultation.

1.0 Purpose of this report

1.1 To advise Licensing Committee of DCMS consultation on the deregulation of entertainment as proposed in their consultation document (appendix 1).

2.0 Background information

2.1 The Licensing Act 2003 brought a number of separate pieces of legislation under one single Act. For a number of years the live music industry have been lobbying Government to deregulate live music in venues with a capacity of less than 200 people. This has led to the introduction of the Live Music Bill, a private members bill that was introduced into Parliament over a year ago. The Government supports this bill but would like to take the matter further.

3.0 Main issues

3.1 The DCMS consultation seeks to remove licensing requirements for most activities currently defined as “regulated entertainment”. Regulated entertainment includes:

- ◆ 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

3.2 Presently, these activities can only be provided under the authorisation of a premises licence or a temporary event notice.

3.3 The consultation explains that although the Licensing Act radically changed the approach of alcohol licensing, it missed a real opportunity to enable entertainment activities and either simply aped old licensing regimes or instead took a new, overcautious line. Instead of modernising an old law that has simply gone past its sell by date, the Licensing Act ended up potentially criminalising a harmless cultural pastime.

3.4 In addition the new Act created new problems to a wide range of cultural and voluntary sector and commercial organisations. For example it brought a costly and bureaucratic process for low risk, or no risk, events including (from the consultation document):

- ◆ Private events where a charge is made to raise money for charity;
- ◆ Travelling circuses
- ◆ Brass bands playing in the local park
- ◆ School discos where children are charged a ticket price to support the PTA
- ◆ Folk duos in pubs
- ◆ Performances by street artists
- ◆ And even performances by a quayside barber shop quartet

- 3.5 The proposal is to remove the licensing requirement for each of the activities classed as regulated entertainment subject to certain exemptions. In any case the Government intends to retain the licensing requirement 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.
- 3.6 In essence this will mean that a public house in a residential area will only require a licence for alcohol sales and there will be no restriction on the time that the music has to cease or conditions to control the frequency and audibility of the music. The same would be true for a live music concert with an audience of less than 5,000 people.
- 3.7 Following the reform existing premises will be able to apply for a variation to their licence to remove the conditions associated with the deregulated entertainment. A typical example could be the removal of the condition which prevents the audibility of music at the nearest noise sensitive properties. Failure to apply for a variation will mean that conditions will continue to apply and remain enforceable.
- 3.8 It will be for other legislation, i.e. the Environment Protection Act to deal with noise nuisance relating purely to the noise breakout from deregulated entertainment. There is a concern that under the existing regime the conditions imposed under the premises licence are far more effective in preventing and controlling noise nuisance.
- 3.9 Premises that currently hold a licence only for activities that have been deregulated would no longer need a licence. In these cases all licensing requirements would cease, and fees and licence conditions would end when the licence is surrendered.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Due to the nature of this Government consultation officers are seeking the views of Licensing Committee on these proposals. These views will be reflected in the Council's formal response. In addition a copy of the consultation has been provided to Environment and Neighbourhoods and West Yorkshire Police. Should Environment and Neighbourhoods wish to respond separately, this consultation response will be amended to be from the Licensing Committee, rather than from the Council.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 This consultation has an impact on all sectors of society, as noise and disorder from regulated entertainment affects everyone.

4.3 Council Policies and City Priorities

- 4.3.1 This consultation will have a serious impact on the Council's Licensing Act 2003 Statement of Licensing Policy, which will need to be amended depending on the outcome of the consultation.

4.4 Resources and Value for Money

- 4.4.1 The deregulation of entertainment will remove the entire requirement for licensing from only a small number of premises. These premises will be community premises licensed only for entertainment and therefore presently exempt from licence fees. Commercial premises will still require licences for the sale of alcohol and / or late night refreshment and will be subject to the existing licence fee so there would be very little impact on income.
- 4.4.2 Although it may appear that the removal of regulated entertainment would reduce enforcement activity by Entertainment Licensing officers, this is unlikely to be the case. The majority of noise complaints processed through the Licensing Section relate to noise nuisance by customers in addition to that of music.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The response to the consultation has few legal implications. The consultation document is available on the internet and is open to all to comment.

4.6 Risk Management

- 4.6.1 Licensing Committee could decide not to respond to the consultation. There would be no further implications.

5 Conclusions

- 5.1 The Government is proposing to deregulate all forms of regulated entertainment that do not need to be regulated. Officers are seeking the views of Licensing Committee to inform the Council's response to the consultation. A report will be provided to November's Licensing Committee with the proposed response.

6 Recommendations

- 6.1 That Licensing Committee note the contents of the report and the consultation document at appendix 1.
- 6.2 That Licensing Committee provide views on the deregulation of entertainment to inform the Council's response to the consultation.

Appendices

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



department for
**culture, media
and sport**

Regulated Entertainment

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

September 2011

improving
the quality
of life for all

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

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Foreword

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

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

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

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

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

John Penrose

Minister for Tourism and Heritage

Chapter 1: Regulated Entertainment - a proposal to deregulate

Introduction

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

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

Chapter 2: The Current situation, and our detailed proposal

The current situation - background

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

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

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

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

Licensing powers and national scale

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

This proposal

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

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

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

Next steps and methodology

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

Who will be interested in this proposal?

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

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

Impacts and benefits

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

benefits.

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

Effect on the current licensing regime

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

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

Proposal Impacts: Questions

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

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

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

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

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

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

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

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

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

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

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

Chapter 3: The role of licensing controls

Introduction

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

The four licensing objectives

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

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

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

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

Crime and disorder

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

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

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

Public Nuisance (noise)

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

Public Safety

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

duties in respect of most non-domestic premises.

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

Protection of Children

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

Size of events

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

Time of events

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

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

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

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

The Role of Licensing Controls: Questions

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 4: Performance of Live Music

Introduction

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

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

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

Our proposal

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

Audience size

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

Performance of Live Music: Questions

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

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

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

Chapter 5: Performance of plays

Introduction

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

Venue sizes

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

Regeneration and renewal

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

Educative value

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

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

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

Our proposal

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

Performance of Plays: Questions

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

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

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

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

Chapter 6: Performance of dance

Introduction

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

Our proposal

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

Performance of Dance: Questions

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

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

Chapter 7: Exhibition of film

Introduction

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

Current situation - discrepancies

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

they would require a licence or a TEN.

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

Our proposal

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

Cinema advertising

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

Exhibition of Film: Questions

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

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

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

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

Chapter 8: Indoor sport

Introduction

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

Outdoor sport

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

Indoor sport

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

Indoor Sport: Questions

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

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

Chapter 9: Boxing and Wrestling

Introduction

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

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

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

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

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

Chapter 10: Recorded Music and Entertainment Facilities

Background: recorded music

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

Our proposal

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

Entertainment facilities

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

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

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

(2) The descriptions of entertainment are—

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

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

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

Recorded Music and Entertainment Facilities: Questions

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

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

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

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

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

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

Introduction

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

Clear laws and clear guidance

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

Unintended consequences: Questions

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

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

Adult entertainment

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

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

11.4. The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 to make provision for the regulation of "sexual entertainment venues". As a result, venues that hold **regular** performance of adult entertainment,

such as lap dance, table dancing or striptease require a separate permission from the local authority.

