

RESPONSE TO THE CONSULTATION DOCUMENT ON THE PROPOSAL TO
EXAMINE THE DEREGULATION OF SCHEDULE 1 OF THE LICENSING ACT
2003

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?

Response: Of the 579 premises in the London Borough of Wandsworth with a licence to sell alcohol on or on/off the premises, 213 also have a licence to provide live music. Of the 48 Private Members Club in the borough supplying alcohol, 32 have a licence to provide live music. There are, therefore, many venues within this borough that could allow live music performances (albeit with controls to protect neighbours from noise nuisance). However, many of these licences are not used and this Authority would, therefore, question whether live music is not being promoted in venues because of market decisions rather than because of bureaucracy and red tape. 3 venues in the borough are licensed for live music without also holding a licence for the sale or supply of alcohol.

It is very rare for Temporary Event Notices to just relate to regulated entertainment without being accompanied by the sale or supply of alcohol as many community groups rely on the sale of alcohol to raise funds. Of greater benefit to community organisations would be to simplify the Temporary Event notice forms and allow these to be submitted to the police and other responsible authorities by e-mail. There is little extra 'red tape' adding regulated entertainment to a TEN. In addition, there is merit in removing the restrictions on the number of Temporary Event Notices any one person may apply for. The current limits are unenforceable whilst there is no national database but also of any obvious benefit. Removal of these limits would assist community organisations whilst maintaining proportionality between enforcement authorities/residents and applicants.

This Authority has, in the past, advocated an amendment to the Regulations to remove the requirement for applicants to have to advertise their application in a local newspaper. This is a very expensive requirement with the local paper circulating in this Authority's area charging some £500 for each advert. This considerably adds to the cost of anyone seeking a variation to their licence to e.g. add live music but adds little benefit to local communities.

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?

Response: Not applicable

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).

Response: See response to Question 1. As mentioned only 3 premises in the borough

hold a licence for the provision of regulated entertainment only, consequently the impact of deregulation would have minimal cost savings. As stated, the removal of the requirement to advertise major variations in a local newspaper would have the most significant impact on cost to business.

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.

Response: This Authority questions the premise that once deregulated, noise nuisance associated with loud music from a venue also selling alcohol could be dealt with via licensing legislation. If live and recorded music ceases to be licensable most pubs and clubs would seek to remove these activities from their licence. With this, any associated conditions would also be removed. In our view, it would then not be possible to use licensing legislation to attach conditions in respect of something that is deregulated. The only available option open to residents to deal with noise nuisance would be via complaint to the local authority. This would place additional cost onto the Authority which would have to be met by local Council Tax payers and not by the business creating the problem.

However, if the review mechanism was to be used to deal with nuisance associated with venues, we dispute the estimated costs laid out in paragraph 70. A disputed review could cost a Local Authority up to £30,000. Cost to a local authority in carrying out a review is greater than the cost of processing a new or major variation application and, at present, the full cost of processing a review falls to the Local Authority.

Paragraph 62 of the Impact Assessment states that only 3% of those interviewed identified pubs, clubs or other entertainment venues as a source of noise that was bothering them. The assessment then goes on to state 'Despite the size of the events we are proposing to deregulate, we believe that it is unlikely that deregulation will give rise to greatly increased complaints or disturbance'. This Authority fundamentally disagrees with this assertion. By deregulating live and recorded music in venues with an audience size of less than 5,000 licensing authorities will not be able to act proactively to prevent nuisance. All actions will be re-active and there will inevitably be a rise in complaints, and consequently cost to Council Tax payers.

