

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 The Licensing Act 2003 brought together nine separate outdated licensing related regimes, and created instead a single Act that controlled alcohol supply and sale, late night refreshment, and "regulated entertainment".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