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

Adult Entertainment: Question

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

Annex A: Summary list of questions

Proposal Impacts: Questions

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

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

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

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

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

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

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

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

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

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

The Role of Licensing Controls: Questions

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

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

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

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

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

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

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

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

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

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

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

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

Performance of Live Music: Questions

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

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

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

Performance of Plays: Questions

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

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

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

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

Performance of Dance: Questions

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

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

Exhibition of Film: Questions

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

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

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

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

Indoor Sport: Questions

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

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

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

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

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

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

Recorded Music and Entertainment Facilities: Questions

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

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

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

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

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

Unintended consequences: Questions

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

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

Adult Entertainment: Question

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

Annex B: How to Respond

You can respond to the consultation in the following ways:

Online

Regulated_entertainment_consultation@culture.gsi.gov.uk

By post

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

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

Closing date

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

After the consultation

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

Freedom of Information

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

Compliance with the Code of Practice on Consultation

This consultation complies with the Code.

Complaints

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

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

Annex C: List of Consultees

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

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

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

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



department for
culture, media
and sport

2-4 Cockspur Street
London SW1Y 5DH
www.culture.gov.uk

Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 18th October 2011

Subject: Large Casino - Application Process

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. The Gambling Act 2005 provides Leeds City Council with the opportunity to grant a Large Casino Premises Licence. Over the last year officers from Entertainment Licensing and City Development have been preparing the process and related documents. This includes a new section to be inserted in the Gambling Act 2005 Statement of Licensing Policy (“the Policy”) and a full application pack.
2. The determination of the licence at both Stage 1 and Stage 2 will be a matter for Licensing Committee. Stage 1 will follow the same process as any other gambling premises licence. It is proposed that Stage 2 will follow a bespoke process.
3. This report outlines for members information on the proposed process for determining the large casino licence.

Recommendations

4. That Licensing Committee consider and approve in principle the proposed process for determining the large casino licence so that the Policy can be finalised for approval by full Council and a draft application pack can be developed for approval by Licensing Committee in January 2012.

1.0 Purpose of this report

- 1.1 To advise Licensing Committee of the proposed process for determining a large casino licence and seek approval in principle to allow finalisation of the relevant sections of the Policy and further development of the draft application pack.

2.0 Background information

- 2.1 The Gambling Act 2005 (the Act) significantly changed the legislation governing the licensing of casinos. The Act, associated regulations and a Code of Practice describe the process the council and the applicant must complete before issuing a large casino licence. This includes:

- Updating the Statement of Licensing Policy to include a statement of the principles the council will apply when determining the casino applications.
- Development of an application pack which describes the procedure the council proposes to follow and how the principles will be applied when determining the licence.
- Commencement of the application process with an advertisement of the “competition” and a two stage application process:
 - Stage 1 follows the same process as for all gambling premises licence application determinations
 - Stage 2 follows an evaluation process which determines which of the competing applications would result in the greatest benefit to the authority’s area (this being the test set out in the Gambling Act itself).

- 2.2 Although the process at Stage 1 follows the same legislative process set out in the Gambling Act 2005 and applied to all gambling premises licence applications (similar to that used for Licensing Act applications), the Government gave authorities very little guidance as to how the process at Stage 2 is to be organised other than:

- applicants are to be given an equal opportunity
- that an authority may engage in discussions with applicants with a view to the particulars of the application being refined, supplemented or altered so as to maximise the benefits
- that an authority may not discuss the details of a person’s application with other applicants without the person’s permission; and
- that there has to be a protocol governing the storage of confidential information.
- that legal agreements may be made to secure the benefits offered conditional on the grant of a licence.

- 2.3 Beyond this there is no guidance at all and so the procedure appears to be for each authority to decide. There is no requirement for a public hearing or representations at Stage 2, merely a requirement that the authority come to a decision.

2.4 Casino Network

2.5 Since 2008, the 16 authorities who were given the ability to issue casino licences have been meeting monthly to discuss a consistent approach and to develop best practice. This group, called the Casino Network, has procured legal advice from Philip Kolvin QC, who is one of the countries leading Counsel in matters relating to licensing. Philip Kolvin has represented both local authorities and the industry in licensing matters for many years and is well respected.

2.6 The Casino Network sought legal advice on the application process, and a standard application pack was developed based on lessons learned from other authorities and best practice. All the authorities have adopted a similar approach based on this legal advice, in order to provide a consistent approach.

2.7 Executive Board

2.8 In March 2010 Executive Board provided steer on the principles the council will apply when making a determination of the casino licence. These principles underpinned the development of the Policy and have informed the development of the application process.

2.9 Development of Application Process

2.10 Officers from Entertainment Licensing have been working with officers from City Development, Legal Services and Procurement to put in place an application process which is robust and mitigates the risk of legal challenge by being fair and transparent. Officers sought specialist advice from other council departments, including Finance and Economic Development.

2.11 City Development (who are leading the project) determined that external advice was necessary to pull together a robust evaluation. External expertise was procured, using the council procurement process, from PriceWaterhouse Cooper. Officers worked with PwC to produce a method of evaluating the Stage 2 applications. (available as background papers).

2.12 As part of this work an evaluation matrix was developed which can be used to score the applications. Three evaluation categories were identified:

- **Financial Contribution** - The nature and scale of financial contribution the applicant will make to the council, in terms of upfront, annual, underwritten variable payments. This also addresses financial models and business forecasts submitted by applicants as well as commercial agreements. This supports the financial and the social principles of the policy
- **Socio-economic benefits** - The applicant's vision and strategic objectives for the development including jobs, how this will address the strategic objectives set out in the policy, the expected net economic impact, and approach to mitigating any negative social impacts. This supports the social and economic principles of the policy

- **Risk and Deliverability** - Funding arrangements, commitments in the legal agreement, financial standing of applicants and implementation arrangements will be evaluated. This supports all three of the principles of the policy to ensure proposals are deliverable.

3.0 Main issues

3.1 Members are asked to consider the following application process:

3.2 Stage 1 Determination

3.3 The process begins with the council advertising the process in a national newspaper.

3.4 Once the application process has been advertised, applicants have three months in which to make their Stage 1 application. This will follow the same basic process as for all gambling licence applications and has the following steps:

- ♦ Application received by the Licensing Authority
- ♦ 28 days consultation period - advertised by site notice and newspaper advert
- ♦ If relevant representations are received, the application will be determined by a Licensing Committee hearing
- ♦ If no relevant representations are received the applications are automatically granted.
- ♦ Applicants are advised which applications would, if there were an unlimited number of licences available, be considered to be granted

3.5 At Stage 1 representations may be received from any responsible authority or interested party. The legislation provides that for the purpose of this process any other applicant can be considered to be an interested party, and it is expected that every application will receive a representation from at least one of the other applicants, as well as possible representations from members of the public.

3.6 It is proposed that Stage 1 is advertised in February 2012, which will lead to determination of Stage 1 taking place in June 2012.

3.7 Stage 2 Determination

3.8 Once Stage 1 has completed and the appeal period is over and any appeals dispensed with, the process will move into Stage 2. A letter will be written to all successful Stage 1 applicants advising them of the start of Stage 2, and inviting their initial applications.

3.9 The initial applications will be reviewed and negotiations will begin with each applicant with a view to the application being refined, supplemented or altered so as to maximise the benefits.

