



Notice of meeting of

Gambling & Licensing Acts Committee

To: Councillors Merrett (Chair), Ayre, Funnell, Sue Galloway, Horton, Hyman, Looker, Moore, Orrell, Pierce, Reid, Runciman, Taylor, B Watson and Wiseman (Vice-Chair)

Date: Friday, 5 February 2010

Time: 2.00 pm

Venue: The Guildhall.

A G E N D A

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes (Pages 3 - 8)

To approve and sign the minutes of the meeting held on 20 November 2009.

3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5:00 pm on Thursday 4th February 2010.**

4. Review of the Cumulative Impact Zone. (Pages 9 - 28)

This report seeks Members approval to formally consult on changes to the boundary of the Cumulative Impact Zone following a report from North Yorkshire Police detailing changing patterns of crime and disorder in the City Centre.

**5. Licensing Act 2003 - Proposal to amend (Pages 29 - 84)
the Licensing Act 2003 to simplify the
procedures.**

This report advises Members of recent consultations from the Department of Culture, Media and Sport (DCMS), regarding proposals to amend the Licensing Act 2003 (the Act) to simplify the procedures for Licensing Statements; Interim Authority Notices and Reinstatements on Transfer; and Temporary Event Notices. It seeks Members approval regarding the Council's response to the consultation.

**6. Proposal to Exempt Small Live Music (Pages 85 - 126)
Events from the Licensing Act 2003.**

The purpose of this report is for Members of the Gambling and Licensing Act Committee to examine the contents of a 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.

**7. Any other business which the Chair considers
urgent under the Local Government Act 1972**

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- E-mail – laura.bootland@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting Laura Bootland:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

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- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
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Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

MEETING	GAMBLING & LICENSING ACTS COMMITTEE
DATE	20 NOVEMBER 2009
PRESENT	COUNCILLORS MERRETT (CHAIR), AYRE, FUNNELL, SUE GALLOWAY, HORTON, HYMAN, LOOKER, ORRELL, PIERCE, REID, TAYLOR, B WATSON AND WISEMAN (VICE-CHAIR)
APOLOGIES	COUNCILLORS MOORE AND RUNCIMAN

19. DECLARATIONS OF INTEREST

At this point in the meeting members are asked to declare any personal or prejudicial interests they may have in the business on the agenda. None were declared.

20. MINUTES

RESOLVED: That the minutes of the last meeting held on 7 August 2009 be approved and signed by the Chair as a correct record.

21. PUBLIC PARTICIPATION

It was reported that there was no registered speakers for this meeting.

22. GAMBLING ACT 2005 - TRIENNIAL REVIEW OF THE STATEMENT OF POLICY

[See also under Part B Minutes]

Members considered a report which advised them of the review of the Council's Statement of Gambling Policy, of the consultation undertaken and the changes made as a result and revised guidance. Members were asked to recommend the revised policy to Council for approval.

Section 349 of the Gambling Act 2005 (the Act) requires licensing authorities to keep their statements of Gambling Policy under review and to be reviewed before each successive period of three years. The current policy is due to expire on 31 January 2010. The template suggested by the Department of Culture Media and Sport has been used and comments made during the consultation, which ended on the 9 October 2009 have been incorporated.

Members made the following comments:

- Officers were requested to point out what is local policy as Members felt it was difficult to distinguish what is narrative, prescriptive and

what is local policy. Officers advised that the whole document will be council policy but that the majority of the document was not subject to local discretion. It was pointed out that page 22 paragraph 19.5 and page 23 paragraph 21.2 outlined City of York Council's Statement of Principles.

- Members queried whether there is scope to require operators of Licensed Family Entertainment Centres to ensure staff are Criminal Records Bureau checked. Officers advised that no other authority have introduced this and City of York Council would be open to challenge if it was introduced.
- Members expressed concern over the lack of power to attach conditions to Gaming Permits. Officers advised that the Code of Practice covers all expected controls such as location and operation of machines and the protection of children from harm.

Members then made the following changes to the policy, detailed by reference to the page number of the policy:

Page 8 – Decision Making – paragraph 9.3 – wording to be adjusted as it is unclear if Members can reject applications due to moral reasons.

Page 20 – Reviews – paragraph 18.1 does not link with the wording inside the box and at the end of paragraph 18.2, the words 'and there has been no change in circumstances' to be added to the end of the sentence.

Officers advised they would correct any typing errors.

RESOLVED: That Members recommend the Statement of Gambling Policy for approval by Council, subject to the amendments outlined.

REASON: To satisfy the requirements of Section 349 of the Gambling Act 2005.

23. LICENSING ACT 2003 - PROBLEM PREMISES

Members considered a report which advised them of recent advice from the Department of Culture Media and Sport (DCMS) in respect of the adoption of a 'Yellow and Red' card approach to Licensing reviews.

Under section 51 of the Licensing Act 2003 (section 87 for clubs) where problems exist at a licensed premises a responsible authority or interested party may call for the licensing authority to hold a hearing and review the licence. The DCMS has suggested that in some areas of the country there was a reluctance among responsible authorities to review licences without any strong evidence. The DCMS has been encouraging, via regional seminars, that responsible authorities be more pro-active in seeking early reviews. They have suggested that licensing committees adopt a red card/yellow card approach where premises are found to be failing to promote one or more of the licensing objectives.

A yellow card would involve the imposition of tough new conditions that are appropriate to the problems at a specific premises, along with a warning that if a further review is necessary and matters have not improved, then the licence would be revoked, which would be considered the red card.

In answer to members questions, officers advised that the notices could be required to be displayed on the premises detailing the results of the review. They would be A4 sized and to be displayed in a prominent place to advise the public that action is being taken against irresponsible alcohol retailers. They advised that responsible authorities in York had indicated they would welcome the approach.

RESOLVED: That the yellow card/red card approach when conducting reviews be adopted and where appropriate attach a condition requiring premises to display a notice on their premises detailing the outcome of the review.