We do not agree with the figures set out in paragraph 74 as we do not agree with the estimate on savings or on cost in dealing with increased noise complaints (which may be in respect of matters that cannot be dealt with under the Environmental Protection Act or the noise Act)

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

Response: As mentioned above, without the ability to deal with the potential for noise complaint as part of the licence application process noise complaints are likely to rise

significantly. It is not the sale of alcohol that leads to the majority of noise complaints but the provision of regulated entertainment. Noise complaints concerning licensed premises have declined as a percentage of total noise over the years indicating that the present regime works. If regulated entertainment were to be deregulated, preventative measures could not be taken. For example, many of the licences issued by this Authority prevent regulated entertainment taking place in beer gardens or other external areas. In addition, conditions have been imposed requiring the fitting of sound limiting devices, a terminal hour for music that is earlier than the terminal hour for the sale of alcohol and the requirement that windows and doors are closed after a certain hour when regulated entertainment takes place. Either existing conditions relating to deregulated entertainment will simply have no effect or premises will apply for new licences or seek variations to remove the conditions. In any event the protections for residents will be removed.

It should be noted that since the introduction of the Licensing Act 2003 the hours that premises stay open for licensable activities have generally increased. It is too late to put the 'genie back in the bottle'. Residents may, in the past, have put up with an element of noise disturbance up to 23.00 hours. However, now premises operate much later in the night with reduced general background noise levels so making disturbance to residents more likely. The consultation paper shows little sympathy for residents who will have to put up with noise disturbance for much longer period of time in the future as it will be dependant on the statutory process or review procedure, rather than tackling a potential problem before it occurs.

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.

Response: The Impact Assessment contains a number of assumptions about noise that are incorrect, and the effect of those assumptions is compounded. Paragraph 22 asserts that it is the sale of alcohol that is the cause of public nuisance and disorder. Whilst this Authority has no issue with the latter it is our experience that most public nuisance is caused by regulated entertainment. Paragraphs 86 and 87 assert that the health effects of background noise are known, but the health effects of intermittent noise have not been investigated and researched in any depth. In short, nuisance noise affects a small number of people acutely, whereas background noise affects large populations, from which correlations can be made. The impact statement then draws the conclusion that noise nuisance associated with music from entertainment venues has far less risk to health and less annoyance value than background noise. Both the Impact Statement and the consultation document itself assert that enforcement powers contained in the Environmental Protection Act 1990 or the Noise Act 1996 are adequate protections for communities. They are not, as the nuisance, with its attendant human misery has to occur before action can be taken, and unlike the licensing process, allow little by way of negotiation. Moreover, other sources cite noisy neighbours as being a major cause of concern for society, and these neighbours need not be residential.

In short the interest of residents will not be served by the removal of the provision of live and recorded music and other amplified entertainment such as karaoke and films from the licensing regime.

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

Response: No further comment.

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

Response: The majority of the Impact Assessment seems to be based on the impact that the de-regulation of live music would have on society in general, on business and statutory authorities concerned with noise nuisance and crime and disorder. There is little mention of public safety and the potential impact that de-regulation may have on health or of potential reputational cost to Government. It is noted that a limit of 5,000 has been set based on the requirement for licensing of sports stadiums and stands which were brought about following high profile disasters at football matches. However, there have also been deaths at small venues where a combination of flammable material and locked fire exits has resulted in the death of patrons. Under the current licensing regime the whereabouts of premises are generally known and spot checks can be carried out. In future these venues will not be known and another tragedy could occur with all the costs, both emotional and financial that ensues.

The Health and safety at Work etc Act 1974 is an ineffective tool to use when dealing with public safety, even assuming that venues and events are known. The legislation is largely designed to protect employees at work and not customers (although there are responsibilities for employers to safeguard others not in their employment).

Currently the police can seek, by way of condition, information on promoters that may be providing entertainment at a venue. Certain types of music, or particular DJ's, can have crime and disorder implications and the de-regulation of music would leave the police unable to gather intelligence in advance of an event and respond appropriately.

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.

Response: It is unclear what is being asked in this question. It is our view that there should be limited deregulation of regulated entertainment, an increase in exemptions to the licensing regime and some amendments to the Licensing Act and associated regulations which would reduce burdens on business whilst still protecting local communities and those attending events.

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?