- 3.10 Once the negotiations have come to an end, applicants will be asked to make their final and best application. It is this application that will be scored against the evaluation matrix and each application will be scored against each sub-criteria and an overall score provided.
- 3.11 Licensing Committee will consider each application and determine which one, if granted, would bring the greatest benefit to the area.
- 3.12 Licensing Committee will make a “minded to grant” decision on their chosen applicant and instruct officers to finalise the legal agreement which will bind the applicant to the benefits proposed in their application. Once this is completed the Licensing Committee will reconvene to formally grant the licence.
- 3.13 Notice of rejection is then given to all the unsuccessful applicants
- 3.14 Use of an Advisory Panel
- 3.15 To assist in the evaluation applicants will be asked to provide a number of standard documents (detailed in **Appendix 1**) which will form the Stage 2 Application. This will allow a like-for-like comparison of the applications. From the experience of other councils who have already undergone this process it is expected that these documents will be extensive and fill at least an archive box, possibly two, per applicant. There is a requirement that the Stage 2 applications be kept securely and confidentially, and therefore tight document control will be important to ensure that confidentiality is not breached.
- 3.16 Officers consider that members will wish to draw on specialist advice in evaluating the applications, to provide detailed technical analysis especially in relation to areas relating to finance and credit assumptions, socio-economic impacts, health impacts, the credibility of the casino offer, and so on.
- 3.17 One option for this kind of evaluation would consist of an initial review by Licensing Committee, who would advise officers of which specialist they will require a report from. The report would be obtained and brought back to the Licensing Committee at a later date. However this approach would lead to excessive delays in the evaluation of applications, as each external advisor would need to be procured which is a process that can take up to three months.
- 3.18 In order to streamline the process and to keep control of documentation and timescales, Counsel strongly advises the use of an Advisory Panel to evaluate the applications, undertake negotiations and provide Licensing Committee with an evaluation report before they meet to determine the licence.
- 3.19 City Development are working on a detailed proposal for the Advisory Panel Terms of Reference which will be considered by Licensing Committee in January. However, the broad proposal is as follows:

- Advisory Panel will be completely independent of the decision making process, avoiding bias.
- They will undertake an initial review of the application and undertake the negotiation with applicants.
- Once the final application is received, the Advisory Panel will provide one report per application detailing the benefits offered and committed to, with an evaluation of how credible that offer is.
- The Advisory Panel will score each application using the standard scoring matrix provided in the Stage 2 Evaluation methodology.
- Advisory Panel will present each report to Licensing Committee and be available to respond to any questions about the evaluation. The Advisory Panel will not select a preferred applicant, but merely make an analysis of each application.

3.20 The benefit of this is:

- It will be easier to control timescales and to set realistic deadlines
- Specialist officers from the council will be able to plan and dedicate time to the process
- External advisors can be procured providing the best value for money for the council
- Expertise in negotiations and conclusion of legal documents
- The council can better ensure it meets the requirements of confidentiality and document control

3.21 Licensing Committee will then discuss the applications and the report from the Advisory Panel and select their preferred applicant. If further information is required, Licensing Committee may request this from the Advisory Panel before making their determination.

3.22 Licensing Committee will instruct the legal advisors to finalise the legal agreement and once this is done will reconvene to grant the licence.

3.23 In addition it is important that the members who start the evaluation process are the same members who make the final decision. This will be easier to achieve if member involvement is concentrated within a smaller timeframe.

3.24 Composition of Advisory Panel

3.25 City Development propose that wherever possible internal advisers are used to provide value for money. However there are some areas where the specialism required is outside of the expertise of the council. Specific details will follow but it is expected the panel would consist of the advisors as described in **Appendix 3**.

3.26 Process & Timetable

3.27 It is proposed that Advisory Panel will be managed by City Development who have similar expertise from major planning developments, including the drawing up of legal agreements under procurement processes and evaluating proposals from commercial operators and developers.

3.28 The proposed timetable is as follows:

Activity	Date
Advertisement of application process	Feb 2012
Stage 1 Committee hearings	Jun 2012
The applicants will submit information required by the Stage 2 Evaluation Methodology demonstrating how their application, if granted, would be likely to result in the greatest benefit to the council's area.	Jun 2012
Initial review of applications by Advisory Panel	Aug 2012
Dialogue meetings - applicants will be invited to participate in dialogue with the council in order to refine, supplement or otherwise alter their application in order to maximise the benefits to the council's area.	Sep 2012
Applicants will respond to the dialogue with a final and best application	Nov 2012
Advisory Panel's evaluation reports presented to Licensing Committee	Dec 2012
Selection of preferred applicant by Licensing Committee (minded to grant decision)	Dec 2012
Finalisation of Schedule 9 agreement (by legal advisors)	Dec 2012
Grant of licence	Dec 2012

3.29 The detailed process can be found in Stage 2 Guidance (**Appendix 2**).

4.0 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Due to timescales and the desire to consult on the application pack alongside the policy, the application pack was presented to the public for consultation in July. This four week consultation did elicit one detailed response from the industry who queried some technical aspects of the application pack. The response to these comments have been included in the Statement of Licensing Policy consultation response (available as background papers), but will be considered further at a later date by Licensing Committee when the application pack is formally approved.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 The Gambling Act 2005 has three licensing objectives:

- a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- b) ensuring that gambling is conducted in a fair and open way, and
- c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

4.2.2 The licensing authority, in exercising their functions under the Act, shall aim to permit the use of premises for gambling in so far as it thinks its reasonably consistent with the licensing objectives. The council has produced a revised Policy with this in mind and has taken special consideration of the protection of children and vulnerable people.

4.3 Council Policies and City Priorities

4.3.1 The application pack is based upon the principles as described in the Gambling Act 2005 Statement of Licensing Policy. Applicants for the large casino are expected to read the Policy before making their application and the council will refer to the Policy when making its decisions.

4.4 Resources and Value for Money

4.4.1 The large casino provides the council with the opportunity to secure benefits for the city. Although the development of the revised Policy and application pack, as well as the upcoming application process has had a cost associated with it, the project is being delivered within the budget approved at Executive Board on 3rd March 2010.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The application pack has received internal legal assurance from Legal Services and external legal assurance from Counsel. The only recourse for applicants is appeal to the Magistrates Court at the end of Stage 1 and Judicial Review of the decision made at the end of Stage 2. Therefore, the application pack has been developed with transparency and fairness as a prime consideration.

4.6 Risk Management

4.6.1 Licensing Committee can decide not to endorse the approach detailed in Section 3 and propose a different approach. However, this would result in the need to redevelop the application pack. This would impact on the project timescales and may incur additional costs for the council.

5 Conclusions

5.1 The application pack has been developed to meet both the statutory requirements and the need to be risk aware. The risk of legal challenge with this process is high, with the process being untested. There is a strong need to be open and transparent.

- 5.2 The application process is being presented to Licensing Committee in advance of the final draft application pack to ensure that Licensing Committee are aware of and approve the proposed approach in principle and to ensure that the various approvals required can take place at the required time and without changes to one aspect inadvertently affecting other approvals.

6 Recommendations

- 6.1 That Licensing Committee consider and approve in principle the proposed process for determining the large casino licence set out in this report so that the Policy can be finalised for approval by full Council and that the draft application pack can be developed for approval by Licensing Committee in January 2012.

7.0 Background documents (available from the report author)

- 7.1 Revised Gambling Act 2005 Statement of Licensing Policy 2010-2012
- 7.2 Gambling Act 2005 Statement of Licensing Policy Consultation Report
- 7.3 Stage 2 Evaluation Methodology

Appendices

1. Evidence to be supplied by applicants
2. Stage 2 Guidance

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Documents to form part of the Stage 2 Application

Financial

- 1 A completed Proforma, outlining the payment to be received upon the signing of the Schedule 9 Agreement, including the underwritten and the variable annual payments.
- 2 A written narrative of the offer to the council, stating within this narrative the basis of the payments to the council, including the timing and form of such payments, and any contingencies, preconditions or triggers upon which the payments, or the amounts thereof, depend.
- 3 A detailed financial model supporting the outputs provided within the Financial Offer Proforma. Applicants are encouraged to provide as much detail as they believe reasonable in order to explain the results set out in the Proforma provided.

