

**COMMITTEE:** Central Licensing Committee  
**DATE:** 21 of November 2011  
**TITLE:** Proposed changes to the Licensing Act 2003 - Deregulation of Regulated Entertainment  
**PURPOSE:** For guidance  
**AUTHOR:** Head of Regulatory Department

## 1.0 **BACKGROUND**

- 1.1 At our previous meeting , on the 19<sup>th</sup> of September 2011, Councillor Ieuan Roberts raised the matter of the intention of the Westminster Government to make substantial changes to the Licensing Act 2003 which would result, should the changes be legislated upon, in the Council losing control over many of the matters where there is control at present, or at least controls would be in different form.
- 1.2 The Westminster government's Department of Culture, Media and Sport (DCMS) is currently consulting on the proposed changes, the Council is required to respond to the consultation by the 3<sup>rd</sup> of December. ( See attachment for a copy of the consultation)

## 2.0 **THE PROPOSED CHANGES**

- 2.1 The DCMS's current consultation seeks comments from stakeholders on the proposal to remove the licensing requirements for most of the activities currently defined as "regulated entertainment" in Schedule 1 to the Licensing Act 2003
- 2.2 The consultation is introduced on the basis that the present regime creates difficulties and obstacles for organisations attempting to organise events where the risks are relatively small in venues such as village halls and schools. It is the perception of the consultation that if the restrictions were removed there would be a significant rise in the events held, as a result of which there would be an improvement in quality of life and an increase in social interaction.
- 2.3 The argument is made in the consultation document that legislation already exists to regulate problems arising from public entertainment - such as noise nuisance as well as the relevant powers of the Police and the Fire Service.
- 2.4 The consultation refers to situations which appear to be unreasonable and support the argument of removing licensing requirements. Examples of such activities which currently require a licence are:-
  - Brass band performing in a local park
  - Pianist performing in a restaurant
  - Concert held in a hospital
  - School plays
  - Film exhibition in a village hall
- 2.5 The consultation also highlights the inconsistencies regarding the lack of a requirement of a licence in the following examples :-
  - A football match with 50,000 present
  - A live televised broadcast from a village hall
- 2.6 The committee should also be aware that a licence is not required if an activity is held in a chapel or church; whether or not the activity is religious in nature.
- 2.7 As a response to the current situation, the consultation proposes removing licensing requirements for live music, recorded music, plays, dance performances and film exhibitions for events where no more than 5,000 people attend.

- 2.8 Licensing requirements will remain for events where more than 5,000 people are expected; boxing or wrestling matches, dance performances classed as sexual entertainment – as well as retaining the requirements in respect of alcohol and hot food.
- 2.9 The proposed changes signify that schools, community halls etc. will not require a licence in respect of entertainment; however, there is concern that this is also true in respect of nightclubs, pubs and occasional events where entertainment can be provided without the need for a licence.
- 2.10 The consultation recommends that deregulated activities can be automatically removed from an existing licence; and that the licence holder may apply to remove any condition on the licence which relates to entertainment. An example of this could be conditions which prohibit live or recorded music from being played in a beer garden.

### 3.0 **Comments of the Public Protection Service –**

#### 3.1 **Licensing Unit**

- 3.1.1 Interested parties such as the 'Live Music Forum' have been urging the Government for change since the inception of the Act stating that the current requirements are excessive; the examples in this report suggests this is true. The old ruling of '2 in the bar' under the previous regime is often referred to where there was no need for a licence as long as there was only two performers. It is alleged that current legislation is a hindrance for those wishing to provide informal entertainment.
- 3.1.2 It is our opinion from a licensing view point, the legislation as it stands is unsuitable in many ways; especially in terms of the consistency with which it may be applied.
- 3.1.3 It is true that other related powers exist; there is concern that reactive powers have to be used where it is presently possible to apply conditions indicating clearly before hand (for example) which noise levels are acceptable; or any other aspects in relation to the Police or any other authority.
- 3.1.4 Prior to the commencement of the Act, Public Entertainment Licences or Cinema Licences were required; and conditions relating to the activities could be applied.
- 3.1.5 As it has already been noted, there are several examples of where on the face of it, the need for a licence appears to be excessive; but to suggest that a situation does not require relevant controls unless an event is attended by over 5,000 is rather extreme. It is not feasible to adopt an attendance figure as a bench mark which can be successfully applied to every event and location effectively.
- 3.1.6 We are concerned that efforts to address the current examples deemed to be excessive will create other problems. Currently a licence remains operational (unless the situation changes) apart from the initial effort of making an application and payment of fee; most of the premises providing small – scale activities pay £100 or less, and village halls are excluded from payment of fees altogether.

#### 3.2 **Environmental Health Units**

- 3.2.1 The service units within Public Protection ( e.g. Environmental Health ) are statutory consultees under the present regime when the authority receives a new application or a variation application.
- 3.2.2 We specifically utilise procedures within the Licensing Act where difficulties arise regarding compliance with one of the main licensing objectives, namely the prevention of public nuisance. The majority of the statutory nuisance issues dealt

with arises from consultations on regulatory aspects of premises licensed to sell alcohol and provide musical live or recorded entertainment .

3.2.3 In this context we are, in the main, supportive of the current regime because -

- The process is transparent and open.
- It is possible to give licence holders specific guidance ( licence conditions) detailing their responsibilities.
- The opportunity to place relevant conditions on new licences allows for a proactive approach in dealing with potential problems.
- The ability to apply for a review of a premises licence allows for a fair and transparent opportunity for the service and others to deal with problems as they arise; without having to resort to the courts for redress.
- It is possible to use the process of licensing events to ensure that public health and safety receives the full attention of the organisers. Such events are often held on premises which are outside the health and safety enforcement responsibility of the Council ( i.e. enforced by the Health and Safety Executive, HSE )
- Utilising the process of a licence review resolves problems faster than resorting to the relevant legislation that we enforce.
- It is anticipated that the costs involved in initiating a licence review is less than costs attributable to a prosecution case under relevant legislation

### **3.3 Financial implications**

3.1.1 There is a suggestion in the consultation document that the proposed changes would result in a reduction in the costs involved in processing and responding to licence applications; there is however a significant potential for a rise in noise nuisance complaints; as well as increased costs resulting from having to resort to formal action and prosecution to resolve complaints .

## **4.0 SUMMARY**

- 4.1 The main purpose of the consultation is to seek a way of reducing the regulatory burden upon activities attended by less than 5,000 people. In our opinion it is not the number of people attending a premises or an event that is relevant where the potential for public nuisance is considered. The nature of the entertainment, the sale of alcohol as well as the location are far more important aspects.
- 4.2 There is little doubt that some aspects of the Licensing Act 2003 should be removed or amended. It is also important to note that some aspects of the Act are useful, ensuring a fair regime allowing people to present entertainment to the satisfaction of customers without interfering excessively with the interests of local residents.

## **5.0 RECOMMENDATION**

- 5.1 As previously noted in the meeting held on the 19<sup>th</sup> of September 2011; a formal response will be produced to the consultation, following responses received from this committee, and in consultation with the Chairman, the Vice chairman of this committee and Portfolio Leader - before submitting the final report. Responses to the consultation and the specific questions asked (see appendix) are invited by the 25<sup>th</sup> of November 2011.