Response: This is a legal question. It would seem that if there were no requirement for regulated entertainment to be licensed, those entertainments would drop from the licence. Presumably the hours that premises are open to the public would remain so that entertainment could not extend beyond the opening hours of the venue. What is slightly more problematic would be which conditions should remain on the licence and which would fall as they relate to an activity that has been deregulated e.g. windows and doors to be closed at a particular time as this may relate to noise from revellers drinking alcohol or may relate to the provision of regulated entertainment.

Unless all licences are re-issued by the Licensing Authority, public registers will be wrong as they will still show licences with controls over areas that have been deregulated. This will cause confusion to the public who will expect a licence to be enforced in its entirety and will not understand that, in fact, much of it has been deregulated.

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?

Response: The London Borough of Wandsworth oppose the proposal for events under 5,000 people should be deregulated across all of the activities listed in Schedule One of the Licensing Act 2003. It is the view of this Authority that in order to deal with a few particular small examples of over-regulation, important controls will be removed at a stroke. For example, virtually all noise complaints are caused by smaller premises with a capacity of fewer than 500 (many less than 200) as these tend to be the premises that are situated in the midst of residential areas.

5,000 people is a very large number. Sports ground safety legislation is very specific and designed for purpose built permanent stadia. An event in a field or a derelict warehouse is not the same. An event for an audience of 4,999 could give rise to a major impact on an area if unregulated e.g. lack of adequate toilet provision, public safety concerns, noise nuisance.

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.

Response: There is little correlation between the size of a venue and the likelihood of noise complaints. What is significant is whether amplified entertainment is provided or not. The major factors involved in public nuisance are noise from amplification and sound breakout from within the premises and noise from people entering, leaving or congregating outside premises (usually to smoke). A licensing regime based on the size of a venue is misplaced if the aim is to prevent or reduce public nuisance.

In addition, public safety can be just as compromised in small venues as in large venues if controls have not been put in place or the premises inadequately managed.

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.

Response: It would be confusing, both for applicants and for enforcers, if there were different audience limits for different licensable activities. If this is a genuine attempt to make it easier for people to provide regulated entertainment, different audience levels for different licensable activities would not be helpful.

It should be noted that Section 177 has never been invoked in this Authority as licence holders are reluctant to have a capacity limit placed on their licence.

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.

Response: This Authority strongly believes that premises that would no longer have a licence, due to the entertainment deregulation would pose a significant risk to the original licensing objectives. In many of the responses to the question above we have stated that, in our view, public nuisance will occur if the provision of live and recorded music is removed from Schedule 1. Existing protections afforded to residents to ensure that controls are put in place to prevent noise nuisance at the very start of a licence will be removed. We also question the ability for a review to be called to a premises selling alcohol that is causing nuisance due to their music offering. A licensed venue in this borough, situated below and directly opposite residential property, changed its offering from primarily drink led to more of a music led venue (recorded music and DJ's). Residents sought a review on the grounds of public nuisance which led to the hours of operation being reduced. This did not resolve the problem, and another review was called. At this hearing, the Licensing Sub Committee revoked the licence. The premises owners are now seeking a new licence. There has been considerable opposition from the residents who had suffered previously. The Licensing Sub Committee will now make its decision having regard to the representations, which could include either refusing the music element of the application or by imposing necessary and proportionate conditions. This should ensure that both applicant and residents get a fair deal. With the de-regulation of music the licence would be granted and residents would have to put up with the noise or complain to the Council's noise service. In order for action to be taken noise officers would have to witness nuisance from the complainant's home and the details of the complainant would be made public in any ensuing Court Case (which can be a long drawn out process). In the case outlined above residents were scared to complain in case of retaliation. The review was called by the managing agent but could equally have been called by a local Councillor or by the local authority. There is no doubt that the de-regulation of music will impact adversely on the prevention of public nuisance licensing objective.