Socio-economic

- 1 A clear and concise assessment of local objectives, including those in the policy, to be addressed by the applicant's proposals, detail of how these objectives will be addressed, with the rationale for these views.
- 2 A clear statement of how the casino and other related developments will maximise the potential benefits that could be secured for the Leeds metropolitan area in line with the principles set out in the policy.
- 3 A summary of the approaches to be adopted to implementing proposals including monitoring and reporting arrangements. A detailed description should be provided for implementation.
- 4 Completion of a proforma providing details on qualifications and training data.
- 5 Case studies of existing approaches covering employment and training, working with local businesses and developing local supply chains.
- 6 Signed letters of support from company/parent board level or similar to reflect the level of commitment from the company, copies of Board Minutes, etc, underlining senior management commitment to the vision for the proposed developments and its linkages to the council's objectives as set out in the policy.
- 7 A completed gross economic benefit Proforma and supporting information tables.
- 8 Narrative setting the context for and outlining the expected benefits/impacts and justification for the gross figures provided in the Gross Economic Benefits Proforma and Tables 3A to 3G (provided with the application pack), covering the assumptions used and the evidence to underpin these.
- 9 An Equality Impact Assessment providing a detailed description and analysis of the:
 - ♦ Social mix of the location.
 - ♦ Equality characteristics considered (should cover as a minimum assessment of age, race, sex, carers, disability, religion or belief, sexual orientation, gender reassignment).

- ◆ Identification of potential impacts and their remedial action/mitigation.
- ◆ Details of key stakeholders and partners.
- ◆ Community consultations undertaken (with groups who may be affected and feedback from consultation).
- ◆ Research studies undertaken, e.g. into the potential barriers individuals may face based on different equality strands.
- ◆ Details of individuals responsible for management of equality and diversity, and of those with lead responsibility for actions detailing type of action, likely timescales, measures to be implemented.
- ◆ Appropriate diagrammatic and graphical representation to underpin analysis and commentary.
- ◆ Detailed description of proposed activities, including case studies of previous examples, with plans for how the applicant proposes to involve and cooperate with the council and local partners to support and deliver local social programmes.

Risk and deliverability

- 1 The detailed commentary should include as a minimum separate sections on:
 - ◆ Acceptance of clauses.
 - ◆ Amendments/ additions to Schedule 9.
 - ◆ Benefits that the applicant will make a contractual commitment on levels of payment for non-delivery the applicant will make for those contractual commitments
- 2 Comments should be clearly referenced to the paragraph number within the draft Schedule 9 Agreement. Information must be clear, unambiguous and easy to understand.
- 3 Applicants should provide a fully complete and, if necessary, marked up Schedule 9 Agreement outlining changes and amendments made as well as additions. Mark ups should use track changes so all changes made are clearly audited.
- 4 A detailed funding sources and uses schedule, outlining all anticipated costs to open and operate a Large Casino with a comprehensive breakdown of funding sources to pay for these costs. This information should fully reconcile to the financial model provided as part of the assessment in para 1.1.4 of the Evaluation Methodology.
- 5 A clear explanation of the approach to funding the development, detailing the source of funds, the level of commitment to the their provision including any conditions or restrictions and underpinned by the provision of appropriate support (e.g. letters of support from proposed funders, copies of Board minutes detailing commitment to the provision of funds, Parent Company Guarantee, etc.).
- 6 Applicants should provide a detailed plan, outlining their funding strategy and providing evidence where appropriate for the availability of required finance.
- 7 Dun and Bradstreet Credit Report (or equivalent where not available) and Statutory Accounts
- 8 Written confirmation of material changes to the accounts since publication
- 9 Copy of land registry ownership record or signed lease agreement (or equivalent) to occupy chosen location or premises.

- 10 A clear plan, with risk analysis and mitigation, outlining how the right to occupy the site/premises leading to operation of casino will be secured within a specified timeframe, including appropriate evidence to underpin justification of proposed approach.
- 11 Particular attention should be given to the following areas (however applicants should note this list is not exhaustive) and detail provided on:
 - ◆ Discussions held to date with relevant parties
 - ◆ Timetable to occupation
 - ◆ Any constraints attached to site and or buildings (including title constraints, restrictions to development) and their potential impact on time table
 - ◆ Risk assessment of potential issues to obtaining the right to occupy
 - ◆ Mitigating factors to the Risk Assessment
- 12 Name of vendor(s), if any.
- 13 A concise and detailed description of how the proposed developments will be managed to deliver the expected outcomes identified by the applicants in their application and agreed within the Schedule 9 Agreement with the council, to time, and how this performance will be recognised, monitored and reported on
- 14 A high level master-plan and a RIBA Stage B as a minimum for the casino and for each element of related developments
- 15 Robust and evidenced based marketing strategies and promotional programmes
- 16 Provision of a detailed timetable to the opening of a large casino and related developments (where appropriate) which will be set out in the Schedule 9 Agreement with the council
- 17 Detailed, evidence-based, case studies of experience addressing Leeds' requirements as set out in the policy and addressing the requirements of the Gambling Commission Code of Practice
- 18 A summary of key lessons learnt and implications for meetings Leeds' requirements and how these have been addressed in the applicant's proposals

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Stage 2 Guidance

Large Casino Application Pack



Purpose

This guidance note informs potential applicants of the procedure and rules of stage 2 of the application process in compliance with section 5.21 of the Code of Practice.

It is published to conform to the requirements set by Parliament and the Secretary of State and to ensure an application process which is both transparent and fair. Applicants are required to comply with the procedure as set out in this guidance note.

The Stage 2 Procedure

In general, the stage 2 procedure will follow the Code of Practice. However the Code leaves individual authorities to determine the detail of their own procedure.

Should more than one applicant pass through stage 1, the process will proceed to the second stage, with each applicant being invited to submit information about how their application would, if granted, benefit the area.

The stage 2 procedure that the council will utilise has been determined by the council to ensure fairness, equality between applicants and transparency; and also to secure the maximum benefits from the process for the Leeds metropolitan area, in order to achieve the principles detailed in the council's Gambling Act 2005 Statement of Licensing Policy 2010-2012 (sections 16.5 to 16.55). In particular, the stage 2 procedure will seek to ensure that the following principles are achieved:

Financial To seek to maximise the financial return to the council.

Social To use any financial return accrued to facilitate the delivery of programmes and projects that support the Council's social and economic inclusion agenda, for the benefit of the Leeds metropolitan area.

Economic To secure a positive and significant economic impact for the local economy through the provision of a Large Casino in Leeds.

The procedure will include a number of 'phases'. Details of each phase and directions to further information are explained below. The Public Contracts Regulations 2006 do not apply to this procedure.

