

### Deregulation of Schedule 1 – Officer guidance for discussion

**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?**

*The majority of premises within South Cambridgeshire already hold licence. There are currently 89 community-based premises with entertainment provision out of a maximum of approximately 102. The current regime allows for premises to have a degree of flexibility by use of TENS whilst allowing the regulatory body (The Licensing Authority) to consider the expectations, particularly of nearby residents, in the promotion of the licensing objectives. It is not expected that the removal of Schedule 1 would increase the number of performances in South Cambridgeshire.*

**Q.2 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).**

*It is difficult to agree with any such assessment especially when there are so many assumptions throughout the impact assessment. The cost saving is not a realistic reflection as it is primarily a time saving to the applicant. Therefore, it would be better to consider how the forms themselves can be simplified to remove this burden as much as possible.*

**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. The current system allows for Local Authorities to be aware of events that are happening within the area, i.e if a TEN is served and there is an associated risk of noise nuisance, the EHO/Licensing Officer work pattern can be amended to be available for monitoring or enforcement at no extra direct cost to the Local Authority. The removal of an entertainment licence will result in a reactive response to problems which is more costly to the Local Authority by way of an “out of hours service” which typically involves extra payments for officers to attend.*

**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**

*The current system permits conditions to be attached to reflect the issues raised, particularly in respect of times and frequency. This gives both the licence holders and nearby residents/businesses a clear understanding of what is permitted. The SCDC area is one of a largely rural nature with no clear urban centre and therefore the activities of local village based pubs and community centres are vital. Noise related issues can and often do cause as much disturbance as that of a pub. Whilst it is generally accepted that alcohol can contribute to anti social behaviour, it should be recognised that it is not the sole cause. A Village hall*

*event with 200 sober people is likely to disturb residents just as much as 30 people leaving the local pub slightly worse for wear.*

*A potential loophole that is not addressed in these proposals is the scenario where premises without a licence for alcohol allow 'a bring your own event', therefore going round the provisions and controls of an alcohol licence, or, technically close the pub and use the TEN system so that any disturbance caused effectively bypasses the Licensing review framework.*

**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.**

*It is difficult to give estimates, given the number of premises within our district and the very limited requests or complaints from either premise licence holders or the public regarding the current restrictions either via licences or the TENS system. We can only assume that there would be no significant increase in activities should the proposals be introduced. The effect would be on the lack of boundaries that event organisers would be required to adhere to and the subsequent complaints that would follow.*

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

*Little or no consideration has been given to the fact that prevention is better than cure. The knock-on effect, particularly for smaller district councils of reactive out of hours noise complaints could be significant. A number of premises have been brought into line by the Licensing Act in a manner that allows the business to operate successfully, whilst setting boundaries that residents are satisfied with. This applies equally to alcohol and non-alcohol related premises. To remove those boundaries will in our view significantly increase the workload on other areas of enforcement within the Council whilst at the same time eroding the confidence of the public who have come to terms with a system that if applied reasonably and with common sense works.*

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

*Public trust. The public have, since the introduction of the Licensing Act, had a clear and transparent route in which to express their views and concerns as well as a clear way in which to address complaints. Many Local Authorities outside of the cities have community premises that have entertainment only licences and these can cause as many problems as alcohol licensed premises. Therefore the removal of this schedule would undermine the trust of those members of the public and take away the transparent and clear methods in which to raise issues.*

**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.**

**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. Premises that hold alcohol licences should apply for the entertainment activities to be removed and by doing so give people the opportunity to make representations either for or against. Whilst the majority of premises work successfully within conditions attached to their licence, they often have little regard for neighbours. This can be demonstrated when TENS are used by premises to avoid restrictions on their licence.*

**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. In a rural area there are very few events that attract 5,000 people but an event for 250 people in a village of 150 is a significant event Therefore we would urge Government to reconsider this level. It is understood that certain quarters feel that 250 is an acceptable number, but in reality this would be of very little help to small rural areas.*

**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.**

*The question is inferring that we should propose a numerical limit whereas in reality our view is that no arbitrary limit should be imposed.*

**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.**

*If an activity is licensable then no minimum number should be imposed before it becomes a licensable activity.*

**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. The main area will be that of public nuisance and in particular noise related complaints either from events involving entertainment, music in particular, or people leaving or being outside premises late at night*

*The use of conditions on licences to promote the licensing objectives, particularly that of noise related nuisance, currently allow for swift action to be taken in cases of a breach whereas the environmental health based measures referred to in the consultation document often rely on a continuous exposure that has to be measured over a period of time and therefore attracts a cost in terms of officer time and use of expensive noise monitoring equipment. Only where there is substantial disturbance would environmental health legislation be effective, however the powers in the Licensing Act allow for an alternative approach as “nuisance “ is not defined and low-level nuisance can be considered.*

