

Appendix One

Response to consultation on deregulation of Schedule One of Licensing Act 2003

Detailed answers to the specific questions raised in the consultation are set out below. For ease of understanding a summary of the main points is set out in bullet points below:

- The proposals as they stand will effectively remove control of all regulated entertainment in South Somerset, with the exception of a very small number of large outdoor festivals and boxing/wrestling.
- Removing licensing controls without a proper analysis of the likely effects, or any evidence of significant benefits to businesses is a huge risk.
- The proposals are likely to have a significant adverse effect on the licensing objectives of public nuisance, public safety and crime and disorder.
- Noise nuisance controls under the Licensing Act 2003 will become less effective and more costly and some nuisances such as noise outside premises will become impossible to deal with.
- Local residents will be denied the ability to be involved in the prevention of public nuisance through the licensing process.
- Premises selling alcohol are expected to reduce the licensable area to just the bar area, thus making any conditions relating to regulated entertainment unenforceable, if this takes place outside the bar area.
- Local authorities' ability to manage the night time economy will be reduced as there will be no control of the closing time of premises providing entertainment, including night clubs.
- The effectiveness of controls the government is about to introduce in relation to the late night levy and early morning alcohol restriction orders will be reduced.
- The aims of the proposals could possibly be achieved by introducing exemptions to licensing requirements for some small scale types of entertainment.

Proposal Impacts: Questions

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

- It is not thought that it will increase the amount of events taking place. The reasons for this assumption are as follows:
- There are a large number of premises that are already licensed under the Licensing Act 2003 for Regulated Entertainment and of the number of Temporary Event Notices (TEN's) we have received (3,100 since November 2005) only 8.15% (253) wanted regulated entertainment only, which equates to 42 per year (253 ÷ 6 years since Act came into force) – not even one per week.
- The cost to the venue of providing Regulated Entertainment. It is our opinion, that it is this reason, which prevents venues from putting on live and recorded music, not the cost of applying for authorisation. In this area the cost of a local (not well known) band is approximately £200, with the cost rising to the thousands for those that are well known. The cost of a TEN is set at £21. There is no additional cost to including it on a new application for a premises licence with alcohol or late night refreshment as the fee

is based on the number of licensable activities applied for. Of the 685 current premises licences issued by this council only 68 (10%) authorise regulated entertainment only and of those, only 2 or 3 would have to pay an annual fee as the rest would be exempt from paying this fee as being schools, colleges, village, parish or community halls; these types of premises are also exempt from paying an application fee.

- It may benefit the few organisations/individuals, not to have to apply for authorisation, which may lead to people in the community participating in events, however as it would only benefit a very small majority, it would not (in our opinion) outweigh the risks to local authorities and responsible authorities in having to allocate extra resources; some of which would be paid for by the taxpayers in the local communities.

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?

Not applicable.

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).

We don't agree with the £238 estimate obtained from 2009/2010 figures for new licences and variations. Having looked at the DCMS National Statistics Bulletin,¹ no breakdown has been provided which shows these figures relate to applications for entertainment only; it is our understanding these figures relate to all applications received. If we take your figure of 16,272 new and variation applications received in 2009/2010, then take your figure of 3% of applications requiring regulated entertainment only, that would be 488. Of these 488, the majority of these applicants are exempt² from having to pay an application fee or an annual fee to the Licensing Authority as they are schools, village halls etc; the same analogy would have to be applied to the remainder of the figures.

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.

We do not agree that all the potential costs to Local Authorities have been identified:

- No costs have been indicated in relation to the Local authority having to review their Statement of Licensing Policy as a consequence of legislative changes, including any consultation required.
- No costs have been indicated with regard to the Local Authority publicising any changes in legislation/procedures. This will include producing and giving guidance, updating web pages etc.
- If the Local Authority has to write to premise licence holders who only have regulated entertainment advising them that they may wish to surrender the licence, then this should be included in the impact assessment.

¹DCMS National Statistics Bulletin Alcohol, Entertainment and Late Night Refreshment Licensing England and Wales, April 2009 – March 2010

² Para 9, 10 of SI 2005 No.79 Licences And Licensing. The Licensing Act 2003 (Fees) Regulations 2005