REASON: To assist with the effective implementation of the Licensing Act 2003 in the City.

24. REGULATION OF LAP DANCING CLUBS

Members considered a report which advised them on the introduction of the Policing and Crime Bill which is currently being scrutinised by Parliament. It introduces a new category of sex establishment called 'sex encounter venue' that will allow local authorities to regulate lap dancing clubs and similar venues. It also seeks members views on the transitional procedure and time scales on the proposals set out in the consultation document.

Following an increase in the number of lap dancing clubs in recent years, The Department for Culture, Media and Sport wrote to Chief Executives of Local Authorities to clarify how they viewed the powers open to them under the Licensing Act 2003 and to seek whether the controls were sufficient in respect of such premises. The Government has now introduced legislation under Schedule 3 of the Local Government Act to reclassify such venues as 'sex establishments'. These provisions were included in the 'Policing and Crime Bill' which was introduced in Parliament on 19th December 2008. Clause 26 of this Bill introduces a new establishment under Schedule 3 to the 1982 Act called a 'sex encounter venue'. Such venues will require a sex establishment licence, but there will be an exemption for venues which provide such entertainment infrequently.

In summary, Schedule 3 to the 1982 Act will:

- Allow local authorities to adopt the legislation.
- Allow local people to oppose an application for a sex establishment licence if they have legitimate concerns that a lap dancing club would be inappropriate for the area.
- Require licences to be renewed at least yearly at which point local people will have the opportunity to raise objections.

- Allow a local authority to reject an application if a lap dancing club would be inappropriate given the character of a given area.
- Allow a local authority to set a limit on the number of sex encounter venues that they think appropriate for a particular area.
- Allow a local authority to impose a wider range of conditions on the licence of lap dancing clubs than they are currently able to under the 2003 Act.

Members queried whether there would be financial implications for such venues under the new legislation. Officers advised that there would be two fees for the Premises but no cost to the Council. Members also raised concerns regarding how it would be decided how many establishments could open in specific areas. Officers advise it is something that will need further consideration.

RESOLVED: That Members approve the officers response to the Home Office Consultation.

REASON: To reflect the view of the City of York in respect to the consultation paper.

PART B MATTERS REFERRED TO COUNCIL

25. GAMBLING ACT 2005 - TRIENNIAL REVIEW OF THE STATEMENT OF POLICY

[See also under Part A Minutes]

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Officers advised they would correct any typing errors.

RESOLVED: That Members recommend the Statement of Gambling Policy for approval by Council, subject to the amendments outlined.

REASON: To satisfy the requirements of Section 349 of the Gambling Act 2005.

Councillor Merrett, Chair

[The meeting started at 2.00 pm and finished at 2.40 pm].

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Gambling and Licensing Acts Committee

5 February 2010

Report of the Director of Neighbourhood Services

Review of Cumulative Impact Zone

Summary

1. This report seeks members approval to formally consult on changes to the boundary of the Cumulative Impact Zone following a report from North Yorkshire Police detailing changing patterns of crime and disorder in the City Centre.

Background

2. The Councils Statement of Licensing Policy 2008 - 2011 includes a special policy on cumulative impact for part of the city centre. Cumulative impact being defined as “the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area”. The effect of the special policy is to create a rebuttable presumption that applications for new premises or material variations will normally be refused if relevant representations are received. Full details are to be found in section 6 of the Licensing Policy.
3. The boundaries of the cumulative impact zone were approved by council in April 2005 based on patterns of crime and disorder prior to that date. North Yorkshire Police have now submitted a report to the council requesting that the boundaries of the zone be amended to reflect current patterns of crime and disorder in the City. Their request and supporting documentation is attached as Annex 1 to this report.
4. Should members wish to pursue this matter there is a formal process of consultation and decision making to be undertaken. The licensing authority has a duty to consult with:
 - Chief Officer of Police
 - Chief Fire Officer
 - Representatives of local holders of premises licences and club premises certificates
 - Representatives of local holders of personal licences
 - Representatives of businesses and residents in the area
5. Any decision relating to changes to the Licensing Policy must be approved by Full Council.

6. In practice consultation on changes to the Licensing Policy have been much wider involving other statutory agencies, other relevant council departments, representatives of the leisure and hospitality industries, transport providers and relevant agencies in the voluntary sector. A full list is published on pages 9 and 10 of the current policy.
7. If members determine that consultation on the proposals is undertaken then it is suggested the following timetable be adopted:
 - Consultation period February – May 2010
 - Guildhall Ward Committee 26 April
 - Micklegate Ward Committee 6 May
 - Gambling and Licensing Acts Committee 4 June
 - Full Council 1 July

Consultation

8. This report seeks authority to commence consultation

Options

9. Option 1: To authorise officers to consult on the proposals to amend the boundary of the Cumulative Impact Zone as proposed by the Police.
10. Option 2: To authorise officers to consult on alternative proposals to amend the boundary of the Cumulative Impact Zone
11. Option 3: To take no further action.

Analysis

12. York has for many years been held in high regard nationally for the way it manages its night time economy. Statistics shown in the report compiled by the Safer York Partnership (SYP) show the continued reduction in city centre violent crime and criminal damage. These positive results could not be achieved without the excellent partnership working of the statutory agencies with the support of the trade. In considering this request from the Police, which is endorsed by SYP through its Nightsafe Task Group, members are requested to consider the role of the licensing authority in the partnership arena in maintaining continued improvement. Any decision not to support this request will need to be carefully reasoned as it will affect licence applications in the future which are subject to judicial scrutiny.

Corporate Strategy

13. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.

14. The promotion of the licensing objectives will support the Council's strategy to make York a safer city with low crime rates and high opinions of the city's safety record.

Implications

15. **Financial:** Any costs involved in the consultation process will be met from existing budgets.