**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.**

*Safety issues arising from outdoor events are often different than those within a confined space. For example, it is far easier to evacuate people from a field or large marquee if a safety risk arises rather than trying to get a number of people out from confined premises such as pubs and Village Halls. If the consultation is considering safety, based upon audience size then there is an argument to say that outdoor and indoor events could have*

*differing parameters. However a small pub with a capacity of 50 is indoors, just as the NEC with a capacity in excess of 10,000 is. It would be foolish to consider them in a similar manner by just saying "indoor events"*

**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.**

*There should be no cut off point for entertainments. Each premise and activity should be judged on its individual merits. With decisions taken at a local level considering the local situation. A recent play taking place in an open area created a number of complaints due to amplification of the voices and incidental music, primarily because the event went over 3 hours for 4 consecutive evenings and finished by 22.00 whereas live music at the same venue for 2 hrs but finishing at Midnight has received no complaints in the past.*

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

*If Government is determined to remove all current restrictions, then there should still be scope for local decisions to be made when the evidence supports the fact that disturbance is proving unacceptable after a given time. The consultation panel needs to be aware that a "district wide" policy would not work and such a policy should be flexible to account for localised variations. It may be worthwhile considering turning the emphasis around to the Licensing Authority who would have to demonstrate why a premise should not be permitted to operate after a given time.*

**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. A code of practice is only as good as the weakest operator. The Licensing Act has allowed authorities to identify the poor performing licences and impose conditions to protect the public at large. The question would also be as to who enforces the code of practice?*

**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. The existing laws are often unwieldy and time consuming. To receive a complaint after an event makes it impossible for officers to take forward any meaningful enforcement due to the evidence being hearsay only, and the process for determining disturbance is subjective and can be affected by many natural factors i.e wind, distance, background noise etc, what upsets one person is acceptable to another. Whereas an event going on beyond a permitted time is clear and can be actioned upon to prevent further occurrences.*

*The various pieces of legislation mentioned within the document do not give a local authority the appropriate tools to deal with matters in a quick and efficient way. For this authority, it may mean a restructuring of the current environmental health resources to take account of the lack of control envisaged, but at present is controlled via the Licensing Act 2003.*

**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.**

*There is little doubt that in the short term, premises will extend the times that events terminate. However, given the number of licenses and flexibility of numerical limits within our district it is not expected that frequency of events will increase significantly. We currently have the following:*

*Total number of licensed with alcohol & entertainment provision = 314*

*Total Number of premises with ONLY entertainment provisions = 102*

*Total number of premises with alcohol provision only = 88*

*Total Number of Temporary Event Notices issued for entertainment only (Jan 2010 to Dec 2011) = 37*

**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?**

*The consultation document states that premises where alcohol is sold can still be held accountable and have conditions added if events are held!*

*We would raise the following questions:*

- Why remove existing conditions that have been placed on the licence for good reason and only after representations, only to be put in the position of re-imposing them at a later date, therefore incurring an expense to the Licensing Authority and an increased workload for the Environmental Health dept to establish a nuisance.*
- If a premise with an alcohol licence has entertainment but “technically” closes the pub and applies for a TEN for sale of alcohol whilst the entertainment takes place, how will this affect the licence if complaints are made and upheld?*
- Given the current legal system, surely it will be argued by a competent Solicitor that entertainment is beyond the remit of a committee and that any disturbance from an event was not caused by alcohol but by a factor that the Licensing Committee has no legal remit to control? If so, how does Government propose to deregulate entertainment but still allow for a licence to be reviewed if entertainment is held that causes a nuisance?*
- Government should be aware of why and how current legislation has formed the entertainment aspect of the Licensing Act. The criminal element that effectively took over clubs and nightclubs in the late 1970`s and early 1980`s along with the total disregard for customer safety, i.e the stardust disaster in Ireland in 1981 resulting in 48 deaths. The following are examples where licensing standards are recognised to be significantly below that of the UK in recent years and have resulted in fatalities:*

*Oct 30, 1999 - Fifty-five people were killed and over 70 injured in a fire at a karaoke bar in the South Korea.*

*Oct 20, 2000 - At least 20 people were killed after they were trapped in a fire at a trendy Mexico City dance club that had been shut by authorities 11 times previously.*

*Dec 25, 2000 - A Christmas Day fire killed 309 disco revellers and construction workers at a dance hall in a commercial centre in the Chinese city of Luoyang.*