The phases of the stage 2 procedure are as follows

Phases	Notices issued to applicants
Invitation to participate in Stage 2	Notice 1 – successful stage 1 applicants asked to confirm that they will submit a stage 2 application
Application Stage	Notice 2 - applicants who have confirmed they intend to apply advised when the application stage will commence and the deadline for submissions of the stage 2 application
Initial Assessment and Validation – Review Stage	The Advisory Panel may seek to clarify with applicants, via SCMS, all aspects of their application
Dialogue Stage	Notice 3 – an invitation for applicants to participate in dialogue sessions with the Advisory Panel
Final and Best Application Stage	Notice 4 – a notice outlining the closure of the dialogue and submission date by which final and best application to be received.

Phases	Notices issued to applicants
Final and Best Application: Evaluation by Advisory Panel	The Advisory Panel may seek to clarify with applicants, via SCMS, aspects of their application. Draft evaluation reports will be issued to applicants
Licensing Committee	Notice 5 – applicants informed Licensing Committee will meet to discuss applications
Finalisation of schedule 9 agreement	Notice 6 – issued to the preferred applicant that negotiations to finalise the schedule 9 will commence
Licence granted	All applicants will be informed of the outcome

Invitation Stage

The council will initiate the stage 2 procedure by issuing a notice to each successful stage 1 applicant informing them that they have been invited to submit an application for stage 2 (Notice 1).

Applicants will be asked to complete a form, within 7 working days, confirming that they will submit a stage 2 application. At this stage, potential applicants will also be asked to provide named contacts where communications about and during stage 2 should be communicated.

Once confirmation is received from applicants wishing to make an application, the council will then communicate with each applicant informing them of the date the application stage will commence (Notice 2).

The council makes no guarantee that stage 2 will immediately follow stage 1 and timings will be finalised once stage 1 is concluded. An indicative timetable is provided in this document and in general information.

Application Stage

Once the Stage 2 application stage commences (as per the date detailed in Notice 2), applicants will be required to prepare and submit a stage 2 application. This must comply with, and follow, the requirements set out in the application pack document entitled 'Stage 2 Evaluation Methodology'. This document details for each criterion, the type of information required, the format it is to be presented in and provides further information on the council's requirements.

Applicants must:

- Provide all information requested in the 'Stage 2 Evaluation Methodology'
- Provide all information in the format requested in the 'Stage 2 Evaluation Methodology'
- Follow all instructions and take account of all information detailed in the 'Stage 2 Evaluation Methodology' when making their application.
- Complete the template schedule 9 agreement, and detail the benefits the applicant will make a contractual obligation to deliver and proposed payments for non delivery.

Failure to comply with the bullet points above will affect the evaluation and may have a negative impact on scores given to applications. In order to maximise marks and demonstrate benefit to the Leeds metropolitan area, applicants **should examine and comply with the Stage 2 Evaluation Methodology at all times.**

During the period where the application phase is open, a 'Request for Information' procedure will be implemented. This procedure (appendix 1) outlines how:

- applicants can raise questions or request clarification
- applicants can communicate with the council
- the council will respond to queries

For the avoidance of doubt, applicants will be provided details of named council contacts who will be authorised to communicate with applicants throughout stage 2. Applicants must only take into account **written** information directly provided by the named contacts and must only take into account information transmitted through this procedure.

The council will not respond, nor will any response be provided, to queries seeking comment on the merit of an application, nor will it provide any comment on the merit or status of other applications. The council will offer no response to comments applicants may make with regard to other applications and nor will it take them into account as part of the evaluation process.

During the stage 2 application stage (and indeed all other phases), applicants must not publicise their plans or make public statements about their involvement in the stage 2 process.

The council will not undertake public consultation on applications received during stage 2, and applicants are requested not to canvass for local support during the stage 2 process.

When the application stage opens applicants will be provided, in Notice 2, with details on the deadline by which their initial application must be submitted

This is likely to be eight working weeks from the date Notice 2 is issued. Stage 2 applications must be submitted by the deadline communicated through the council's supplier and contractors management system (SCMS) [see appendix 2 for details].

By submitting the application, applicants will be demonstrating how their bid, if successful would bring the greatest benefit to the Leeds metropolitan area. Applications therefore should be of high quality. All applications must be in English and any financial references must be in Pounds Sterling. The council does not wish to set a word limit on the applicants' responses but in order to facilitate the process and keep costs to a minimum, applicants are encouraged to provide succinct answers to the questions raised.

In addition to submissions through the SCMS system, the council will require the submission in the following forms:

- 10 CD copies to be submitted to xxxxxx
- 5 printed versions to be submitted to xxxxxx

Initial Assessment and Validation – review period

After receipt, each application will be checked for compliance with the application instructions and for completeness with the requirements of the council detailed in the Evaluation Methodology. No applications will be scored at this stage.

At this point, the Advisory Panel will, for each application:

- identify areas where clarification, refinement, supplementation, alteration is required to maximise the benefits for the Leeds metropolitan area
- note the areas where application instructions have not been complied with
- undertake assessment of gross economic figures to identify the net economic impact of proposals, as detailed in sub-criteria 2.2.1.
- undertake a review of the completed schedule 9 template

During the review period, the council may contact applicants, through the SCMS system, to call for more information or to clarify aspects of the application to assist the Advisory Panel during the review period. It is anticipated that the review period will take around four weeks to conclude.

Dialogue Stage

Following the 'initial assessment and validation – review period', applicants will be invited to attend and participate in Dialogue Sessions (notice 3). The meetings will be an opportunity for dialogue on the application in order for applicants to refine, supplement or otherwise alter their application in order to maximise the benefits to the council's area. This period provides an opportunity for enhancements to be made to applications.

The topics discussed at each meeting and the number of meetings taking place will depend upon the clarifications required and the nature of clarifications. All applicants will have the opportunity to have equal amounts of meeting time with the Advisory Panel during the clarification period.

Table 1 offers some guidance as to the nature of discussions that may take place and the format of the sessions. Primarily, discussion will be focussed around the evaluation criteria and the information requested in the Stage 2 Evaluation Methodology. Applicants should pay particular regard to the

requirements set out in the Evaluation Methodology at all times and clarifications will be focussed on applicant responses to the Evaluation Methodology.

During the dialogue sessions, the council will share with each applicant the initial assessment of its application showing the calculations of net economic impact and will seek to agree the net impact of the proposals with each applicant.

Dialogue Sessions Outline

For Financial Contribution

- ♦ Council outlining what they expect from the applicants
- ♦ Applicant outlining what they provide by way of financial contribution to maximise benefit to the Leeds metropolitan area
- ♦ Questions from council to clarify, with view of applications being refined, supplemented or otherwise altered to maximise benefits for the Leeds metropolitan area.

Table 1

At each dialogue session:

- A member of the Advisory Panel will chair the meetings and discussion.
- Each applicant must not have more than five representatives in attendance.
- Minutes recording matters discussed at the session will be taken by council officers, and minutes will be circulated to the applicant within 8 working days of each session. The applicant will confirm agreement, or otherwise, as to the accuracy of the minutes within 2 working days. If no response is received from the applicant within this time the minutes shall be deemed to be agreed.
- The council will not provide any details on other applications; nor will it give any indication of the likelihood of an application being successful or otherwise.