- It is our opinion that the figures are flawed as the Licensing Act 2003 has put a number of controls in place to prevent public nuisance from occurring; remove these controls and the number of complaints is very likely to increase. Figures from complaints received under the old Public Entertainment licence system cannot be used either as there were not as many premises licensed under this system as there are now. In essence these figures are not expected to project a true picture. Although there is an obligation for local authorities to deal with disturbance under other legislation, it is likely extra resources will be needed, incurring extra costs if these controls were removed.
- The figures given by the Chartered Institute of Environmental Health and the Noise Survey 2008 do not reflect noise complaints made to the Licensing Service that are in connection to a breach to one or more conditions of the premises licence that are dealt with under the Licensing Act 2003.
- Paragraph 65 of the Impact Assessment states “Most venues affected will also have an alcohol licence may already be subject to general conditions relating to noise nuisance”. In this authority the majority of the noise nuisance conditions specifically relate to regulated entertainment.
- With regard to paragraph 66 of the Impact Assessment, it is our experience that the noise nuisance incidents at venues with an alcohol licence are also licensed for regulated entertainment, which is more often than not the cause. If regulated entertainment is no longer a licensable activity, premises that are currently authorised for this, could extend the times for these activities, which is likely to result in more resources of the council being spent on reviews of the licence; this is supposing that the ruling by Black J. at paragraph 67 in *Thwaites*³ concerning opening hours which is not a licensable activity is not overruled or distinguished.

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

We would expect an increase in the number of noise complaints

- Firstly in para 61 of the impact assessment the consultation outlines some of the legislation that local authorities already enforce with regard to noise complaints. It is stated that local authorities must act under the Noise Act 1996 and the Anti-social behaviour Act 2003, however, both of these statutes only provide a power for local authorities to act – it is not an obligation. The duty to investigate noise nuisance lies in the Environmental Protection Act 1990.
- The fact that people have to apply for a form of authorisation focuses their minds on their events. The fact that contact details are required allows Responsible Authorities to get in touch with the organisers before and during the event if necessary, meaning that any complaints can be quickly dealt with. This would not be possible under the new proposals, as we would not have these details.
- It is likely that complaints would not be dealt with quickly as a site visit would have to be made incurring costs for fuel, man-power and administration. Possibly there may not

³ Daniel Thwaites Plc v Wirral Borough Magistrates' Court & Ors [2008] EWHC 838

be any officers available to deal with the situation as they have been allocated to known events.

- 90% of the complaints received by our Environmental Protection Team, regarding licensed premises relate to noise nuisance.
- Deregulation will increase the number of venues providing entertainment; we can see no reason to suspect that deregulation will lead to a decrease in complaints.
- Para 67 provides an estimate of the time involved in investigating complaints as 10 man-hours. We would suggest this is a fairly conservative estimate as any complaints involving a licensed premise will involve numerous phone calls, visits to the premise, monitoring visits to assess the noise, letters and record keeping.
- In para 68 the document also implies that the licensing authority would deal with any increase in noise incidents, as they will relate to venues with an alcohol licence. This is incorrect, as Environmental Health will investigate any complaints about noise, whatever the venue. EHOs will liaise with licensing colleagues and may ask for a review of the licence but are more likely to act under their powers given in the EPA 1990.
- For many reported incidents there is only one person being affected or at least only one willing/able to complain. This would make it difficult to use the provisions of the review process as this can only be used in relation to the Licensing Objectives which relate to 'public nuisance'. Providing evidence that a public nuisance exists may be difficult if there is only one complainant, whereas statutory nuisance under the EPA1990 relates to either public or private nuisance and hence is more appropriate.
- Regulation through licensing would allow prevention rather than cure.

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.

- Why concentrate on the 3% of the venues who had not put on live music in the last 12 months as opposed to the assumed 97% that had? The survey produced by the DCMS in 2007 indicates the figures for music remains similar to that of 2004 before the Licensing Act 2003 came into force. It is our opinion that it is the cost of paying the bands/performers that has stopped these venues from putting on music. The average cost of a local band in this area is approximately £200 per session. There may have been no extra cost to ticking another box on the premises licence application form if applied for at the same time as late night refreshment. The cost of a TEN is just over 10% of £200 at £21.00
- One of the examples of an entertainment, which does not currently require a license, is a funfair. This is not a good example as funfairs often generate complaints about noise but are difficult to deal with under statutory nuisance provision due their transient nature. Maybe the approach should be to extend the current regulation to provide consistency rather than de-regulate.

- Quantifying the likely number of extra events and attendance at such is very difficult. Suffice it to say that we have experienced an increase in concert type events at outside venues despite the controls of the licensing regime. There are two conclusions to be drawn: either the licensing regime does not present the restrictions that are being suggested and therefore why de-regulate, or there is such an increase in popularity of these type of events that it is reasonable to assume that without the current regulation an even greater increase would take place.

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

As stated in the answer to Q4 it is anticipated that more reviews of licences will be required.

