



AGENDA ITEM: 6

**LICENSING & GAMBLING
COMMITTEE**

**20 October 2011 &
8 November 2011**

Report of: Director of People and Places

Relevant Head of Service: Assistant Director Community Services

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**SUBJECT: GOVERNMENT CONSULTATION ON PROPOSED CHANGES TO THE
LICENSING ACT 2003**

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

1.1 To inform Members of proposed changes to Schedule 1 of the Licensing Act 2003 and to request approval of a response to the Government consultation on these proposed changes.

2.0 RECOMMENDATIONS

2.1 That the outline response provided at Appendix 4 to this report be approved and submitted to the Government Department for Culture, Media and Sport as part of its public consultation on proposed changes to Schedule 1 of the Licensing Act 2003.

3.0 BACKGROUND

3.1 Members will recall that the Licensing Act 2003 (the Act) 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.

3.2 The current view of the Department for Culture, Media and Sport (DCMS) is that the Act has been a success in that it has created a single licence for multiple licensable activities, effectively removing the need to make separate costly and time consuming licence applications. However, in other aspects, the DCMS considers the Act to have been less successful. In respect of "regulated entertainment", the DCMS considers the Act to have either simply copied old licensing regimes or took a new, overcautious line - thereby missing an

opportunity to positively enable entertainment activities. For example, the removal of the “two in a bar” rule, which previously allowed two musicians to perform in a pub without needing to obtain a specific entertainment licence. Furthermore, the DCMS also intends to address the needs of the wide range of cultural / voluntary sector and commercial organisations, by avoiding “costly and bureaucratic processes” for low risk, or no risk, events.

3.3 As Members are aware, Schedule 1 of the Act 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

3.4 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).

4.0 THE CONSULTATION PROPOSALS

4.1 A copy of the consultation document and corresponding Impact Assessment are provided at Appendices 2 and 3 respectively. The deadline for responses to the DCMS is the 3 December 2011. The DCMS considers this to be “a golden opportunity” to deregulate, reduce bureaucratic burdens and cut costs. The proposal, therefore, is simply to remove the need for a licence from as many types of entertainment as possible apart from:

- 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.

4.2 The consultation is predicated on the fact that the DCMS considers there to be scope to deregulate most, but not all, of Schedule 1 to the Act. It believes that by removing the need for proactive licensing for regulated entertainment, it can provide support for community, voluntary and cultural organisations, as well as for artists and performers, entertainment venues and other local institutions i.e. parent/teacher organisations, schools and hospitals.

4.3 Accordingly, the purpose of the 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, the DCMS proposes to remove the licensing requirement, subject to the views and evidence generated through the consultation. Where there is a genuine need to licence a type of entertainment, then the consultation proposes that the licensing requirement would remain, either in full, or in part if more appropriate.

- 4.4 The proposals will change the requirements for regulated entertainment only. The existing provisions to licence alcohol and late night refreshment will be unchanged. Therefore, premises that are currently licensed for regulated entertainment only (for example, church halls, community centres and schools) would no longer need a licence. In these cases, it is perceived that all licensing requirements would cease, and fees and licence conditions would end when the licence is surrendered. Venues would be able to host activities formerly classed as regulated entertainment without the need for any licence.
- 4.5 Premises that continue to hold a licence after the proposed 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. It is proposed that all existing conditions on such licences would continue to apply unless the operator decided to apply for a variation to remove or amend them - a situation that should prevent the need for a whole scale reissue of licences by Licensing Authorities.
- 4.6 However, Members should also note that the DCMS has also taken steps to “rebalance” the Act by making further significant changes the administrative and licensing requirements for alcohol. The Police Reform and Social Responsibility Act 2011 will introduce these changes and a separate report will be submitted to Members once the full legislative framework is known.