At dialogue sessions, advisory panel members in attendance will:

- In line with the statement of licensing policy and stage 2 evaluation methodology, make clear the council's requirements for greatest benefit for the Leeds metropolitan area
- Provide applicants with an opportunity to explain the details behind their application and proposals to maximise benefit to the Leeds metropolitan area
- In line with information requested in the stage 2 evaluation methodology, highlight areas where information is missing
- Highlight those clauses in the completed schedule 9 agreement that the council require and the clauses inserted by the applicants that the council considers will not meet its requirements or require refinement.
- Discuss the commitments made by applicants in the schedule 9 agreement with view of maximising commitments made.
- Based on information collated in the review and validation stage, seek clarification from applicants on their application, with view of applications being refined, supplemented or otherwise altered to maximise benefits for the Leeds metropolitan area
- Discuss enhancements to the applicant's offer.
- Share assessments demonstrating the net economic impact of contractually committed development proposals

The Advisory Panel will not:

- Share any information with individual applicants on the contents of other applications
- Give more information to one applicant than another when clarifying and when communicating the council's requirements.
- Compare one application to another
- Give a response to comments made by applicants on other applications nor will it take them into account
- Provide a response to queries seeking comment on the merit of an application or other applications
- Indicate what score may be given to an application
- Respond to queries questioning whether the applicant's response will score highly or lowly
- Tell applicants how to specifically improve their application, but will instead ask questions to clarify on areas where the Advisory Panel is of the view further clarification, refinement and supplementation is required to help maximise benefit to the Leeds metropolitan area and seek to ascertain whether the applicant is prepared to enhance any aspects of its bid.

All applicants must respect this and not ask questions that compromise this process.

Once the Advisory Panel is satisfied that applicants have had suitable opportunity to clarify or enhance their application with view of it being refined, supplemented or altered to maximise benefit to the Leeds metropolitan area, dialogue on a particular topic will cease. Applicants should note conclusion of dialogue by the Advisory Panel on a topic is not the same as the council being satisfied that the application will meet requirements.

The purpose of dialogue sessions is to gain clarification and enhancement of the bid with a view to maximising benefit and is not to inform applicants of the likely merit of their application. Applicants must consider at all times how their application can be enhanced, refined or supplemented throughout the process of their own accord.

Where matters raised in the dialogue phase by either an applicant or by the council are deemed to affect all applications, the council will share information (the query and the response) to all applicants to ensure one applicant is not favoured over another to ensure all applicants have equal access to information that may affect future evaluations.

During the period where the clarification and enhancement phase is open, a 'Request for Information' procedure will remain. This procedure (provided in appendix 1) outlines how:

- applicants can raise questions or request clarification
- how the council will communicate clarification requests outside of meetings
- the council will respond to queries

The council anticipate that the dialogue phase will last approximately 4-8 weeks. This period may be shortened or extended at the council's discretion. Applicants are required to be fully flexible as to their availability during this period.

Final and Best Application Stage

Two weeks before the end of the dialogue period, the council will issue a notice to each applicant informing them when the dialogue period will end (notice 4). This notice will inform applicants of a deadline whereby applicants must submit their final and best applications to the council.

The date will be known as the final and best application deadline. There will be **no** opportunity to improve the application after this deadline. For avoidance of doubt, the final and best application must be the best offer the applicant will commit to deliver and must be the final proposal to maximise benefit to the Leeds metropolitan area.

Final and best application can take the form of a resubmitted application incorporating all amendments applicants wish to make, or an addendum or a schedule of changes to the initial full and complete application. Any changes must be clear and easy to understand.

The final and best application should be submitted through SCMS.

In addition to applications submitted through the SCMS system, the council will require the submission in the following forms:

- 10 CD copies to be submitted to xxxxx
- 5 printed versions to be submitted to xxxxxx

Final and Best Application: Evaluation by Advisory Panel

Following receipt of the final and best applications, the Advisory Panel will, in line with their Terms of Reference and the Stage 2 Evaluation Methodology:

- undertake a review of all information submitted to check for compliance with the Evaluation Methodology. At this point, the council may issue questions to applicants seeking clarification where an element of the application is unclear. Applicants can not, however, at this stage make any improvements to their application and will only be able to clarify points.
- undertake a full evaluation of the final and best applications
- provide a recommended score for each application against the scoring matrix.

In the event of the same final score or a score within 2% of the highest score the council will:

- ♦ Check the scores
- ♦ Remove rounding
- ♦ Review all aspects of the evaluation undertaken to ensure that the scores given by the Advisory Panel are correct.

Following evaluation, the Advisory Panel will then produce a draft qualitative and quantitative report on each application. The draft report will be sent to the applicant so that they have the opportunity to outline what they see as factual errors. The applicant will not be able to enhance their application at this stage. Any new or further factual information submitted by the applicant at this time will be returned to the applicant.

The Advisory Panel will then prepare its final report, which will be sent to the Licensing Committee. At this stage, the council will issue Notice 5 to applicants informing them that the Licensing Committee will meet to discuss applications.

Licensing Committee Stage

The Licensing Committee will meet to discuss all the applications. As each of the applications will be compared to each other it will not be possible to permit the public to this meeting. Applicants will not be permitted to present to the Licensing Committee. Members of the Advisory Panel will attend the meeting to present details on each application and to answer questions Licensing Committee may have on the application.

The Licensing Committee will evaluate the applications, and consider the Advisory Panel Reports. It will rank the applicants in order of preference on the basis of benefit to the Leeds metropolitan area. The top ranked applicant will at this point become the 'preferred applicant'.

The Licensing Committee will issue a 'minded to grant' decision and instruct officers to legally complete negotiations on a schedule 9 agreement with the preferred applicant, instructing officers to report back within a set timescale. This negotiation will be undertaken by the council's legal advisors. At this stage, the council will issue a notice (notice 6) to the preferred applicant informing them of the minded to grant decision and that the council will seek to finalise the schedule 9 agreement.

Finalisation of Schedule 9 Agreement

At this point, the council and its legal advisors will finalise the schedule 9 agreement with the preferred applicant.

Should the preferred applicant and the council be unable to come to an agreement under Schedule 9 of the Act, discussions will end and the Licensing Committee will instruct officers to negotiate with the second placed applicant. At this point the second placed applicant will become the 'preferred applicant'.

A requirement of the council is for a financial payment to be made upon the signing of the schedule 9 agreement. The council will accept a banker's draft or other form or method of payment from the applicant upon the signing of the agreement and will take payment once the licensing committee make their final decision.

Licence Granted

Once and if the schedule 9 agreement is signed and finalised, officers will report back to the Licensing Committee and the Premises Licence/Provisional Statement will be granted.

Once the Premises Licence/Provisional Statement is granted, the council will announce its decision to unsuccessful applicants and to the public. This will then conclude the stage 2 procedure.

Following the decision, the council will offer feedback to unsuccessful applicants if requested to do so.

Indicative Timetable

The following indicative timetable provides an early indication as to the timescales of the stage 2 procedure.

Activity	Date
The applicants will submit information required by the Stage 2 Evaluation Methodology demonstrating how their application, if granted, would be likely to result in the greatest benefit to the council's area.	June 2012
Initial review of applications by Advisory Panel	August 2012
Dialogue meetings Applicants will be invited to participate in dialogue with the council in order to refine, supplement or otherwise alter their application in order to maximise the benefits to the council's area.	September 2012
Applicants will respond to the dialogue with a final and best application	November 2012
Advisory Panel's evaluation reports presented to Licensing Committee	December 2012
Selection of preferred applicant and final negotiation of Schedule 9 agreement.	December 2012
Grant of licence	December 2012

The council reserves the right at any time:

- To issue amendments or modifications to the Stage 2 Evaluation Methodology or to the Stage 2 Procedure
- To alter the timetable during the stage 2 process

Disclaimers

By submitting a stage 2 application, all applicants automatically and without dispute, agree to the following terms:

Conflict of Interest

The applicant shall notify the council immediately upon becoming aware of any possible conflict of interest which may arise between the interests of the council . The applicant shall take all reasonable steps to remove or avoid the cause of any such conflict of interest to the satisfaction of the council.

