

**To:** Licensing and Gambling Acts Committee

**Date:** 19 October 2011 **Item No:**

**Report of:** Head of Environmental Development

**Title of Report:** Proposal to examine the deregulation of Schedule One of the Licensing Act 2003

## Summary and Recommendations

**Purpose of report:** To consider and respond to the Government's Consultation on its proposal to deregulate the licensing of Regulated Entertainment.

**Report Approved by:**

**Finance:** Paul Swaffield

**Legal:** Daniel Smith

**Policy Framework:** Statement of Licensing Policy

**Recommendation(s):**

- (a) To consider the information contained in this report and delegate authority to the Head of Environmental Development to draft a response based on Committees views and present to the Chair for final approval before submitting to the Department of Culture Media and Sport.

## INTRODUCTION

1. On 10 September 2011, the Government through the Department of Culture, Media and Sport (DCMS) issued a wide-ranging consultation proposing to deregulate nearly all forms of Regulated Entertainment. The consultation runs until 3 December 2011.
2. Currently, the Licensing Act 2003 requires certain types of entertainment, but not all, to be licensed. In the Foreword to the Consultation, written by John Penrose, Minister for Tourism and Heritage, the laws and regulations surrounding entertainment are described as a "mess" which can impose "a deadweight cost which holds back the work of the voluntary and community sector, and hobbles the big society as well." The Minister further states the Consultation 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."

## **The Proposal**

3. The Consultation seeks to remove nearly all the current forms of Regulated Entertainment from the regime created by the Licensing Act 2003 for the vast majority of premises. However, the Consultation makes it clear that the following activities will remain licensable:
  - 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; and
  - Any performance of dance that may be classed as sexual entertainment, but is exempt from separate sexual entertainment venue regulations.
4. Although most forms of entertainment will potentially cease to be licensed the Consultation proposes that existing conditions on Premises Licences would continue to apply unless the premises decided to apply for a variation to remove or amend them.

## **PROPOSED ACTION**

5. The Committee is requested to review the information contained in the DCMS Impact Assessment at Appendix One, and the Consultation document attached at Appendix Two and determine whether it is appropriate to delegate to the Head of Environmental Development the duty of replying to the Consultation in conjunction with Chair.

## **SOME CONSIDERATIONS**

6. It is clear that the proposals go beyond removing the burden on low-key, small scale, good cause events. The proposal to deregulate any performance of live music, theatre, dance, recorded music, indoor sport or exhibition of film where the audience is less than 5,000 people would have a wider impact on licensable activities on a commercial scale. The proposals would effectively de-licence regulated entertainment in most pubs, restaurants and night clubs. Only one premises licensed by the Council, the Kassam Stadium, has a capacity of over 5,000. The entertainment events in parks and open spaces with an audience of over 5,000 would also still be licensed. The 400 premises currently licensed by the Council for Regulated Entertainment could apply to have their conditions removed. Existing and new premises could hold Regulated Entertainment without requiring permission and without licence conditions.
7. The current requirements for Premises Licences and Club Premises Certificates to include times and conditions relating to Regulated Entertainment provide transparent limits. Licence conditions are designed to provide public safety and crime and disorder protections and, in terms of public nuisance, to prevent noise nuisance issues. One impact of the deregulation would be that if local residents are disturbed by noise levels from entertainment at premises that would have previously required a

licence, the issue could only be dealt with retrospectively under the noise nuisance provisions of the Environmental Protection Act and Noise Act.

8. The proposed changes may lead to a very unclear way of enforcing issues that arise. Unless a licence holder seeks to apply for a Minor Variation to the licence, the conditions of the licence relating to regulated entertainment remain in force. This may lead to inconstancy and confusion for Authorised Officers, Licence holders, the general public and those taking part in the actual entertainment.
9. Any financial implications regarding this matter are covered within existing budgets.

### **RECOMMENDATION**

10. The Committee is recommended to delegate authority to the Head of Environmental Development to draft a response based on Committees views and present to the Chair for final approval before submitting to the DCMS.

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**Background papers: None**

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