Human Resources (HR): None

Equalities: None

Legal :

Crime and Disorder: Members are 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

16. There is no risk to the council in consulting on these proposals.

Recommendations

17. Members are asked to approve option 1 to authorise officers to consult on the proposed amendments to the boundary of the cumulative impact zone as proposed by North Yorkshire Police and to report back to the June meeting of this committee.

Reason : To assist with the effective implementation of the Licensing Act 2003 in the city and contribute to the reduction of alcohol related crime and disorder in the city centre.

Author:
Richard Haswell
Head of Licensing

**Neighbourhoods and
Community Safety**

Tel No: 01904 551515

Chief Officer Responsible for the report:
Andy Hudson
**Assistant Director of Neighbourhoods and
Community Safety**

Report Approved ☒

Date 19/01/2010

Specialist Implications Officer
Legal - Martin Blythe
Tel No. 01904 551044

Wards Affected: Guildhall and Micklegate



For further information please contact the author of the report.

Background Papers:

CYC Statement of Licensing Policy 2008 - 2011

Annexes:

Annex 1: Request from North Yorkshire Police and supporting documentation

Our Ref: NYP/952/CIZ/120110

E-mail: yorklicensing@northyorkshire.pnn.police.uk

Date: 12th January 2010



**Report requesting an increase of the Cumulative Impact Zone
within York City Centre**

1.0 Introduction

- 1.1 This report is as a result of statistical analysis of crime and disorder within the current Cumulative Impact Zone (CIZ) contained in the City of York Council's Statement of Licensing Policy (Section 6).
- 1.2 As a result of this analysis, and professional Policing experience and judgment, North Yorkshire Police are of the opinion that the current CIZ should be increased to include up to date "hotspot" areas.
- 1.3 Attached to this covering report is a detailed statistical analysis of crime and disorder in the city centre.

2.0 Re-defining the Cumulative Impact Zone

- 2.1 The research shows that the CIZ should be redefined to include the following streets:-

Bar Lane	Barker Lane	Blossom Street (partial)
Bridge Street	Church Lane	Clifford Street
Coney Street	Cumberland Street	Davygate
Feasegate	George Hudson Street	King Street
Kings Staith	Lendal	Lendal Bridge
Low Ousegate	Lower Friargate	Market Street
Micklegate	Museum Street (partial)	Nessgate
New Street	North Street	Parliament St (partial)
Peckitt Street	Peter Lane (partial)	Rougier Street
Skeldergate (partial)	Spurriergate	St. Helens Square
Tanner Row	Tanners Moat	Toft Green
Tower Street (partial)	Wellington Row	

This area is outlined in the attached statistical analysis.



3.0 Rationale/Evidence

- 3.1 Crime and disorder is of major concern to North Yorkshire Police and due to concentrated effort, by the Safer York Partnership, North Yorkshire Police and numerous other partners, crime continues to fall within the City.
- 3.2 The current CIZ has proved to be robust enough to stand up to appeals in the High Court (e.g. when an operator wanted to open a large capacity venue in the CIZ which the Police believed would have a direct effect on crime and disorder).
- 3.3 Since the implementation of the Licensing Act 2003, the "spike" of Violent Crime has moved forward one hour to 0200hrs due to venues operating later into the night putting a strain on Police resources and forcing them to review shift patterns of certain Officers.
- 3.4 The attached statistical analysis shows that the proposed new CIZ area accounts for **15% more crime** than the current CIZ, despite an **area increase of only 3%**.
- 3.5 The analysis presents an indisputable link between alcohol provision, the night-time economy and violent crime. The "peak times" also present a huge burden on the policing of the City Centre, with resources having to be diverted from other areas of the City at these times.
- 3.6 The proposed increase in the CIZ encompasses the majority of hotspot areas that currently appear in the City Centre.

4.0 Recommendation

- 4.1 All agencies involved in the night-time economy have a duty to minimise the potential for crime and disorder to occur. Increasing the CIZ to keep abreast of current trends is another tool that can help prevent crime and disorder in this area.
- 4.2 It is recommended that the City of York Council adopt the proposed change in order continue to promote the Licensing Objectives and help prevent future crime and disorder in the City Centre.