Corrupt Gifts and Payments of Commission

The applicant shall not:

1. offer or give or agree to give any person employed by the council or acting on its behalf any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining of their application or for showing or forbearing to show favour or disfavour to any person in relation to their application; nor
2. submit an application if in connection with it commission has been paid or agreed to be paid to any person employed by the Council or acting on its behalf by the applicant or on the applicant's behalf or to the applicant's knowledge, unless before the application is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Council.

Confidentiality

The Council and the applicant:-

1. shall treat all confidential information belonging to the other party as confidential and safeguard it accordingly; and

2. shall not disclose any confidential information belonging to the other party to any other person without the prior written consent of the other party, except to such persons and to such extent as may be necessary for the evaluation of the application or except where disclosure is otherwise expressly permitted under the stage 2 procedure .

The applicant shall take all necessary precautions to ensure that all confidential information obtained from the council under or in connection with the stage 2 procedure:-

1. is given only to such of the staff and professional advisors or consultants engaged to advise it in connection with the application as is strictly necessary for the completion of the application and only to the extent necessary for the completion of the application;
2. is treated as confidential and not disclosed (without prior approval) or used by any staff or such professional advisors or consultants' otherwise than for the purposes of completion of the application.

Where it is considered necessary in the opinion of the council, the applicant shall ensure that staff or such professional advisors or consultants sign a confidentiality undertaking before commencing work in connection with the application.

The applicant shall not use any confidential information received otherwise than for the purposes of completing the application.

The provisions of Clauses 3.1 to 3.4 shall not apply to any confidential information received by one party from the other:

1. which is or becomes public knowledge (otherwise than by breach of this condition);
2. which was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;
3. which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
4. is independently developed without access to the confidential information; or
5. which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, or the Environmental Information Regulations pursuant to Condition 4 (Freedom of Information) or
6. where the receiving party is the council and the confidential information is or is related to an item of business at a meeting of the council or of any committee, sub-committee or joint committee of the council or is or is related to an executive decision and it is not reasonably practicable for that item of business to be transacted or for that executive decision to be made without reference to the confidential information PROVIDED THAT where the confidential information is exempt information within the meaning of section 10I of the Local Government Act 1972 (as amended) the council shall consider properly whether or not to exercise its powers under Part V of that Act or (in the case of executive decisions) under the Local Authorities (Executive Arrangements) (Access to Information)(England) Regulations 2000 as amended to prevent the disclosure of that confidential information and in so doing shall give due weight to the interests of the applicant and where reasonably practicable shall consider any representations made by the applicant.

Nothing in this condition shall prevent the council disclosing any confidential information for the purpose of:-

1. the auditing examination and certification of the council's accounts; or
2. disclosing any confidential information obtained from the applicant:-
 - a. to any department, office or agency of the council or to any regulatory authority or body; or
 - b. to any person engaged in providing any services to the council for any purpose relating to or ancillary to the application;

3. provided that in disclosing information under sub-paragraph (b)(i) or (ii) the council discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence .

Nothing in this condition shall prevent either party from using any techniques, ideas or know-how gained during the application process in the course of its normal business, to the extent that this does not result in a disclosure of confidential information or an infringement of intellectual property rights.

Freedom of Information Act 2000

The applicant acknowledges that the council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the council (at the applicant's expense) to enable the council to comply with these information disclosure requirements.

The applicant shall and shall procure that its sub-contractors shall:

1. transfer any Request for Information to the other party as soon as practicable after receipt and in any event within two working days of receiving a Request for Information;
2. provide the council with a copy of all information in its possession or power in the form that the council requires within five working days (or such other period as the council may specify) of the council requesting that information; and
3. provide all necessary assistance as reasonably requested by the council to enable the council to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA.

The council shall be responsible for determining at its absolute discretion whether:-

1. the information is exempt from disclosure under , the FOIA and the Environmental Information Regulations;
2. the information is to be disclosed in response to a Request for Information, and
3. in no event shall the applicant respond directly to a Request for Information unless expressly authorised to do so by the council.

The applicant acknowledges that the council may, acting in accordance with the FOIA, the Local Government Act 1972 (as amended) the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) or the Environmental Information Regulations be obliged to disclose Information:-

1. without consulting with the applicant, or
2. following consultation with the applicant and having taken its views into account.

The applicant shall ensure that all information produced in the course of making the application or relating to the application is retained for disclosure and shall permit the council to inspect such records as requested from time to time.

The applicant acknowledges that any lists or schedules provided by it outlining confidential information are of indicative value only and that the council may nevertheless be obliged to disclose confidential information in accordance with this clause.

Definitions

"Confidential information" means information, the disclosure of which would constitute an actionable breach of confidence, which has either been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including commercially sensitive information, information which relates to the business, affairs, properties, assets, trading practices, services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998;

"Environmental Information Regulations" means the Environmental Information Regulations 2004;

"FOIA" means the Freedom of Information Act 2000 and any subordinate legislation guidance and/or codes of practice made or issued under this Act from time to time;

"Information" has the meaning given under section 84 of the Freedom of Information Act 2000;

"Requests for Information" shall have the meaning set out in FOIA or any apparent request for information under the FOIA, or the Environmental Information Regulations .

Publicity

No publicity or other information relating to this process is to be released by any applicant without the prior written approval of the council.

Council Liability

The council accepts no liability with regards to the grant of any licence or as to the actual amount of work included within any successful application. The council will not be responsible for, or pay, any losses or expenses which may be incurred by the applicant in the preparation and submission of their application, including (but not limited to) the attendance at any pre or post application meetings, the delivery of any presentations by the applicant to the council in relation to their application, site visits or other negotiations.

Use of personal data

Leeds City Council is under a duty to protect the public funds it administers, and to this end may use the information you have provided on your application for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

Appendix 1: Applicant's Questions and Clarifications - Request for Information Procedure

Any questions or requests for further information, clarification or correction of any information must be submitted via the Request for Information (RFI) procedure outlined below. RFIs are to be submitted no later than 7 working days before the any given deadline provided in any notice given.

Questions and requests for clarification may only be made, and will only be entertained, if made via xxxx (xxxx@leeds.gov.uk). All emails are to be titled "Leeds Large Casino Bid: Request for Information."

Requests for Information Procedure

During set points of the stage 2 procedure applicants may submit questions and requests for clarification for further information. Applicants should note that during the stage 2 procedure and subsequent application they should not contact the council, employees or advisors or any third parties connected to the council, or the advisors to this application, outside of the process outlined within this section and elsewhere within this document.

Applicants should note and adhere to the following Request for Information procedure:

- ♦ Questions and requests for clarification must be made formally in writing through the preparation and submission of the Request for Information template included in Appendix 3.
- ♦ The council will use all reasonable endeavours to answer the RFI within 5 working days of receipt of the request.
- ♦ Questions and requests for clarification, and the corresponding responses, will be circulated to all applicants via the alito system, unless it is deemed that the matter is commercially sensitive to an applicant
- ♦ Applicants should indicate when submitting an RFI, whether or not they believe the query is commercially confidential to them and should not therefore be shared with other applicants.
- ♦ The council will not respond to RFI's received within 7 working days of any deadline.