*Jan 1, 2001 - Thirteen people were killed and 180 injured in a fire in a cafe packed with teenagers celebrating the New Year in Volendam, Netherlands.*

*July 20, 2002 - A fire started by a juggler with blazing batons ripped through the Utopia disco in the Peruvian capital Lima killing 14 people.*

*Dec 1, 2002 - Fifty people were killed, mostly by smoke, when fire swept through the Goajira bar and club in Venezuelan capital Caracas.*

*Feb 17, 2003 - Twenty-one people killed in a stampede in an unlicensed nightclub in Chicago when they tried to escape pepper spray used to break up a fight and were crushed behind blocked doors.*

*Feb 20, 2003 - Fire swept through a nightclub in West Warwick, Rhode Island, during a pyrotechnics display at the start of a heavy metal concert, killing 96 people and injuring nearly 200.*

*Dec 30, 2004 - A blaze in a nightclub in Buenos Aires killed 192 people and injured nearly 1,000. Cause of the fire is thought to have been a hand held flare or firework sold for New Year's celebrations fired into the club's ceiling, which was covered with foam.*

*May 8, 2006 - Fire sweeps through a nightclub in the Thai resort of Pattaya killing at least eight and injuring 54 others.*

*Nov 27, 2006 - Nine people were killed in a pre-dawn fire that swept through a nightclub in the Dominican Republic capital Santo Domingo.*

*Nov 14, 2007 - A fire sweeps through a Chinese karaoke bar killing 11 people. The fire broke out at a bar in Chengde county in Hebei province, 230 km (140 miles) northeast of Beijing.*

*April 19, 2008 - At least 15 people died and 35 were injured when a fire ignited by fireworks swept through a crowded Quito nightclub in Ecuador.*

*Jan 1, 2009 - A blaze at a top Bangkok nightclub killed 61 people, including four foreigners. More than 100 people were injured as they stampeded out of the burning building.*

*Dec 4, 2009 - A blaze sparked by an indoor firework show rips through a crowded Russian nightclub, killing at least 102 and injuring 134 as revellers stampeded for the exits.*

*None of these premises to our knowledge have a capacity of over 5000 and therefore would be exempt from licensing should the proposals be introduced. This list indicates that without rules and controls acting in a proactive manner the reality is that we will be dealing with the aftermath and potentially with fatalities.*

**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?**

*Live music remains one of the main points of contention in the Licensing Act 2003. It is this Council's view that this should not be deregulated in any manner. The main issues surrounding live music are that of nuisance and the right for nearby residents to peacefully enjoy their property. The panel needs to be clearly aware that outside of the "hot spot" cities and towns, there are thousands of pubs that are cheek by jowl with neighbours and often back gardens are adjacent and pubs can be joined by party wall; all of which can give rise to an uneasy relationship. The current restrictions within the Act largely create a set of rules that everyone understands and can work to, but at the same time allows for both parties to ask for changes within a trusted and recognized set of procedures.*

**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.**

*Unamplified music can be as loud as amplified and therefore any controls should remain. A brass band may be as noisy as a small, amplified band. The current exemptions for "incidental" could be widened and therefore give better clarity to existing legislation.*

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

*The consultation panel need to be aware that in many cases the deregulation of recorded and live music in particular will undermine a great deal of work that has been done at a local level involving licensing Authorities, the public and the trade. The effect on those residents affected by inconsiderate activities will be disproportionate to the perceived benefit of the*

*individual premises causing the disturbance. When a disturbance is caused, the speed and effectiveness by which the matter is resolved is how we as a council are judged. The Licensing Act gives us a tool to act quickly, proportionately and transparently. Without this, the perception by residents will be that we are largely powerless to act without drawn out investigation and monitoring, whilst the problem, often a low-level drip feed nuisance that may not meet the exceptionally high threshold test of other legislation, persists.*

**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?**

*This authority has received very few complaints regarding theatrical performances over the years and would consider amendments, provided that such activities were unamplified or were still subject to a form of notification to the Licensing Authority who could consider the relevance of conditions subject to the merits of the notice.*

**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?**

*Whilst no health & safety issues have occurred in recent years, the additional risk of often setting up temporary structures outside should not be ignored. Fixed premises will automatically be on the radar of bodies such as Fire, Health & Safety executive etc, how will responsible authorities be made aware of temporary structures and events?*

**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?**

Q28: The key is not whether pyrotechnics, hazardous materials, etc. at plays can only be handled through the licensing regime. The value of the licensing regime is in a "belt and braces" approach: there is a lower probability of failure if these issues are handled both through the licensing regime and through legislation such as the Management of Health and Safety at Work Regulations 1999, the Control of Substances Hazardous to Health Regulations 2002, the Control of Explosives Regulations 1991, or the Manufacture and Storage of Explosives Regulations 2005, as appropriate.

