

Meeting: LICENSING & REGULATORY COMMITTEE

Date of Meeting: 22nd February 2010

Title of Report: PROPOSED RESPONSE TO DCMS CONSULTATION – “PROPOSAL TO EXEMPT SMALL LIVE MUSIC EVENTS FROM THE LICENSING ACT 2003”

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This report contains	Yes	No
CONFIDENTIAL information		√
EXEMPT information by virtue of paragraph(s) ... of Part 1 Schedule 12A of the Local Government Act 1972		√
Is the decision of this report DELEGATED?	√	

Purpose of Report

To advise Members of a DCMS Consultation on proposals to introduce a revocable exemption for small live music events, performed for 100 people or fewer in licensed and unlicensed premises, from the requirements of the Licensing Act 2003 relating to the licensing of live music as regulated entertainment.

Recommendation(s)

That Members:

- i) Note this Report and its contents; and,
- ii) Endorse the proposed response contained in Annex 2

Corporate Objective Monitoring

Corporate Objective		Positive Impact	Neutral Impact	Negative Impact
1	Creating a Learning Community		√	
2	Creating Safe Communities	√		
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being		√	
5	Environmental Sustainability		√	
6	Creating Inclusive Communities		√	
7	Improving the Quality of Council Services and Strengthening Local Democracy		√	
8	Children and Young People		√	

Financial Implications

None arising from this Report.

List of background papers relied upon in the preparation of this report

- The Licensing Act 2003.
- DCMS Consultation document – “Proposal to exempt small live music events from the Licensing Act 2003”

Background

1. Members will recall that the Licensing Act 2003 (“the Act”) replaced and consolidated several different licensing regimes. Live music was licensed under the Public Entertainment Licence (“PEL”) regime, except for performances of 2 musicians or fewer (the so-called ‘2 in a bar’ rule) which were exempt.
2. The Government has acknowledged that the Act has had some positive benefits for live music, such as removing the need to have a separate permission and the requirement for routine annual renewals of licences.
3. However there have been concerns about the impact of the Act on the provision of live music and in 2005 the Government set up an independent Panel (called the Live Music Forum) to monitor and evaluate the impact of the Act on the performance of live music. The Forum found that although the Act had a ‘broadly neutral’ impact on live music, there was some evidence of over zealous enforcement and lack of clarity about the legislation which had on occasion ‘brought about an unwelcome and unwarranted impact on very small scale live music events’.
4. Research carried out by MORI for the Forum also found that 29% of smaller establishments, that had operated without a public entertainment licence but used the 2 in a bar exemption to put on live music, did not apply for live music provision when the Act came into force.
5. The Forum recommended, amongst other things, that musical activity attracting less than 100 people should be exempt from the Act.
6. The DCMS has now published a consultation document seeking views on proposals to make live music between the hours of 8am and 11pm, held inside buildings and to an audience of 100 or less, not a licensable activity. These proposals would create a “revocable exemption”, i.e. small live music events, at either licensed or unlicensed premises, would be exempt provided that they comply with the requirements above. An application can be made to the local authority to remove the exemption by a local resident or Environmental Health (similar to the existing review process). This application would be subject to a hearing and a right of Appeal for either party.
7. The last date for submission of responses is 26th March 2010 and a copy of the consultation document is included within Annex 1 to this Report.
8. A proposed response to this consultation is attached within Annex 2 to this Report.