The response to RFIs raised by applicants will be published via the Raise a Clarification section of the scheme reference (Insert reference number) on <http://scms.alito.co.uk>. These will be made public, where deemed relevant, to all applicants. If the clarification is specific to that applicant or their application or if it is deemed commercially confidential, it will be communicated only to the applicant raising the query.

If the council, wishes to clarify a matter throughout the evaluation period this will also be communicated via the alito system. Applicant should check the alito system on a regular basis.

Applicant Information

Except where the council considers that questions are not material to the application process and the fullest understanding of its objectives, such questions and their subsequent replies will be disseminated to all applicants.

Subject to this, the Council will keep confidential all information relating to its dialogue in relation to applications and will not share this information with any other applicant. Applicants should note that the council is a public body for the purposes of the Freedom of Information Act 2000 (the Act) and the Environmental Information Regulations 2004 (EIR) and that whilst they consider that information relating to the applications is confidential, they will be bound to treat applications for disclosure on their merits, although they will work with applicants in dealing with any requests for information made under the Act or EIR from third parties.

Applicants should note in relation to all responses to questions that the council offer no guarantee that such information in response to questions will be made available at this stage and are not warranting its accuracy.

Confidentiality of application during the dialogue process

The council acknowledges the need during the dialogue to treat applicants' applications confidentially. If during the process any questions asked of or information proposed to the council are considered by the applicant to be confidential (for example, on the basis that the request, response or information contains commercially confidential information or may give another applicant a commercial advantage) the request must be clearly marked "in confidence – not to be circulated to other applicants" or it must be highlighted to the council when having a dialogue meeting that such information must not be circulated

to other applicants. Applicants must set out the reason(s) for the request for non-disclosure to other applicants.

Appendix 2: How to make an electronic submission

Applicants are required to submit their Stage 2 application through the council's supplier and contractors management system (SCMS). The application pack is available on the leeds.gov.uk website, but it will also be available through SCMS.

How to register

Go to <http://scms.alito.co.uk> (please do not type in www before the address). Click the *Supplier/Contractors* link on the left of the screen and under the *New Users* heading click on *Register*. On the Self Registration page, complete all necessary data fields and click *Register*. The *Supplier Registration successful* page informs you that the initial registration process has been completed and an authentication email has been sent. Go to your email programme inbox and click on the link from SCMS. Enter your *username* and *password* and click *Login*.

How to search and download the application pack

Go to the website: <http://scms.alito.co.uk> and click *Supplier/Contractors* on the left of the screen. Login and click *Bulletin Board*.

Under *Search Criteria* enter the title "large casino application" in the *keyword or contract ID* field. Ensure that the *Matching Categories* field is set to ALL by clicking and selecting from the drop down option and click *Search*.

Under the *Tender* heading, click on the contract link and this will take you into the notice summary screen for the scheme in question. You will need to register your interest in the scheme by clicking *Register* on the right of the screen. Click *Continue*. The scheme information will be transferred to the *My Tenders* section of your profile to make future searching easier. Under the *Notice Summary* heading, click on the *View Full Notice including Documentation* link. All the applicable documents will be visible under the *Documentation* header.

How to submit your application

Go to the *My Tenders* link and scroll down the page until the "Large Casino" link is visible. Click on the link. Under the *What Next?* Header, click *Submit Documentation*. Click *Add* and the next screen allows you to attach your documents. Type in the title of the document you are submitting in the *Document Title* field. Click *Browse* and find the document you are wishing to submit. Click *open* and click *submit*.

You will receive confirmation on screen that your response has been submitted successfully. You will be given a receipt number for this response and at this stage you might wish to make a note of the number or print it out for further use. By clicking *Continue* you can confirm and view the documents you have submitted. To submit another document repeat these steps. You can also view and delete a document you have already submitted by clicking the *Review or Resubmit Tender Documentation* link.

Please note:

A limit of 10Mb per document applies when lodging an electronic submission via the council's supplier and contract management system (<http://scms.alito.co.uk>). Applicants will be unable to lodge an electronic application where the combined file size exceed 10Mb. Please note, however, that applicants may repeat the lodgement process as many times as is necessary to submit all the appropriate documents so long as the combined file size per lodgement does not exceed the stated 10Mb limit.

Signatures are still required when making an electronic application. Please note that the typing in of your name is sufficient for these purposes.

SCMS Help Desk - 0113 247 4001 or email scms@leeds.gov.uk

Applicants are advised to submit their applications well in advance of the deadline and not leave this until an hour or so before the deadline arrives. This will ensure that, if there are any technical problems with uploading your documents onto SCMS you will be able to make alternative arrangements for delivery. The consequences of missing the deadline is that the council is very likely to discount the application.

Appendix 3: Request for Information Template

LICENSING COMMITTEE WORK PROGRAMME 2011/12- LAST UPDATED 4 October 2011 (hg)

ITEM	DESCRIPTION	NOTES	TYPE OF ITEM
Items Currently Unscheduled			
Leeds PCT	Update on Alcohol Strategy and Health Matters		B
WYTSS	Test purchasing and other measures tackling under age sales		B
Regular Renewal of CRBs for Licence Holders	Review, timetable to be agreed having regard to necessary public consultation	Des Broster	
NVQ/VRQs for drivers	Review ongoing arising from the Working Group	Des Broster	DP
SEVs	w/c 11 June 2012 applications to be considered		
Casino	w/c 25 June 2012 training followed by Casino Stage 1 application process		
City Centre Policing Update	Discussion on city centre premises, licensing and policing (June/July 2012)	WYP	B

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: 17 May 2011 - cancelled			
Meeting date: June 2011 – HELD. Casino application pack/Annual Gov arrangements/procedure /appeals			
Meeting date: 26 July 2011 – HELD SEVS policy/HC Trade Forum constitution			
Meeting date: 16 August 2011 – HELD Leeds Festival EMP update			
Meeting date: 13 September 2011 – HELD WYP presentation, City Centre night time economy			
Meeting date: 18 October 2011			
De-regulation of regulated entertainment	Report on consultation on the de-regulation of regulated entertainment	Sue Holden	B
Casino Advisory Panel	Update on the Casino Application Process – the Casino Advisory Panel	Sue Holden	B

LICENSING COMMITTEE WORK PROGRAMME 2011/12- LAST UPDATED 4 October 2011 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: 15 November 2011			
Leeds Festival De-Brief	Report on multi-agency feedback following the Leeds Festival 2011	Nicola Raper/Steve Holder	B
Planning & Licensing		Chris Sanderson & Sue Holden	B
Police Reform & Social Responsibility Bill	Update on the progress of the Police Reform Bill	Sue Holden	B
TPHL Policy Review – ongoing review of the policies/conditions	Timetable for the reviews was agreed Feb 11, the policies/conditions will return to the Committee at the conclusion of the necessary consultation period (to include driver licences nationality & immigration status checks)	Des Broster (Sept 2011 – Jan 2012)	DP
De-regulation of regulated entertainment	Report on response to consultation on the de-regulation of regulated entertainment	Sue Holden	B
Meeting date: 20 December 2011			
Meeting date: 17 January 2012			
Meeting date: 14 February 2012			
City Centre policing Update	Discussion on city centre premises, licensing and policing	WYP	B

LICENSING COMMITTEE WORK PROGRAMME 2011/12- LAST UPDATED 4 October 2011 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: 14 March 2012			
Meeting date: 13 April 2012			
Meeting date: 15 May 2012			

Key:

RP – Review of existing policy

PM – Performance management

SC – Statutory consultation

DP – Development of new policy

B – Briefings

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