5.0 ISSUES

- 5.1 This report seeks to obtain the views of Members in response to the 48 questions posed by the consultation document. However, given the relatively short timescale and the Council’s Committee cycle, Appendix 4 provides only an outline response from Officers to each of these questions.
- 5.2 With regard to regulated entertainment, it is the overall view of Officers that amplified live and/or recorded music is the main cause for public nuisance from licensed premises in the Borough. Whilst the general nature of the premises that would no longer require a licence under the proposals would not pose a significant risk to the licensing objectives, Officers also consider that the removal regulated entertainment from alcohol licensed premises would create a greater risk to the licensing objectives and remove a key method of proactive control.
- 5.3 Members’ views are sought on each of the consultation questions contained in Appendix 4 and to provide any additional comments to these responses as necessary. The combined comments from Members and Officers will then form the Council’s response to the consultation, which will be submitted prior to the DCMS deadline.

6.0 PROPOSALS

- 6.1 That the responses contained in Appendix 4 be approved for submission to the DCMS as part of its consultation on proposed changes to Schedule 1 of the Act.

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

7.1 This legislation has the potential to impact upon the Community Strategy. The contents of the report has the following links with the Community Strategy: Community Safety (issues A and E); Economy and Employment (issue D).

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

8.1 If Schedule 1 of the Act were deregulated in accordance with the DCMS proposals, 35 premises that are currently licensed for regulated entertainment only would no longer require a licence. However, under the national fee structure for licensed premises, only 10 of the 35 premises are currently required to pay an annual fee, resulting in an approximate loss of £1200.00 income to the Council.

9.0 RISK ASSESSMENT

9.1 The Council is not obligated to respond to the consultation, but given the potential impact of the proposed changes, it is appropriate that Members and Officers provide their opinion so as to ensure the DCMS can make an informed decision on any changes to the Act.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this report.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

1. Equality Impact Assessment.
2. Regulated Entertainment: A consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003. September 2011.
3. Impact Assessment for the proposal to exempt regulated entertainment from the provisions of the Licensing Act 2003. 22 June 2011.
4. Outline Council response to the consultation questions.

Appendix 1

Equality Impact Assessment - process for services, policies, projects and strategies

1.	<p>Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people:</p> <p><i>People of different ages – including young and older people</i> <i>People with a disability;</i> <i>People of different races/ethnicities/nationalities;</i> <i>Men; Women;</i> <i>People of different religions/beliefs;</i> <i>People of different sexual orientations;</i> <i>People who are or have identified as transgender;</i> <i>People who are married or in a civil partnership;</i> <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i> <i>People living in areas of deprivation or who are financially disadvantaged.</i></p>	<p><i>No. Whilst the proposed changes to the Licensing Act 2003 could have a significant impact on the public (i.e. a potential increase in noise nuisance) they would apply equally to all persons and/or premises effected by the Act.</i></p>
2.	<p>What sources of information have you used to come to this decision?</p>	<p><i>The recommendations are based on the information contained in the appendices attached to this report.</i></p>
3.	<p>How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p><i>The recommendations contained in this report result from a public consultation operated by the Government. The consultation is open to all relevant agencies and organisations as well as the general public. The Council (via delegated powers to the Licensing and Gambling Committee) is able to provide its opinion to Government and therefore, the response contained in this report need only reflect Members' and Officers' opinions.</i></p>
4.	<p>Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:-</p> <p><i>Eliminate discrimination, harassment and victimisation;</i></p>	<p><i>No. The recommendations contained in this report need only reflect the opinions of Members and Officers so as to allow the Government to make an informed decision when making changes to the legislation.</i></p>

<p><i>Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people);</i></p> <p><i>Foster good relations between people who share a protected characteristic and those who do not share it.</i></p>	
<p>5. What actions will you take to address any issues raised in your answers above?</p>	<p><i>None. Whilst the proposed changes to the Licensing Act 2003 could have a significant impact on the public they would apply equally to all persons and/or premises effected by the Act.</i></p>