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

- The government proposes that venues with an alcohol licence would still be subject to conditions to control regulated entertainment. However, it is difficult to see how this would work in the long term. The Licensing Act allows applicants to specify the extent of their premises and conditions must be necessary and proportionate in relation to that premises. So, for example, a premises such as a concert hall could just licence it's bar areas and leave the rest of the premises unlicensed. A pub could licence its serving area and not the rest of the building
- Any Community premises such as village halls, which are authorised for regulated entertainment and late night refreshment currently pay an annual fee; under the new proposals they would still have to do so because the fee exemption only relates to regulated entertainment.

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

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

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

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

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

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

We do not agree based on the following:

- The reasoning behind the need to deregulate is flawed. The examples given include costumed storytellers, pianists in restaurants, magic shows, Punch & Judy, school

plays. These events are either not licensable under the current regime or not licensable in certain circumstances. Virtually all of the examples given are 'low level' regulated entertainment and if the government doesn't want them to be licensed, they could easily make these types of event exempt from licensing controls.

- The suggested figure of deregulating entertainment provided for events with 4,999 people or less is way too high. This would mean that virtually all regulated entertainment in South Somerset would not be licensable. Basing the level of risk associated with a particular event solely on the numbers of people involved is far too simplistic. Risk depends on a range of factors. There is also a concern that the majority of premises do not have a fixed occupancy and so even if the cut-off was reduced from 5,000 to 500 it would not be straightforward to determine which premises required a licence and which did not.
- The consultation proposal suggests that regulated entertainment poses little risk to the licensing objectives. We strongly disagree with this. Although alcohol features highly in the enforcement work associated with licensing, so does noise from regulated entertainment and nuisance from people attending events. Public safety refers to physical safety of people attending and in the vicinity of events, and to suggest that this would not be compromised by removing the need to licence premises that just provide regulated entertainment (cinemas, theatres, music venues) is simply ridiculous.
- It appears that a two tier system will be created, with alcohol premises being properly regulated and other premises being left to their own devices. The consultation document includes statements such a

"Events in non-licensed premises that are currently held under a TEN will usually be held in non-commercial premises that are overseen and controlled by a management committee or governing body or otherwise run by the local authority"

"One alternative option ... could be to develop a Code of Practice for entertainment venues"

"...local management"

- In our opinion, this is a naïve approach to the way a number of premises are run. Whilst there are lots of very well run premises, there are also a number that are poorly run. This may be due to anything from a lack of knowledge and ability, to a total disregard for any rules and regulations. Deregulating on the scale proposed will not mean that the well run premises will stop running their premises well, but it will reduce our ability to do anything about the other premises. In other words, it will be counter-productive.
- The consultation refers to a number of other regulatory regimes that may be able to deal with issues arising from what is currently regulated entertainment. However, there are currently limited resources in these areas and so it is unlikely that these regimes will be a viable alternative to licensing enforcement and advice. Furthermore, the current system works because people who want to provide entertainment etc. pay for a licence, thus financing the associated work to make sure the provision of that entertainment is provided in an appropriate way. If entertainment is deregulated the money for enforcement will have to be found from other areas, which, frankly does not exist. "The polluter pays" principle is a good one – anyone who wants to provide

entertainment should meet the associated costs. Enforcement should not come from general funds collected from the tax payer.

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

It has been our experience with fledgling festivals etc that the organisers do not always understand or are unaware what legislation requires of them. The multi-agency meetings conducted under the Licensing Act 2003 has proved to be a way to correct this problem. If the proposals to de-regulate are successful, the number of persons at the event should be limited to 100, and further restricted to 30 if in a residential area unless there are considerably more educational resources targeted at the premises users.

Events also allow people to bring alcohol for their own consumption; the new proposals could see event organisers advising event goers to do just this, without any controls. The incidence then would inevitably mean a rise of people bringing alcohol to sell to others as licensing checks usually reveal this happening on a small scale.

The suggested figure of deregulating entertainment provided for events with 4,999 people or less is way too high. This would mean that virtually all regulated entertainment in South Somerset would not be licensable. There are often issues with regulated entertainment in venues much smaller than this that cause problems arising from regulated entertainment.

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

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

No. It is not simply the type of entertainment that causes a problem, but also the venue, the management, the day of the week and time of day, and the individual people attending.

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

We believe there would be a significant risk to the Prevention of Public Nuisance. The reason for this is that the majority of premises licences have conditions, which provide neighbours with a reassurance that they should be able to sleep peacefully and deter the holder from causing a public nuisance. If deregulated, the risk to local residents of public nuisance would increase because it is our view that the provision of Licensing Act 2003 acts as a deterrent, whilst the Environmental Protection Act 1990 (in most cases) comes into being after the neighbours have suffered Public Nuisance; prevention being better than cure.