Another scenario could be that a venue decides to provide music and dancing and charge an entry fee. People attending the venue would be encouraged to bring their own alcohol. There would be no limit on the hours the venue operated. People would have been drinking with all the consequences that this brings. People would congregate outside the venue to smoke, thus impacting on their neighbours. There

would be little or no control over the safety of the venue, health and safety officers will not be carrying out ad hoc visits to premises unless there is good reason to believe that there is a problem at those particular premises. This would be a totally uncontrolled venue. Noise legislation cannot tackle noise in the street so no action could be taken regarding this element of the operation. The operator may not be willing to co-operate with the authorities and the only remedy for local authorities would be to follow expensive injunction procedure.

Paragraph 3.34 of the consultation states that currently entertainment does not go beyond 11pm. We do not know where this information has come from. Almost all late venues have recorded music beyond 11pm. In addition, noise nuisance can continue beyond the hours that the actual entertainment takes place as bands need to pack up and load equipment back into vehicles.

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.

Response: No. There should be no difference in treatment between indoor and outdoor events with regard to audience size.

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.

Response: As has previously been stated, it is the view of this Authority that the proposal to deregulate regulated entertainment as proposed is misguided. Noise can cause an impact on communities regardless of the time. However, implementation of the Licensing Act 2003 has meant that premises in general open later than they did under the previous licensing regimes. Noise at night is more unacceptable than similar levels in the day and more complaints are received concerning late night noise. Consequently, at a minimum all events held beyond 23.00 hours should not be deregulated.

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.

Response: There should not be different cut off times for different types of entertainment as this would make any new regime extremely complex for applicants to understand. Noise from outdoor events, by their nature, are more likely to adversely affect a large group of people who live and work in the area (often long distances away) regardless of audience size. In fact this authority has had experience of an outdoor event affecting three different Borough's residents. Unamplified music performances in a pub garden surrounded by residential property is likely to cause noise nuisance and are not self limiting as suggested.

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

Response: The best method of regulating events is by way of a licensing system.

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?

Response: A Code of Practice must overlay legislation, not replace it. A Code of Practice encourages good practice but does not stop bad practice happening. Without a statutory basis it cannot be relied upon as a way of mitigating risk.

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?

Response: The laws covering noise and the Health and safety at Work Act 1974 cannot deal with potential risks at deregulated entertainment events. These laws can be used retrospectively to impose sanctions once problems/incidents have occurred. The powers contained within the licensing regime are preventative and ensure that conditions are tailored to the requirements of the premises. Other powers such as the Environmental Protection Act and the Noise Act are reactive and require a mischief to occur before they can be invoked. Moreover, noise legislation is a comparatively blunt instrument compared with the licensing regime, is more costly for local authorities and burdensome on the Courts. It does not easily facilitate negotiations between parties that characterises the licensing regime. In any event, noise services, where they do exist, are stretched at the moment and often can not reach complainants when they telephone so prolonging statutory interventions. If regulated entertainment were to be deregulated, preventative measures could not be taken. For example, many of the licences issued by this Authority prevent regulated entertainment taking place in beer gardens or other external areas. In addition the consultation document recognises that many Authorities do not operate a 24/7 noise service. In fact many Authorities do not even operate an out of hours service as this is not a statutory requirement, the requirement being that an Authority must take such steps as are reasonably practicable to investigate a complaint about nuisance, yet still they say that noise problems could be immediately tackled by the Authority.

The review procedure under the Licensing Act is a powerful tool for communities to be able to deal with badly performing premises without the need to always rely on local government.

In addition, as has already been mentioned noise legislation cannot deal with noise in the streets.

Whilst employers and the self-employed must comply with their Section 3 duties under the Health & Safety at Work etc Act (to ensure that persons not in their employment are put at risk), any action by regulators will be reactive rather than pro-active. Again, intervention will only occur once there has been a fatality or major injury. In addition, venues may well fall outside Health and Safety at Work legislation e.g. community run premises. One of the reasons for introducing a licensing regime was to prevent any more tragedies e.g. where young people die in fires or as a result of overcrowding or crushing. Again, it is our view that in an attempt to encourage live

music in small venues necessary controls are being removed across the board.