Mark Henderson
Inspector
Centre Sector SNT
North Yorkshire Police

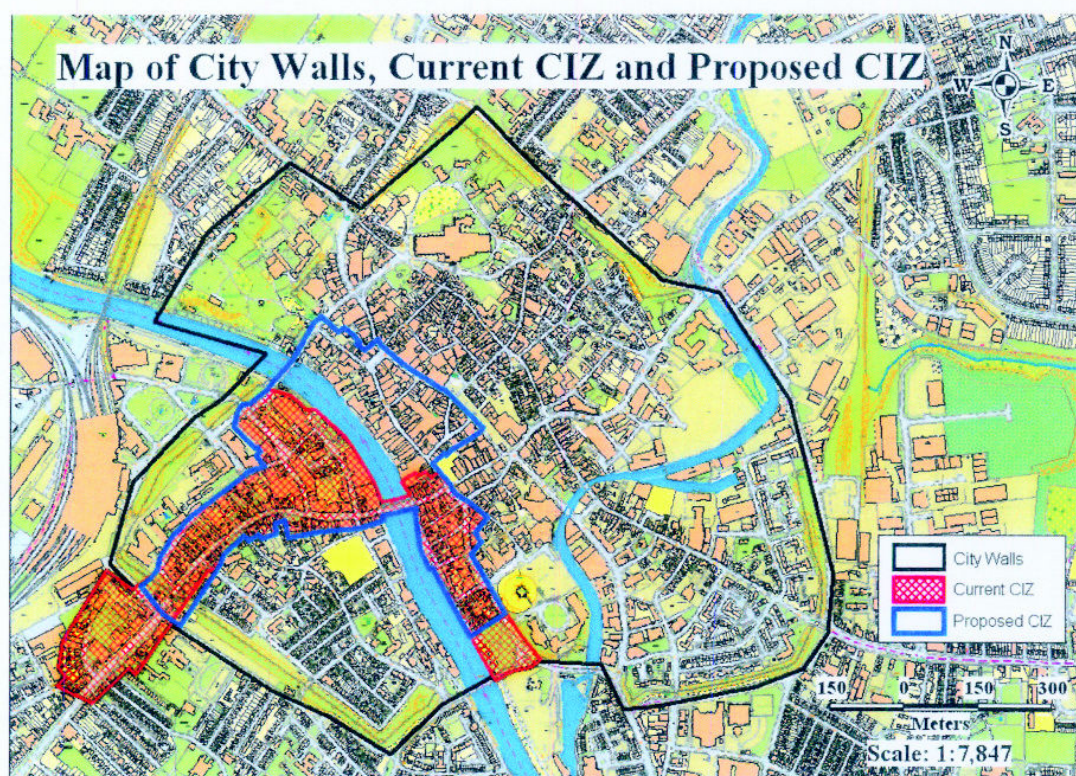
York CIZ Report

Contents

- Introduction
- Analysis
- Hotspots
- Lists and Maps of the Licensed Premises in the Proposed CIZ
- List of Roads/Streets in the Proposed CIZ
- Summary

Introduction

This report has been produced by the Safer York Partnership for the purpose of examining and assessing the current and proposed Cumulative Impact Zones [CIZ] in York. From the previous analysis and meetings (Nightsafe on 4th November 2009) it has been recommended that the new CIZ should include Market Street, Davygate and Lendal and remove Blossom Street and Tower Gardens from the current CIZ. The proposed CIZ, the old CIZ and the City Walls Study Area are shown in the map below.



****This report has used crime data for the 12 months of 2007 and 2008; and the data from January to October for 2009. For 2009, estimates of crime for the full year have been calculated and used using data from the 11 months of January to November****

Analysis

The three tables below show that the City Walls cover 1.28km² and the proposed CIZ will cover 16% of the area inside the City Walls: 0.3km² more (3% more) than the current CIZ.

Crime in the City Walls, Current CIZ and Proposed CIZ

2009*					
	km2	All Crime	% of CW	Assaults & Criminal Damage	% of CW
City Wall	1.28	2868		952	
Current CIZ	0.17	898	31%	425	45%
Proposed CIZ	0.20	1605	47%	605	64%

2008					
	km2	All Crime	% of CW	Assaults & Criminal Damage	% of CW
City Wall	1.28	3639		1236	
Current CIZ	0.17	1239	34%	583	47%
Proposed CIZ	0.20	1790	49%	725	59%

2007					
	km2	All Crime	% of CW	Assaults & Criminal Damage	% of CW
City Wall	1.28	3743		1360	
Current CIZ	0.17	1424	38%	694	51%
Proposed CIZ	0.20	1865	50%	766	56%

Whilst only covering 17% of the City Walls, the proposed CIZ would contain around 48% of all crime and 59% of assaults and criminal damage offences in the City Walls in 2007, 2008 and 2009*, including 64% of assaults and criminal damages in 2009*. Compared to the current CIZ, the proposed CIZ will only contain 3% more of the area inside the City Walls but will contain around 15% more of all crime and around 12% more assaults and criminal damage offences in 2007, 2008 and 2009*.

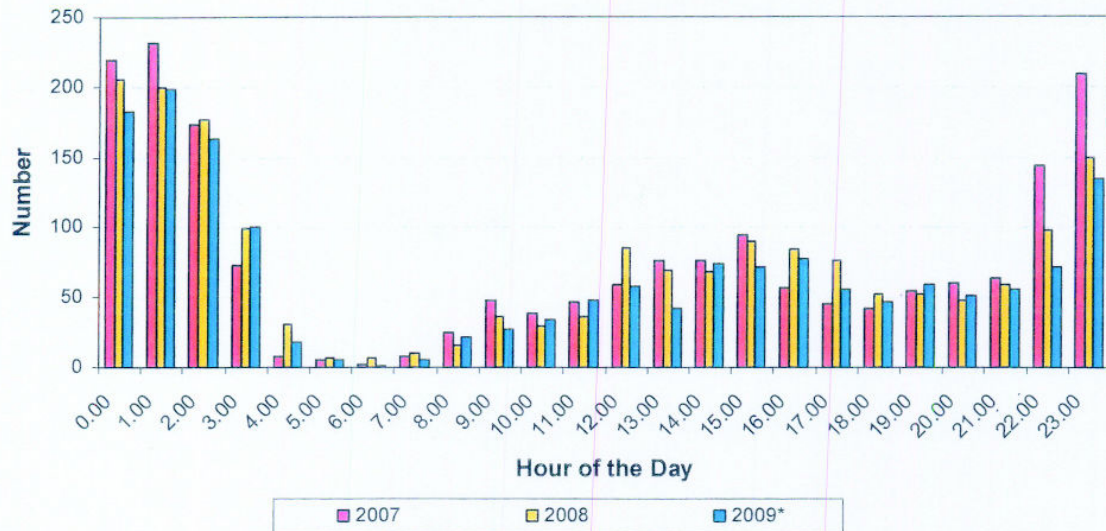
This in itself suggests the proposed CIZ will cover more of the hotspot areas of crime as compared to the current CIZ (this is established in the hotspot analysis on the next page). In addition, the great increase in the volume of crimes covered compared to small increase in size of the CIZ suggests the new CIZ will be far more efficient. In fact, crime is 300% more concentrated in the proposed CIZ as compared to the City Walls, and 20% more concentrated than in the current CIZ.

In addition, as well as the proposed CIZ containing more crime than the current CIZ, it also contains more licensed premises. Of the 322 licensed premises inside the City Walls Study Area, the current CIZ only contains 79 of these (25%). Meanwhile the proposed CIZ would contain a total of 110 licensed premises (34% of those inside the City Walls). The licensed premises in the Proposed CIZ are listed and mapped on Pages 8-11.