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

The case studies from the Noise Team highlight the importance of the Licensing Act in their work.

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

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

No, we believe that the existing legislation works well for both indoor and outdoor events. The 2003 Act enables applicants and, where necessary, responsible authorities, interested parties and licensing authorities, to tailor their decisions to the circumstances. So an indoor event would be subject to different hours, conditions, etc. to an outdoor event.

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

IF the proposals for de-regulation are accepted, the point at which they should be regulated is 23:00 for indoors and 21:00 for outdoors to allow people to sleep without being bothered by noise from entertainment. Due to budget cuts there is no out of hours service for affected people to call this Council except for Friday, Saturday and Sunday nights and this limited service could be withdrawn. Most noise complaints received relate to activities taking place out of office hours.

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.

No

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

No, we don't think that there are.

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?

Codes don't work particularly well. A good example is provided by supermarkets. Some will adhere to them and others disregard them. A supermarket code of practice was introduced in March 2002 but was considered too weak; it was strengthened and introduced an ombudsman to enforce it in 2010.

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?

No. Many LAs do not use the provisions of the Noise Act 1996 due to resource implications and availability of out of hours officers and equipment. This situation is only likely to worsen with public sector cuts.

The EPA1990 is a useful piece of legislation but has its limitations. In particular there may be problems where the set of residents are being disturbed by events at one venue but

with different organisers for each as mentioned above. Also the EPA1990 is generally reactive - action is taken where a nuisance is found to exist and the impact has already occurred. For frequent occurrences this can still be effective at addressing ongoing problems, however, for more occasional or sporadic events, it can be much less effective and evidence can be difficult to obtain. Sporadic events can nonetheless have a very significant impact.

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.

- The Licensing Unit frequently deal with accusations from residents that premises are going beyond the hours allowed for on their Licence for the provision of entertainment (ranging from 10 to 30 minutes over in some cases).
- On speaking with (and in warning Licence holders) officers are frequently told that the breach was either only a few minutes over or that it had been difficult for organisers to stop the entertainment.
- We anticipate that the removal of an end time for deregulated entertainment would lead to events continuing later than they normally would have done.

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?

- Under the Licensing Act 2003 a Licence holder has to promote the four licensing objectives in respect of the activities he has contained on his Licence
- When applying for a Licence (or a variation of an existing one) and in completing an operating schedule the applicant has to indicate the steps which it is proposed to take to promote the licensing objectives (e.g. CCTV, doorstaff, doors and windows closed during regulated entertainment etc.). These are specific to and tailored to the activities that have been applied for.
- Should the deregulation go ahead as proposed then Schedule 1 entertainment would no longer be included as a licensable activity for the majority of premises within South Somerset.
- We are therefore unsure as to how in practice the Licensing Act objectives can be utilised in respect of activities that are no longer licensable under that Act.
- To change the prevention of public nuisance objective to the prevention of public or private nuisance. The reason for this is that sometimes the nuisance affects only a very small number of persons especially if there are only one or two houses in the vicinity of the event. They then could be affected by noise for a long period time i.e. 24 hour music from festivals, which would affect their quality of life.

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?

None we can think of.

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

No we don't. Each case is very different and the potential for disturbance will depend on factors such as nature of the venue and proximity to sensitive premises. For example a set of drums can be very loud and intrusive even if not amplified.

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

- Live music and performers can be less predictable and harder to control. The audience can influence them in particular and for example noise levels often increase towards the end of performances.
- It may be that more small event organisers would wish to conduct some sort of live music entertainment event following the deregulation. However in our experience most small event organisers also wish to have the provision of alcohol so would have to apply for a Temporary Event Notice in any event.
- As stated elsewhere in this response, in our experience nearly 90% of complaints received by our Licensing Unit, relating to licensed premises, are concerned with noise, of which 95% concern noise taking place beyond 11pm. We see no reason why deregulation should diminish these figures and going by our past experience we can only foresee these figures increasing.

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?

There are no further public protection issues that we are aware of.

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?

There are none that we are aware of.

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?

These matters should be handled through the appropriate Health & Safety/Fire Safety legislation and should not be duplicated through the licensing regime.

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

Performances of plays are usually early evening and do not generally go beyond 11pm. The only potential problem with theatregoers' could be with regard to ingress and egress to the venue (parking problems, noise of audience arrival and departure).

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?

There are no further public protection issues that we are aware of with regard to the performance of dance. However it should be noted that this activity will, by necessity, be accompanied by the other currently regulated activities of Live or Recorded Music, which are not without the potential to cause noise nuisance.

