

Annex A: Summary list of questions

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?

No – none. Venues moving into entertainment provision may use incidental music exemption, TEN, minor variation, variation processes. Local experience shows noise nuisance powers more likely to restrict venues.

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?

N/A

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).

No – no savings recognised. Our SOLP makes presumption against regulated entertainment in buildings containing or abutting residences recognising impossibility of protecting residents while allowing sufficient artistic expression (sound levels)

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.

No. Don't believe there will be any potential savings – costs will be increased by having to carry out additional enforcement, investigate complaints etc. There will be additional burdens on health and safety and environmental protection regulation.

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

Yes – since Licensing Act 2003 and night time have noise offence provisions, use of cumulative impact zone, noise complaints from licensed premises decline at c10% p.a..

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.

Number of extra events and attendance if deregulation proposals implemented. If live and recorded music was deregulated, potential for music events for 4999 people with no safety management plan etc.

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

An assessment of RIDDOR reports and CIEH noise statistics should be undertaken.

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

Yes. Sussex Police feel that by having the need for a licence in place we demand a buy in from venues and will promote best practice and risk considerations. By deregulating we run the risk of allowing all manner of events to take place with little or no consultation. There will be no interest in running a safe event as the licence (which can be reviewed) is no longer in place. If we had a big problem following deregulation what enforcement action could we in all reality take against some non licensed premises or unscrupulous operators. Provision of regulated entertainment presents a risk that warrants prior consent to protect public safety (regrettably some personal injury solicitors have focussed on accidental injury).

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.

Costs will be increased by having to carry out additional enforcement, investigate complaints, additional policing of events etc. The option of having incidental music exemption, TENs and minor variations provide reasonable protections..

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?

Self evidently. They would be able to host events without variation applications but they could also apply to remove any relevant conditions thus removing licensing enforcement powers. In many instances conditions were added to protect public safety, prevent public nuisance etc.

The Role of Licensing Controls: Questions

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?

No – 5000 is far too high. Agree with ACPO suggestion of 499 to tie in with TENs or 200 as S177 Licensing Act 2003. Night club customers are at risk of violence, slips and trips, falls from height, crushing from overcrowding. Neighbours suffer nuisance from premises and patrons leaving. SOLP recognises presumption against grant for regulated entertainment in buildings containing or abutting residences as impossible to protect residents from nuisance from structure borne sound and maintain sufficient sound levels.

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.
499 (in line with Temporary Event Notices) would be better but that is still a large venue/lots of people with potential noise, nuisance, crime and disorder implications or as envisaged by Section 177 of Licensing Act 2003 – 200 but used as confusingly drafted.

Q13: Do you think there should 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.
Difference audience limits for different activities – this would be difficult to enforce – make it the same for all activities? No enforceability.

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.

Yes – as above. Sussex Police believe that by having the need for a licence in place we demand a buy in from venues and will promote best practice and risk considerations. By deregulating we run the risk of allowing all manner of events to take place with little or no consultation. There will be no interest in running a safe event as the licence (which can be reviewed) is no longer in place. If we had a big problem following deregulation what enforcement action could we in all reality take against some non licensed premises or unscrupulous operators. e.g. Hippodrome/potential to undermine CIZ? Almost all have a licence for sale of alcohol in effect would be conditions protecting safety and nuisance would be lost. Total licences would remain similar. The public nuisance objective would not be supported.

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.

Yes – events planning. Sussex Police say: With having most forms of regulated entertainment require a licence we are currently up to date with most of the events which take place. The larger events tend to be well managed and there are planning meetings between interested parties in advance of the event itself. This deals with issues around public safety, traffic management, security, drugs etc. By adopting a stance of anything under 5000 is fine we are running the risk of becoming aware of events far too late to deal effectively with them if badly run or organised. Locally all major open spaces were licensed to promote concerts, events, circuses, street artists.

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.

Yes – SOLP specifies terminal hours for residential, mixed/residential, city centre leisure areas

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.

Yes..... SOLP specifies at 4.5 regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas.

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

No. If this deregulation measure was applied to the Road Traffic Act, you could drive a motor bike or car without a licence but not HGV/PCV.

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?

No. Sussex Police believe best practice should always be in place and at least considered. No enforcement policy based on better regulation principles is sufficient.