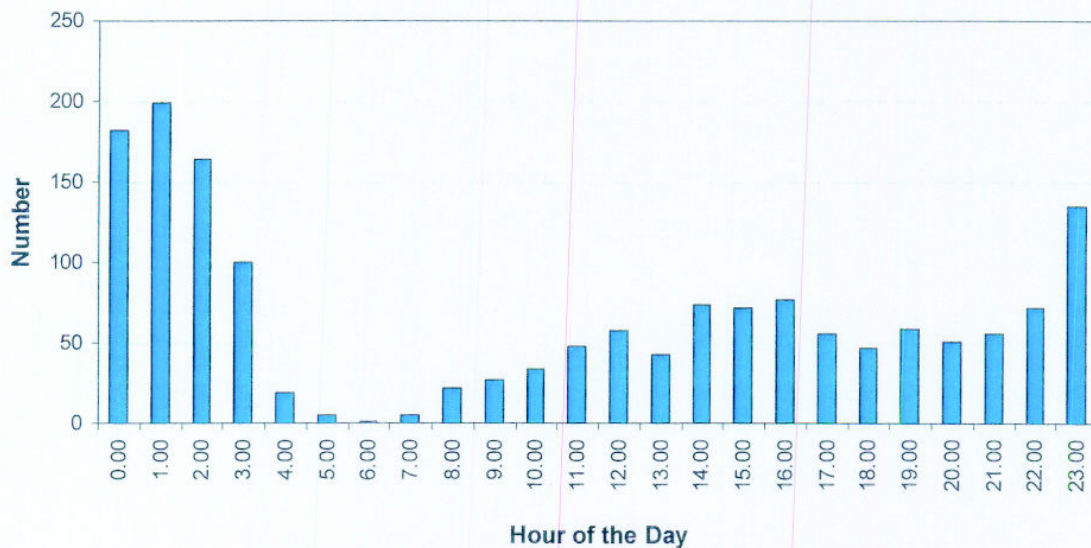
The graphs on the next two pages show how crime in the proposed CIZ is distributed throughout the day (by hour) and throughout the week (by day): including how crime and violent crime in the proposed CIZ tends to be clustered late at night; and on Fridays, Saturdays and Sundays.

All Crime in the Proposed CIZ by Hour of the Day

All Crime by Hour of the Day in 2007, 2008 and 2009



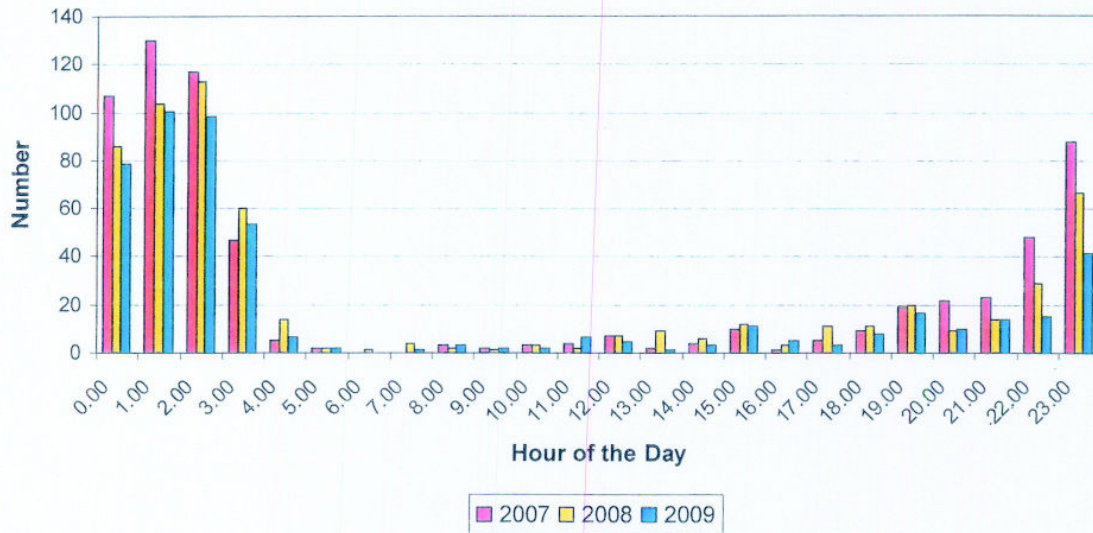
All Crime by Hour of the Day in 2009



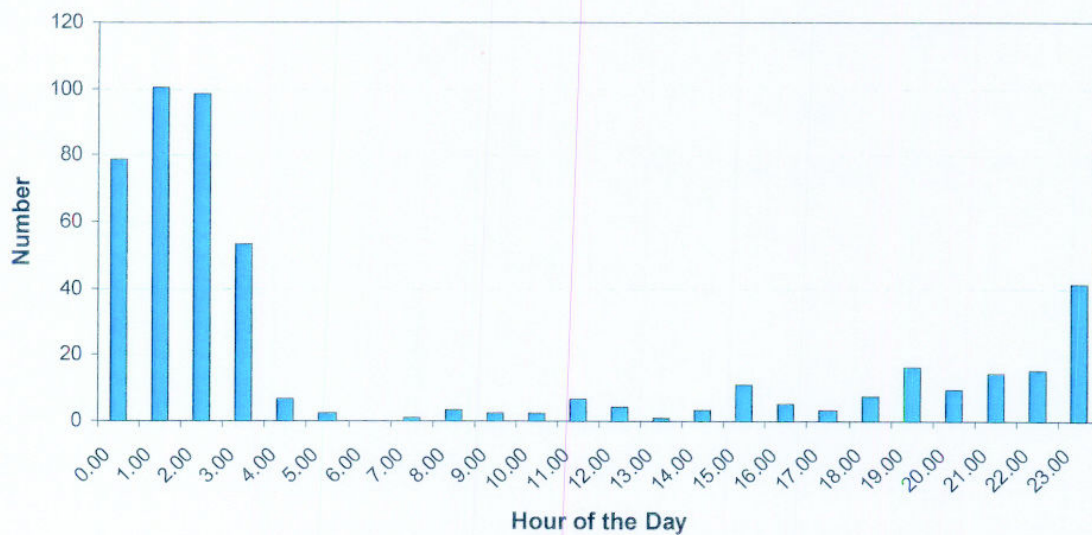
These graphs show that overall crime in 2007, 2008 and 2009* (in the proposed CIZ) occurs significantly more often at night-time (from 10:00pm – 3:00am) as compared to the rest of the day; with around 2-4x as much crime occurring in these peak hours as the other hours of the day.

