

Gambling, Licensing & Regulatory Committee

21 November 2011

Report from the Assistant Director – Housing and Public Protection

Licensing Act 2003 Regulated Entertainment – a proposal to deregulate

Summary

1. This report advises members of a recent consultation from the Department of Culture, Media and Sport (DCMS) entitled “Regulated Entertainment” a consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003. It seeks members approval regarding the councils response to the consultation.

Background

2. The Licensing Act 2003 (the Act) has be in operation since November 2005. During this operation period there has been a number of revisions, however the DCMS are proposing new measures to deregulate certain licensable regulated entertainment activities. The consultation document is attached at Annex 1, with the impact assessment attached at Annex 2.
3. The Current Situation: -
 - (a) The Act classifies the following activities as “regulated entertainment”, and therefore are licensable.
 - A performance of a play
 - An exhibition of a film
 - An indoor sporting event
 - A boxing or wrestling entertainment
 - A performance of live music
 - Any playing of recorded music
 - A performance of dance
 - Provision of entertainment facilities for music or dance.
 - (b) Licensable activities can only be carried out under the permission of a premise licence (licence) or a temporary event notice (TEN) from a

local licensing authority. Licences and TENs are required for any of the above activities whether they are free events to which the general public are admitted, or public or private events where a charge is made with the intention of making a profit (even when raising money for charity).

(c) The Act has four underlying licensing objectives:

1. Prevention of crime and disorder;
2. Prevention of public nuisance;
3. Protection of children from harm;
4. Public safety

Licensing authorities must exercise their functions and make their decisions with a view to promoting those objectives. In support of these four objectives, a licence can be subject to extensive conditions. Conditions play an important role in ensuring a “contract” between a licensing authority and licensee, and play an important role in setting the context in which the licence premise can operate.

(d) 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 responsible authorities. For a licensee, a licence review is a very serious issue.

(e) 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.

4. The DCMS Proposal

(a) The starting point for 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, they propose to remove the licensing requirement, subject to the views and evidence generated through the consultation.

(b) 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.

Consultation

19. The DCMS has consulted a wide range of people and organisations, as indicated in page 40 of the consultation document. The council has only taken a limited local consultation on this document. The document has been circulated to the councils Environmental Protection and Food Safety Units, their views/comments are included within the council response.
20. North Yorkshire Police and North Yorkshire Fire and Rescue Service are responding at a force / headquarter level.

Options

20. The questions in the consultation document are listed in Annex A of the DCMS consultation document. Officers responses are attached at Annex 3. It is recognised that Members may have some different views on the legislation operating as a decision making body.
21. Option 1 – Approve the draft response as attached at Annex 3.
22. Option 2 - Amend the response.

Analysis

23. Officers' views are set out in the proposed response to the DCMS at Annex 3. The legislation has been in force since November 2005 and officers believe a review of the legislation and guidance is necessary. However in their experience officers do not believe that Schedule 1 should be deregulated.

Council Priorities

24. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
25. The promotion of the licensing objectives will support the Council's priorities to 'create jobs and grow the economy' and 'protect vulnerable people'.

Implications

26. The implications arising from this report are:

- (a) **Financial:** If the DCMS proposals are introduced there will be financial implications. Income from licensing activity and TENs will be reduced. However, this will not be a significant reduction. There will be costs to other services such as Environmental Protection and Environmental Health as more enforcement intervention may be required to address issues such as statutory nuisances.
- (b) **Human Resources (HR):** None
- (c) **Equalities:** None
- (d) **Legal :** None
- (e) **Crime and Disorder:** None
- (f) **Information Technology (IT):** None
- (g) **Property:** None
- (h) **Other:** None

Risk Management

27. There are no known risks with this report.

Recommendations

28. Members are asked to approve Option 1 and instruct officer to submit the response to the DCMS.

Contact Details

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**Report
Approved**



Date 10th Nov 11

Specialist Implications Officer

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Wards Affected: All



For further information please contact the author of the report.

Annexes:

Annex 1 – Regulated Entertainment – a consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003.

Annex 2 – Impact Assessment

Annex 3 – List of questions and officers responses.

Background Papers:

None