



Licensing and Gambling Acts Committee

5th February 2010

Report of the Director of Neighbourhood Services

PROPOSAL TO EXEMPT SMALL LIVE MUSIC EVENTS FROM THE LICENSING ACT 2003

Summary

1. The purpose of this report is for members of the Licensing Committee to examine the contents of the recently published government consultation document on proposals to exempt small live music events from the Licensing Act 2003. It also seeks members' views to enable officers to complete the consultation.

Background

2. In 2007 the Government carried out an evaluation of the impact of the Licensing Act 2003. Part of the evaluation included a report from the Live Music Forum which detailed the detrimental impact the Licensing Act 2003 was having on live music.
3. Campaigners argued that the costly process of obtaining a premise licence for regulated entertainment in order to provide live music had put many pubs, café bars and village halls off from staging live music events. This in turn had reduced the opportunity for grass roots musicians to play.
4. The Department of Culture, Media and Sport is seeking views on a proposal to exempt small live music events for audiences of not more than 100 people from the requirements of the Licensing Act 2003 relating to the licensing of live music as regulated entertainment. They propose that the change would be delivered through a Legislative Reform Order. It would 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.
5. The full consultation document can be found at http://www.culture.gov.uk/reference_library/consultations/6499.aspx and at Annex 1 of this report. It sets out that the Government proposes to exempt small live music events in licensed and unlicensed premises subject to the below conditions:-
 - The performance takes place wholly inside a building.

- The audience does not exceed 100 people and is accommodated entirely inside the building where the performance is taking place.
- The performance does not take place between 11pm – 8am.
- The performance does not take place in a premise which is subject to an “exclusion decision”.

Consultation

6. The closing date for making responses to this consultation is 26th March 2010. The stakeholders consulted during the preparation of this report are the City of York Council Licensing Department, the City of York Council Environmental Protection Unit and The Department of Education Arts and Culture.

7. **Licensing / Education, Art and Culture**

The Head's of City of York Council's Licensing Department and The Department of Education, Art and Culture fully support the Government's proposal to exempt small live music events from audiences of not more than 100 people. The Without Walls vision statement for York states “York wants to be seen as an inclusive, lively and active city, with a strong international profile. To do this we will be supporting the creative industries, such as music, craft, and film as well as the provision of festival in the city and sports opportunity”. Whilst there is the potential for an increase in noise nuisance, it is believed the power to revoke an exemption at a specific premise if there are problems arising from the live music event will protect residents but more importantly, will send a strong message of support to local business and tourism.

Environmental Protection Unit (EPU)

The EPU have concerns about the proposal to exempt small live music events from the Licensing Act 2003. Since the introduction of the Act in 2005 the department has recorded an increase in the number of noise complaints about licensed premises, probably exacerbated by the impact of the smoking ban. Though the increase noise levels generated between 8am and 11pm might not always be to a level such as to constitute a statutory nuisance or even a public nuisance, they may be sufficient to reduce the amenity and quality of life of local residents. It is felt the current licensing system for live music does seem to strike the right balance between licensed premises, their customers and local residents. An examination of the licensed premises which have given rise to noise problems in York reveal the majority have capacities under 100. Many of these premises were never designed for live music and have insufficient sound proofing. Although the Act provides a mechanism to revoke the exemption, this would require evidence of nuisance, and as most of the events would probably take place out of normal office hours, would be difficult to investigate.

Options

8. Option 1: To approve the officers' response to the Government consultation.

Option 2: To amend the officers' response to the Government consultation.

Analysis

9. In general, the regulation of live music under the Licensing Act 2003 is justified by the potential impact of some live music events on the promotion of the licensing objectives. For example, residents living next door to a public house in a residential terrace may be disturbed by loud performances of live music late at night or by large numbers of people leaving the venue. Some live music events may also give rise to crime and disorder or endanger public safety. However, the Government considers that small live music events for 100 people or fewer are, in practice, extremely unlikely to give rise to these concerns and will rarely, if ever, have an adverse impact on the promotion of the licensing objectives.
10. The City of York Council's Environmental Protection Unit believes the proposal to exempt small live music events may increase incidents of noise nuisances. In York since the introduction of the Licensing Act 2003 the department have recorded an increase in noise nuisance from licensed premises. It is felt the current system seems to strike the right balance between licensed premises, their customers and local residents.

Corporate Strategy

11. The effective exercise of the licensing legislation and guidance notes ensures the licensing function will impact on the council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

Implications

12. **Financial:** Potential for loss of income from the need for Temporary Event Notices and increased cost relating to noise nuisance.

Human Resources (HR): None.

Equalities: None.

Legal: In carrying out its licensing functions, the Licensing Authority must have regard to all legislation.

Crime and Disorder: The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Authority's responsibility to co-operate in the reduction of crime and disorder in the city.

Information Technology (IT): None.

Property: None.

Other: None.

Risk Management

13. In compliance with the Council's risk management strategy any decisions made which are unreasonable or unlawful could be open to legal challenge resulting in loss of image, reputation and potential financial penalty.

Recommendation

14. Members are recommended, following a debate on the issues, to respond to the Government consultation as set out at option 2.

Reason: To reflect the view of City of York Council in respect of the consultation paper.

Contact Details

Author:

John Lacy
Licensing Manager
Neighbourhood Services
Tel: 01904 551593

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director of Neighbourhoods and
Community Safety

Report Approved Date 21.1.2010

Specialist Implication Officer: Legal – Martin Blythe
Tel 01904 551044

Wards Affected:

All

For further information please contact the author of the report

Background Papers

Licensing Act 2003
Without Walls Vision statement

Annexes

Annex 1: Department for Culture, Media and Sport. Consultation/Legislative Reform Order: proposal to exempt small live music events from the Licensing Act 2003.

Annex 2: Officers' response to consultation – Licensing/Education, Arts and Culture.

Annex 3: Officers' response to consultation – Environmental Protection Unit.