The examples given in paragraph 3.19 are all annual events that are generally well run and are largely, outdoor. The paragraph then goes on to say 'There is no directly justifiable reason why events such as ballet, classical concerts or circuses should be considered any more at risk to public safety than these activities'. What the paragraph does not acknowledge are premises where public safety could be seriously compromised such as 'sham clubs' where alcohol is purported not to be sold or new venues which would not be known about as there would be no reason for entertainment to be declared on any application.

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.

Response: This Authority has adopted policy guidelines restricting the hours for licensable activities to midnight during the week and 02.00 hours on the morning following Friday and Saturday. The policy has been amended over the years to take into account the views of residents and the experience of administering the legislation. As a result, the policy provides for restrictions in the hours for the provisions of live and recorded music in premises co-joining residential property. Undoubtedly, if deregulated, premises with hours for music that are less than that for the sale of alcohol will extend those hours. It is our view that there will be a general increase in the hours for the provision of regulated entertainment in any event. This was true under previous legislation where clubs provided music and dancing beyond the hours for the sale of alcohol. However, advice is sought from Government as to whether a licensing authority would be able to continue to restrict opening hours of premises, in which case some control could be exerted on hours generally to the benefit of local residents (at least in alcohol licensed premises) or whether decisions could only be made on the hours for the sale of alcohol (as existed under the previous alcohol licence regime).

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?

Response: Both alcohol and regulated entertainment have been subject to licensing controls for many years. Whilst this is not a reason to do nothing, the full impact of deregulation must be carefully considered. To do otherwise could result in consequences both for users of entertainment facilities and for local residents.

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?

Response: Amplified live music can be a major cause of nuisance to those living or working near venues providing the entertainment. For example, a week long 'pop' event held in a tent in the Battersea Power Station site to midnight every night resulted in nuisance complaints from residents in Dolphin Square, Westminster, residents in Lambeth and also in Southwark. There was no alcohol sold at the event and the audience size was significantly less than 5,000 people. Because the event was

licensed steps were taken to reduce noise levels after the first night. In future the only remedy would be statutory nuisance proceedings. Whilst, in general, non amplified music is less of a problem this does not extend to e.g. drums.

It is the view of this Authority that the Temporary Event procedure is not overly burdensome and is well understood by licensed venues now, consequently if a venue wished to allow live music they could do so quite easily. We would contend that the reduction in small live music venues may be more a matter of the market than 'red tape'.

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.

Response: There may be some scope to deregulate unamplified music, although drums may well be a source of complaint. However, there are very few music offerings in small venues that are totally unamplified and, if not careful, we will be in to arguing what is amplified and what is not.

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

Response: As already mentioned robust guidance on what is meant by 'incidental music' could solve many problems. Many current venues have conditions preventing the playing of live music beyond 11pm at the latest. This would disappear if this form of regulated entertainment was deregulated and could lead to issues of noise from patrons leaving the premises.

Is the live music forum trying to argue that the paying of a £21 fee with a ten day notification period is prohibiting live music? As has already been stated a large number of venues currently have the licence to provide live music but choose not to do so. For those that wish to add live music the prohibitive cost of a newspaper advert can be the deciding factor. Why should an application pay on average £190 to the Licensing Authority but £450 to place the newspaper advert?

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?

Response: Again, our concerns are based on the potential for noise nuisance from theatre performances and for public safety. Many theatre performances are 'cutting edge' with public safety implications. It is the view of this Authority that Theatre performances should not be deregulated. However, as previously mentioned we do believe that a general exemption could be applied to remove educational establishments and religious establishments, where the entertainment is provided directly by that establishment, from the regulatory process. This would e.g allow schools to show films, put on a theatre productions or concerts or hold a school dance without the need for a licence but still require a licence if the premises is let out to a third party.

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?

