

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 16

Brighton & Hove City Council

Subject:	DCMS proposals to deregulate regulated entertainment		
Date of Meeting:	17 November 2011		
Report of:	Head of Planning and Public Protection		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To report the Department of Culture, Media and Sport (DCMS) proposal to deregulate regulated entertainment for audiences of less than 5000 people.

2. RECOMMENDATIONS:

- 2.1 That Committee note officers concerns regarding deregulating regulated entertainment and responds to DCMS that deregulation is not justified and the exemption level is set too high to provide necessary protection for audiences and residents.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 On 14 September 2011, the DCMS published a consultation on the proposal to examine the deregulation of Schedule One of the Licensing Act 2003 (Regulated Entertainment). See appendix 1.
- 3.2 The Licensing Act 2003 brought together nine separate outdated licensing related regimes, and created instead a single Act that controlled alcohol supply and sale, late night refreshment, and "regulated entertainment". Government believes that in tidying up the old licensing regimes new problems were created for many wishing to host entertainment events and aim to remove licensing regulation that 'unnecessarily restricts creativity or participation in cultural and sporting events'.
- 3.3 Regulated entertainment within the Licensing Act 2003 covers the following:
- 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,
 - a performance of dance,
 - provision for entertainment facilities (which generally means the provision of facilities which enable members of the public to make music or dance).
- 3.4 The Government is therefore proposing a reform of activities currently classed as "regulated entertainment" in Schedule One of the 2003 Act. The consultation seeks views on the removal in certain circumstances of the requirement for a licence in England and Wales to host a performance of a play, an exhibition of a film, an indoor sporting event, a performance of live music, any playing of recorded music, or a performance of dance to audiences of less than 5000 people. Government believes that removing the need for proactive licensing for regulated entertainment could provide a great boost for community organisations, charities, cultural and sporting organisations, for artists and performers, for entertainment venues, and for those local institutions that are at the heart of every community, such as parent/teacher organisations, schools and hospitals.
- 3.5 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. (This refers to pubs who can put on such a performance less than 12 times per year).
- 3.6 Venues which hold 'audiences of less than 5000' are very large venues. For example, the Brighton Centre holds an audience of 4500 or 5100 if standing for concerts; the Dome holds 2102 and the Komedia holds 350. Elsewhere, the Royal Albert Hall has a capacity of 3929 if seated or 5250 with some standing.
- 3.7 Environmental Health Officers as the responsible authority in relation to minimising risk of pollution of the environment or of harm to human health object to this deregulation measure. Regulated entertainment is discouraged from buildings abutting or containing residencies within the Statement of Licensing Policy and previously the Public Entertainment licensing policy. This limitation is imposed for necessary protection for residents against structure borne noise that cannot be remedied by statutory nuisance powers.
- 3.8 Colleagues in the Police and Council health and safety inspectors feel that the limit should be less than 500, not 5000. This would be consistent with existing licensing regulation such as Temporary Event Notices which operate for audiences of 499. Alternatively the figure of 200 could be used as intended by Section 177 of the Licensing Act 2003. This would still represent a radical deregulation measure.
- 3.9 To encourage live music in pubs, officers will encourage use of the incidental music exemption, use of temporary event notices and minor variation process. Deregulation is unjustified. Locally, protection of residents from nuisance from entertainment pubs has been achieved by Statement of Licensing Policy, licence reviews and statutory noise controls.

3.10 Officers intend to respond to the consultation – see appendix 2.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 This matter has been discussed at the council's Licensing Strategy Group

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 As the majority of licensed premises are licensed for the sale or supply of alcohol as well as regulated entertainment, licence fees would continue to be paid. The deregulation of regulated entertainment would potentially increase the need for enforcement, noise patrol and police presence, which could place additional burdens on health & safety and environmental protection regulation budgets.

Finance Officer Consulted: Karen Brookshaw Date: 26/10/11

Legal Implications:

5.2 Covered in the body of this report.

Lawyer Consulted: Rebecca Sidell Date: 04/11/11

Equalities Implications:

5.3 Urban residents would be more likely to be subject to low level nuisance below levels that could be addressed by statutory noise nuisance powers.

Sustainability Implications:

5.4 None.

Crime & Disorder Implications:

5.5 Potential for unregulated entertainment for audiences of 4999.

Risk and Opportunity Management Implications:

5.6 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).

Public Health Implications:

5.7 Public Health is not a licensing objective. However, the health effects of alcohol are a major concern in Brighton & Hove. The health impact assessment carried out in 2009/10 reports residents concern about noise.

Corporate / Citywide Implications:

5.8 Unregulated entertainment for audiences of 4999 not linked in with Council's Events Management Plan.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 Leave Schedule One as it is but with exceptions for community halls, parent/teacher organisations, schools and hospitals.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 Officers are concerned that deregulating regulated entertainment will cause problems in the city, especially noise problems, as well as the potential to undermine the Cumulative Impact Area by having large, unlicensed events in the city centre.

SUPPORTING DOCUMENTATION

Appendices:

1. DCMS Consultation proposal to examine the deregulation of Schedule one of the Licensing Act 2003.
2. Officer's response to the consultation.

Documents in Members' Rooms

1. None

Background Documents

1. None