Violent Crime in the Proposed CIZ by Hour of the Day

Violent Crime by Hour of the Day in 2007, 2008 and 2009



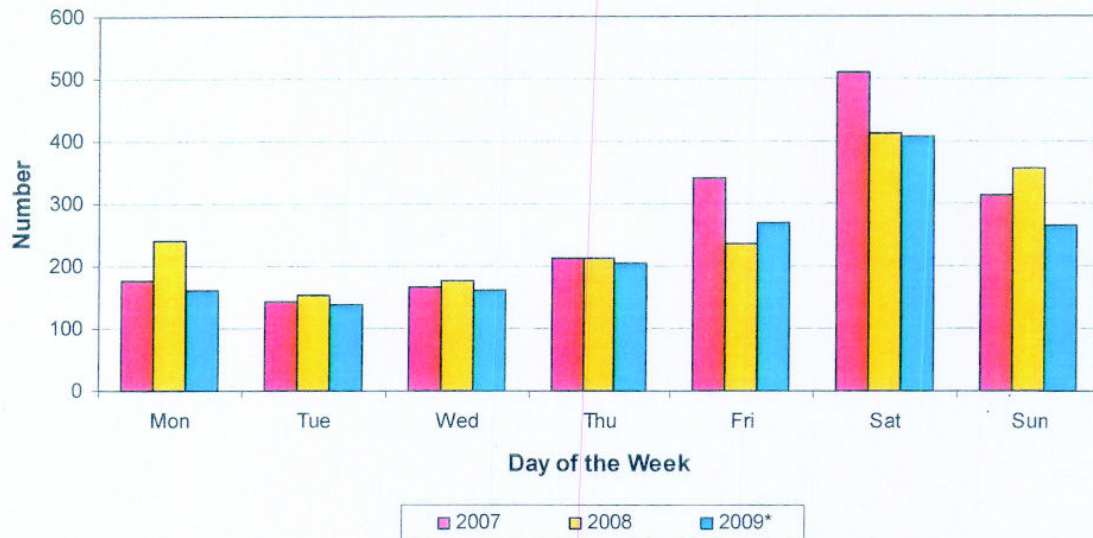
Violent Crime by Hour of the Day in 2009



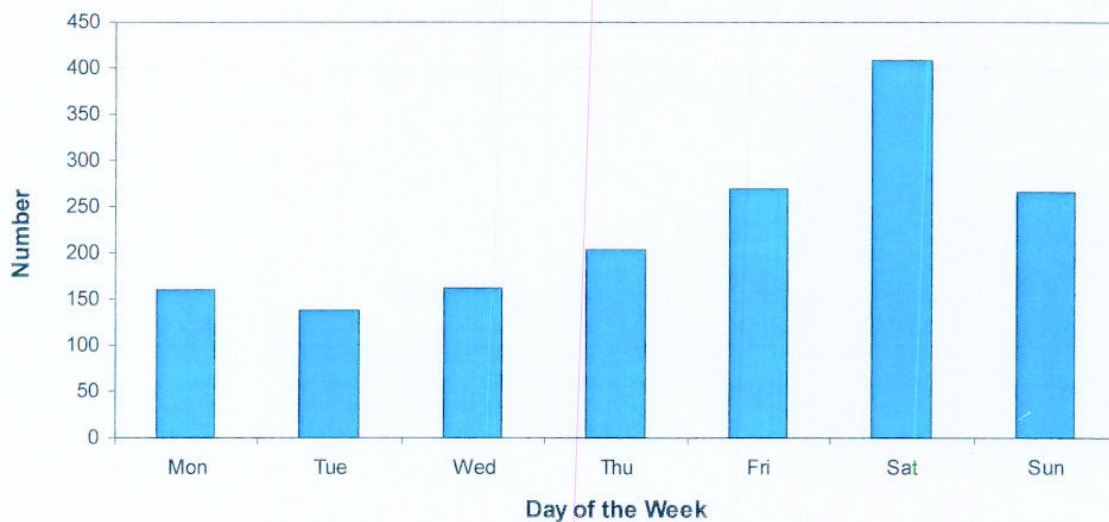
The graphs on this page show similarly how violent crime in 2007, 2008 and 2009* (in the proposed CIZ) occurs considerably more often at night-time (11:00pm-4:00am) than the rest of the day. These night-time peak hours have about 4-10x as much crime occurring in them as compared to the others of the day.