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

With regard to paragraph 6.3 of the consultation, and the examples given as to where burdens are created, it is our experience that very rarely does the Authority receive applications for Temporary Event Notices simply for the provision of regulated entertainment only, it is nearly always accompanied by a request for the provision of alcohol. As the provision of alcohol will remain licensable it is doubtful therefore whether or not the benefits anticipated will materialise.

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?

We agree with the Government's position that film exhibition could be removed from Schedule 1. However this is on the basis that:

- The appropriate age classification protections remain in place;
- the finish time is 11pm.
- the Mandatory Condition relating to Film Exhibitions be retained.

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

It is our view that the Mandatory Condition should be retained in respect of those premises that currently have it imposed on their Licence / Certificate.

The classification system should remain as is now with the BBFC classifying the majority of films on behalf of Local Authorities but with the Authorities retaining the ability to impose their own film classification to reflect local concerns.

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?

- Child protection matters are important and as such we would expect (and hope) that Parliamentary time would be found in order to ensure that there were "no gaps in child protection".

- Any supplied definition of a film could lead to unintended loopholes /consequences and as such primary legislation should be the only route in this instance; the inclusion of more definitions would be open to differing interpretations throughout the Country which the Government appears keen to avoid.

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

None that we are aware of.

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.

There are no further public protection issues that we are aware of with regard to indoor sports.

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

None that we are aware of.

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?

We cannot see any difference between the provision of indoor sports and the provision of boxing and wrestling. If it is the view that indoor sports can be deregulated and “brought more into line with the arrangements for outdoor events” then boxing and wrestling should be included.

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.

As far as we are aware the licensing provision for boxing and wrestling is not in place to legitimise the boxing / wrestling match in the place of the recognised sport governing body. Therefore, as outlined in our reply to Q38, if it is the view that indoor sports can be deregulated then boxing and wrestling can likewise.

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.

We are of the opinion that boxing and wrestling provision could be subsumed into the general provision of indoor sports and as a consequence we can see no requirement to include a further licensing requirement for martial arts, cage fighting and the like.

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.

No. The numbers of complaints concerning music are increasing, which are often due to TEN's as they issued without any conditions. It is felt that if the proposals are successful, there would be more than a 10 fold increase in complaints.

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.

None

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?

We think that most recorded music events should continue to be licensed, especially disco's and karaoke.

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

At present there is a grey area of when the playing of recorded music becomes licensable and when it is incidental and therefore not licensable. Deregulation would therefore remove this grey area and would lead to a consistency of approach throughout the country. However there is still great potential for noise nuisance from the conduct of this type of entertainment, hence our amended proposals.

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.

We would contend that the provision of karaoke should specifically be included under the provision of entertainment facilities; this being due to the volume of complaints that are received regarding these types of events.

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?

Many of the queries we receive revolve around when an entertainment needs licensing and when it is incidental to the "main event". To ensure a consistency of approach we would welcome clarification on the types of event that the Government would see entertainment as being incidental to, and in what circumstances.

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?

South Somerset District Council has always taken a pragmatic approach in its advice to event organisers with our licensing officers seeking to assist applicants in organising and holding successful events. Some of the examples shown within paragraph 1.5 appear to be extreme and certainly a high proportion could be considered as being incidental and therefore not licensable in any event. It may be that a central interpretation (within the S182 Guidance issued by the Home Office) of what is and what is not considered to be incidental may help in ensuring that all Local Authorities have a similar approach to in these matters.

At present it is possible for a TEN to be given for up to 499 people in one corner of field, and other TEN's for the other corners so that the events disguised as one event do not require a premises licence. If the proposals to de-regulate for up to 4,999 persons, will measures be put in place to prevent nearly 20,000 people attending an unlicensed event? It is our opinion the problem will grow and increase the need for additional resources from the local and police authorities as large unlicensed events are more likely to develop problems.

Adult Entertainment: Question

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

- We agree that deregulation of dance should not be extended to cover sex entertainment.
- Those premises who formally provided this type of entertainment under the Licensing Act 2003 under performance of dance are now dealt with under the Local Government (Miscellaneous Provisions) Act 1982 ("Sexual Entertainment Venues") and are now required to apply for a separate Licence under that Act.
- The legislation still currently permits those premises with performances of dance on their Licence to continue these activities without a Sexual Entertainment Venue Licence, provided that the activities are offered no more frequently than once per month.
- The deregulation of Performance of Dance (without the appropriate safeguards being in place) could have the unintended consequence of increasing the number of premises able to offer monthly lap dancing facilities.