Response: Any ad hoc theatre productions, whether outdoors or in e.g. warehouses pose a greater health and safety risk to those held in established venues but this should not translate in to two tier licensing system.

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?

Response: Yes

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

Response: No further comment

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?

Response: It should be noted that dance classes are not licensable. It is unlikely that, in itself, there will be any public protection issues that will arise if performance of dance is deregulated but see response to question 48

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

Response: No further comment

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?

Response: This Authority has had to deal with noise complaints arising from the showing of films outside e.g. on Clapham Common, where these go on late into the evening and last for more than one or two nights. Audience sizes in the main will be less than 5,000 but there still remains considerable amplification of the soundtrack. However, if films are to be deregulated then an appropriate age classification system should remain in place.

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

Response: In our view this would have to be by way of primary legislation making it an offence to show an unclassified film. There is an increasing workload in this licensing authority in rating mainly small budget local films for film festivals etc. This is a labour intensive time consuming job, and although we are happy to provide the

service the council can not currently charge for this process. If there was no mandatory requirement for classification a large number of films, not released on a large scale but provided for small events, would be shown to a possibly inappropriate audience.

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?

Response: It is difficult to know how to change the definition of film to cover the areas mentioned in the consultation document whilst retaining the age classification controls. However, the exemption list could be expanded to include pre-school nurseries.

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

Response: No further comment

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.

Response: This Authority is of the view that this is an area that can be deregulated. Unlike the other regulated entertainment there is little nuisance associated with such events. Sports entertainment, put on for the benefit of an audience, are unlikely to take place in premises that are not fit for purpose so the concerns about protection of public safety mentioned above would not apply.

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

Response: No further comment

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?

Response: This Authority agrees that boxing and wrestling should continue to be subject to licensing controls.

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.

Response: One of the aims of this consultation is to simplify regulation. To start to define sport governing bodies that would exempt this entertainment from the licensing regime will just complicate matters. Clearly, matches being put on under the auspice of a bona fide sport governing body will be subject to light touch intervention.

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.

Response: This Authority is of the view that the licensing requirement should be extended to cover events of a similar nature such as martial arts and cage fighting, particularly as these also impact upon the protection of young people.

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.

Response: No. As with our response to the proposal to deregulate live music it is our view that the protections outlined in Chapter 3 will not provide adequate protections for residents (and businesses). Recorded music give rise to more complaints and nuisance than any other form of regulated entertainment. Size of a venue is not relevant to this issue, the construction and location of a venue and the level that the music is played at are the main determining factors. The current licensing regime allows interested parties and responsible authorities to raise concerns at an early stage so that solutions can be found to prevent noise nuisance from occurring in the first place. The protections outlined in Chapter 3 are reactive which could lead to the criminalisation of licensees who have been convicted of contravening abatement notices served under the Environmental protection Act 1990. The licensing regime offers much more scope for negotiating solutions to noise problems than the service of statutory notice. It also allows residents to voice their concerns at an early stage and to discuss the proposals with the applicant, thus ensuring that local people can shape their local area, so contributing to the big society.

This Authority has not adopted the Noise Act 2006 because sound must be measured and the measurement protocol is time consuming and compromises our ability to respond to the number of noise complaints we receive at night. It would not be possible for a local authority to take action under the Anti Social Behaviour Act 2003 to close a premises for serious noise nuisance without police assistance. Unless the premises was also giving concerns regarding crime and disorder, the police would not be likely to provide the necessary assistance. Consequently, this is not a viable solution to dealing with noisy premises, but, in any event, is again a reactive power.

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.

Response: This Authority strongly believes that the provision of recorded music should not be de-regulated, regardless of the size of the premises (subject to the proposal above to exempt educational and religious organisations from the

requirements of Schedule 1)

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?

Response: As laid out above, it is our view that the removal of the requirement for the provision of recorded music to be licensed will have a profound effect on local communities. Not only will local people not be aware of what type of venue is opening in their area but they will not be able to voice their concerns and shape conditions designed to prevent noise nuisance in the first place. All responses will have to be reactive and, primarily, will fall on Council noise officers gathering evidence and pursuing statutory action.