All Crime in the Proposed CIZ by Day of the Week

All Crime by Day of the Week in 2007, 2008 and 2009



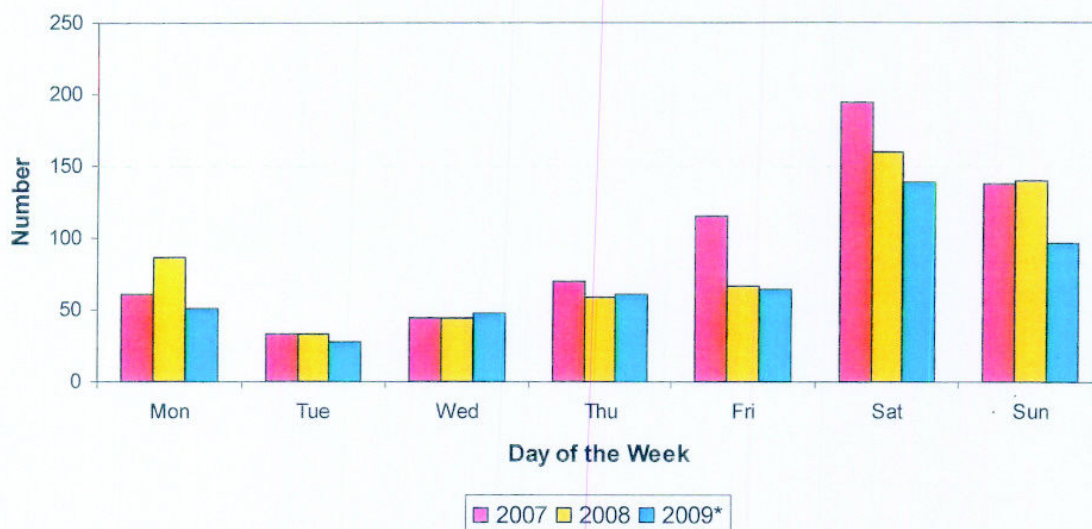
All Crime by Day of the Week in 2009



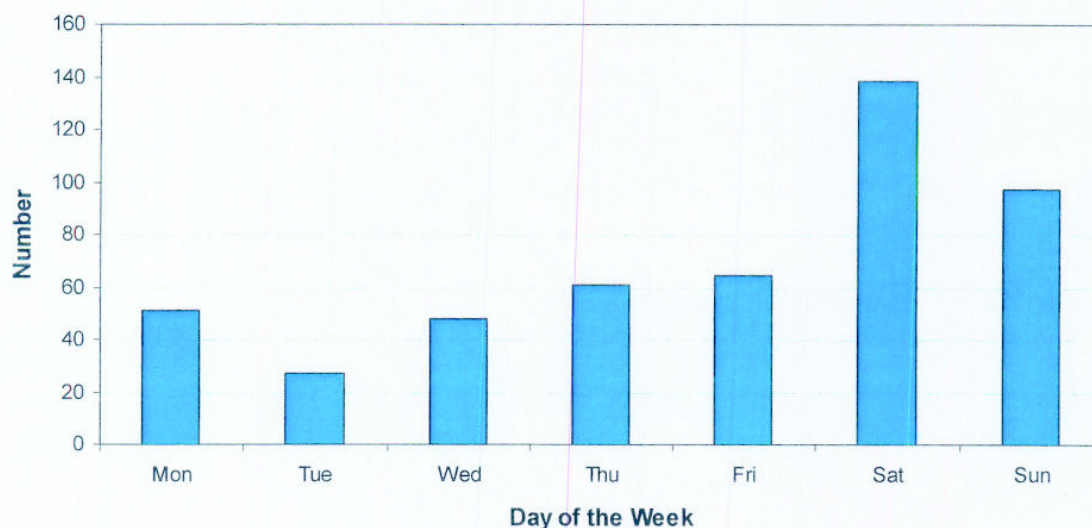
These graphs show how overall crime in 2007, 2008 and 2009* (in the proposed CIZ) occurs less often during the weekdays but more often at the end of the week (Friday and Saturday especially but also Sunday). The largest spike (on Saturday) shows that Saturday has almost twice as much overall crime as the other days of the week.

Violent Crime in the Proposed CIZ by Day of the Week

Violent Crime by Day of the Week in 2007, 2008 and 2009



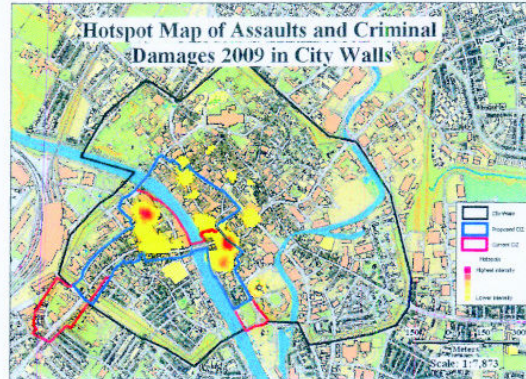
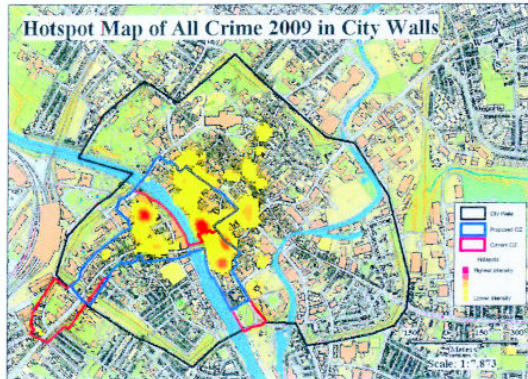
Violent Crime by Day of the Week in 2009



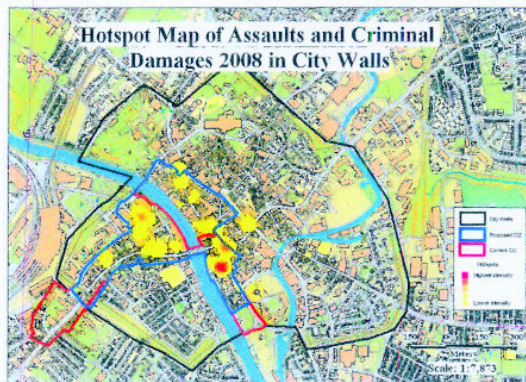
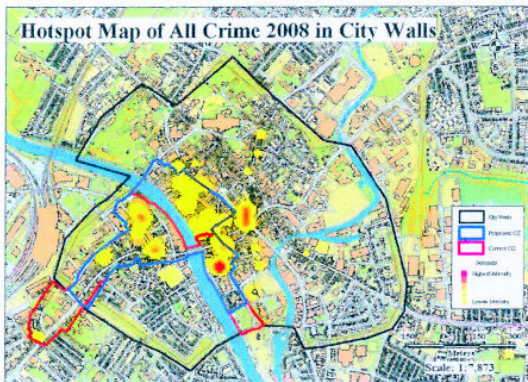
These graphs show how violent crime in 2007, 2008 and 2009* (in the proposed CIZ) occurs considerably less often during the weekdays, but more significantly more at the end of the week Saturday especially but also Sunday). The largest spike (on Saturday) shows that Saturday has almost three times as much violent crime as the other days of the week. This is similar to overall crime in the proposed CIZ except Fridays are not as high for violent crime as it is for overall crime.