*Producers and organisers of plays need to be aware of their obligations towards public safety and the Licensing regulations are an effective tool to ensure this happens.*

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

*To remove or amend the definitions of theatres from Schedule 1 would be worthy of further investigation given the general low risk nature of such events against the licensing objectives.*

**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?**

*The performance of dance is a matter that has caused confusion for many years. This authority would appreciate a clear indication on such determinations. It is our view that the*

*music activity is the main area where controls should be kept, not whether an area is cleared to allow people to dance to the music.*

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

*None identified*

**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?**

*Yes, the BBFC system is well understood and respected. However, a regulatory check system within the Licensing Act should remain to enforce breaches of the system.*

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

*Premises should be permitted to sign up to the BBFC system either as part of the application or voluntarily at a later date. However, it should remain a part of the licensing enforcement function to enforce breaches of any new system or where films are shown without agreement to adhere to the system or where films are shown without the appropriate classifications.*

**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?**

*The Act, Guidance and Statutory Instruments are clear that films shown for educational purposes are exempt. However, the definition of education could be widened to permit over cautious authorities imposing nonsensical conditions on premises such as schools etc.*

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

*None identified*

**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.**

*Indoor sport has raised no previous issues within our district. However by its very wording it has caused confusion to many despite Government guidance. This authority would support measures that either amended the definition, so that the weekly pool or darts leagues weren't treated differently by differing licensing authorities or the clarification on what constituted an audience and an indoor event.*



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

**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. The increase in Boxing and Wrestling type activities has increased since the commencement of the Licensing Act. Cage wrestling for example has increased, however given the nature of the events and the numbers that watch such events, the panel needs to be aware that outside of the televised -type event, these are often covered by TENS and therefore have very little control by the Licensing Authority*

**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**

*The legislation should be amended to cover all aspects of Boxing and Wrestling in any form. Most “Cage fight” type events in our area operate under TENS to ensure that they do not fall foul of any legislation. Whilst not a common activity, there is a clear view that this type of event is gaining in popularity and the recent case in the North West where two 8 year olds were fighting, should give rise to serious concern.*

**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.**

*Q41: There are considerable risks in deregulating performances of recorded music to audiences of fewer than 5000 people. Performances of recorded music of excessive volume, to audiences of, say, a couple of hundred people, cause great distress and anger in our communities, as evidenced by the fact that, in our experience, they are the single most frequent cause of telephone complaints to councillors and to the Environmental Health emergency line. How are we to explain to angry residents that Whitehall-imposed deregulation has denied their elected local authority the power, for example, to insist on volume limiters as a licence condition?*

*No. The disturbance from events including recorded music i.e a “disco” type event can be as disturbing to residents as a live music event. We frequently receive complaints about all types of licensed premises holding such events, The concept that Village halls or community centres are likely to be better controlled is an assumption that we would challenge. Many halls are hired out to persons unknown and very few, if any, checks are made during the events by the licence holders. The process of the Licensing Act in allowing interested parties to raise concerns before permissions are granted, allows for appropriate and necessary conditions to be attached to a licence that will in most cases give a degree of assurance to residents whilst allowing the licensed premises to flourish.*

**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.**

*It is the view of this authority that no numerical limit should apply, all events should be licensed.*

**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?**

*Recorded music remains one of the main points of contention in the Licensing Act 2003. It is this Council's view that this should not be deregulated in any manner, The main issues surrounding recorded music are that of nuisance and the right for nearby residents to peacefully enjoy their property. The panel needs to be clearly aware that outside of the "hot spot" cities and towns there are thousands of pubs and community premises that are cheek by jowl with neighbours and often back gardens are adjacent and pubs can be joined by party walls, all of which can give rise to an uneasy relationship. The current restrictions within the Act largely create a set of rules that everyone understands and can work to, but at the same time allows for both parties to ask for changes within a trusted and recognized set of procedures.*

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

*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.  
None identified, this authority has no incidents recorded against this activity*

**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?**

*The interpretations and areas of confusion are largely laid out in the consultation document at Para 1.5. This authority would prefer the existing restrictions to remain but would support any moves to amend legislation to remove the ambiguities outlined. However, it is unclear to this authority exactly why some of the activities mentioned have been raised as the Act is clear on many of the areas raised. It would be far better to ensure that those people who are charged with regulating the activities are fit and proper to do so. A recognized qualification for a licensing practitioner should be mandatory as a way to ensure national consistency which in turn will reduce the bureaucratic burden on business.*

**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?**

*None identified.*

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

*Yes.*