Changes that will be introduced under the Police Reform and Social Responsibility Act 2011 to give powers to Council noise officers to ability to raise representations in respect of a temporary event notice was brought about because of growing problems with noise affecting residents in respect of these 'one off' events. The proposals in this consultation go contrary to the evidence presented to Parliament during the passage of the legislation.

The development of a late night economy is an important part of any long term strategy to regenerate urban town centres. Although this consultation document seems to suggest the Licensing Act 2003 is holding this regeneration back, by not allowing spaces to be used, our experience simply does not support this. The use of Temporary Event Notices, and the changes under the Police Reform & Social Responsibility Act 2011 to increase them, allows for the trade to be flexible in its offerings whilst residents can be sure of an adequate period of peace and quiet.

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

Response: No further comment

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.

Response: This Authority believes that the provision of facilities for making music should remain as a regulated activity for the reasons laid out under the responses to live and recorded music. We do not believe that the provision of facilities for dancing needs to be regulated.

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?

Response: Item 1 of Schedule 1 is badly drafted with 1(4) being particularly difficult to interpret and could give rise to different Licensing Authorities interpreting the legislation differently. It is also hard for persons wishing to provide events to

understand

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?

Response: This Authority has always taken a common sense approach to licensing and are surprised by some of the examples laid out in paragraph 1.5 of the consultation. It would seem that a few overzealous licensing authorities should be tackled rather than the removal of well understood protections for residents. Some deregulation could take place by way of expanding exemptions e.g. by exempting educational establishments and religious establishments, exempting carol concerts and Punch and Judy shows. It is also our view that there is considerable scope for amending the Temporary Event Notice procedure to make it easier, particularly for community associations, by removing the limits on the number of events that any one person may apply for. It is hard to see the rational behind this requirement and, in any event, is virtually impossible to enforce. However, it may put of community associations who rely on one person to make such applications.

An area we are often being asked about is the provision of entertainment facilities and if a profit is being made by hiring out these facilities. The problems in general lies with the wording of Schedule 1 and the Guidance issued under s182. Schedule 1 can be difficult for all parties to interpret. The Guidance gives few clear examples. The examples given in paragraph 1.5 and others could be used to help provide clear and concise guidance to both licensing officers and the trade/members of the public. There appears to be a considerable gap between the practical implementation of the Licensing Act 2003 and this consultation document however no guidance is ever going to cover all the permutations the Licensing Act 2003 throws up.

Over time Government has moved from a position of granting a licence, to one of refusing an application should the local community raise valid concerns. This has been further enforced by allowing members of the licensing authority (Councillors) to raise representations and the upcoming changes in the Police Reform and Social Responsibility Act 2011 giving licensing authority officers the powers of responsible authorities. These proposed amendments would change this again. Licensing would move from pro-active assessment to reactive enforcement.

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

Response: This Authority cannot understand the rational behind this proposal. Section 27 of the Policing and Crime Act 2009 was introduced to rectify the deficiencies in the Licensing Act 2003 in controlling lap dancing etc clubs. It was acknowledged that under the Licensing Act 2003 it is difficult for interested parties or responsible authorities to oppose an application or to seek a review of an existing licence as any representation must relate to one or more of the licensing objectives. Objections on moral grounds are not valid and it is difficult to evidence that a premise providing sexual entertainment will necessarily lead to an increase in crime and disorder, public nuisance, affect public safety or the protection of children from harm. Parliament agreed to allow a venue to provide sexual entertainment on no more than

eleven occasions in any 12 month period. Whilst a licence is required for dancing, or a temporary event notice submitted, for such entertainment to take place this Authority does not understand how keeping dancing as a licensable activity only for sexual entertainment will assist communities in opposing such events. A licensing authority may require a condition on the licence that would prevent children from attending such events but otherwise the proposal has little meaningful application.