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. Sussex Police feel that it is not good enough to state that existing legislation in other forms will deal with any risks from deregulation. A commercial building with no alcohol or late night refreshment would have the ability to become a dance led venue with no regulation at all. If they bring their own alcohol where do we stand? Fire safety is already dealt with separately (RR) however public safety using H&S powers and public nuisance prevention using EP powers cannot be used as preventative action.

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.

None – meaningless deregulation. Main obstacles to events remain the same: proximity of residents and safety of audiences.

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?

No.

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?

Yes. Potential for unregulated events of live music where large crowds of people attend – no safety management plan, noise plan etc etc. Recent experience of dealing with raves (in day time) made impossible by removal of controls on regulated entertainment.

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 – Sussex Police feel that by deregulating unamplified music due to natural acoustic reach all we would potentially do would be to cram more people closer together to hear the music. This could easily and very quickly lead to crowd density issues. With this event being unlicensed there would be no safeguards in place potentially. From local experience this leads to overcrowding, nuisance from patrons, nuisance from music and audiences.

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

No. SOLP already encourages live music in B&H but in order to protect residents, it needs to be regulated in public interest as it is not without risks.

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?

No. Theatres etc encouraged in SOLP – see 7.1, 7.2, 7.3

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?

Yes, temporary structures, outdoor temporary electrical installation, pyrotechnics, special effects.

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?

Yes, unless a H&S improvement notice would be subject to appeal provisions.

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

Theatres etc encouraged in SOLP – see 7.1, 7.2, 7.3

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?

Potential for raves.

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

No

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?

No. SOLP – appendix F – Film classification and 5.5 premises giving film exhibitions. Cinema licensing can also cover care of children, lighting levels, attendant levels, seating and gangways, balconies, safety checks, escape routes, capacities, first aid, electrical safety.

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

SOLP – appendix F – Film classification. It would require a new regulatory framework. Enforcing authority would need to be identified and funded.

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?

Add children's nurseries etc to legislation same as museums.

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

No.

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.

No.

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

No.

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?

Yes

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.

No

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.

Yes – Sussex Police would like to see martial arts and cage fighting added

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. About 10% of noise complaints arise from licensed premises, particularly regulated entertainment.

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.

499 or less to tie in with TENs or 200 as S177 Licensing Act 2003.

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?

Yes – music played by DJ’s – potential noise problems.

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

Local problems: various entertainment pubs and night clubs likely to create public nuisance.

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.

Yes – karaoke, comperes at quiz nights – noise problems

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?

Yes – h) anything of a similar description to that falling within (d), (f) or (g) and k) entertainment of a similar description to that falling within (i) or (j).

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?

1.5. Indeed tidying up the administrative processes created new problems for many others. The Government has received countless representations about the difficulties that the 2003 Act has brought to a wide range of cultural and voluntary sector and commercial organisations. New licensing requirements, under the 2003 Act were, for many, a step backwards, bringing costly and bureaucratic processes for low risk, or no risk, events, including:

- Private events where a charge is made to raise money for charity;
- School plays and productions;
- Punch and Judy performances;
- Travelling circuses;
- Children’s films shown to toddler groups;
- Music performances to hospital patients;
- Brass bands playing in the local park;
- School discos where children are charged a ticket price to support the PTA;
- Exhibitions of dancing by pupils at school fetes;
- Costumed storytellers;
- Folk duos in pubs;
- Pianists in restaurants;

- Magician's shows;
- Performances by street artists;
- And even performances by a quayside barber shop quartet.

BHCC hasn't had any problems with any of the above as far as I'm aware. We licensed the majority of our parks and open spaces to allow travelling circuses to perform in the city without the necessity of having to apply for a licence. We have an enforcement policy and a risk based premises inspection which concentrates on working with problem premises.

Adult Entertainment: Question

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

Yes – sex entertainment (including lap dancing/pole dancing) covered by other legislation and it must be made clear that deregulation of dance does not include SEVs.

Annex B: How to Respond

You can respond to the consultation in the following ways:

Online

Regulated_entertainment_consultation@culture.gsi.gov.uk

By post

You can print out the summary list of questions above and fill in responses by hand. Please send these to:

Nigel Wakelin

Regulated Entertainment Consultation Co-ordinator

Department for Culture, Media and Sport

2-4 Cockspur Street

London

SW1Y 5DH

Closing date

The closing date for responses is **3 December, 2011**.