Hotspots

2009



2008



These four hotspot maps show the difference in City Walls hotspot coverage (of all crime and specifically of assaults and criminal damage offences) between the current CIZ and the proposed CIZ.

As you can see, the current CIZ (red region) covers none of the crime hotspots that are now appearing in the town centre (e.g. Spurriergate, Coney Street).

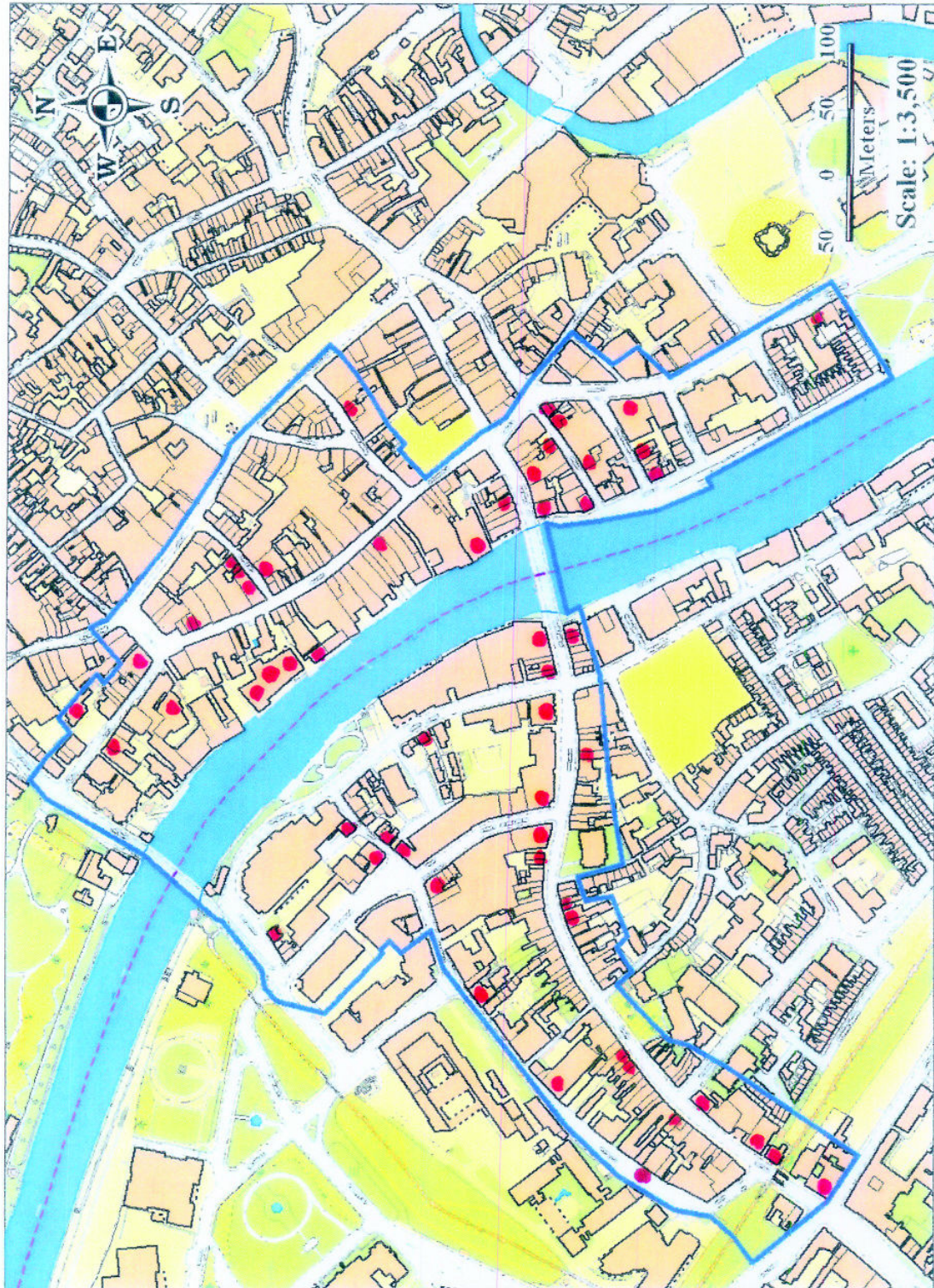
The maps also indicate that whilst the current CIZ covers Blossom Street and Tower Gardens (unlike the proposed CIZ) there are no major hotspots in these areas. This supports the decision to remove the Blossom Street and Tower Gardens from the proposed CIZ.

On the other hand, the proposed CIZ covers the vast majority of City Walls crime hotspots including those that are appearing in the town centre.

List of the 55 Licensed Premises covered by the Proposed CIZ that regularly operate in the “night-time” economy

- | | |
|------------------------------|-------------------------------|
| 1. Ali G Pizza House | 29. Midnight Fryer (mobile) |
| 2. Artful Dodger | 30. Mogul Restaurant |
| 3. Blue Fly Bar Cafe | 31. Montey's |
| 4. Blue Fly Lounge | 32. Nags Head Inn |
| 5. Bohemia | 33. Old Orleans |
| 6. BPM | 34. O'Neill's |
| 7. Brigantes Bar & Brasserie | 35. Orgasmic Cafe |
| 8. Budgens | 36. Parish, The |
| 9. City Screen Cinema Bar | 37. Piccolino |
| 10. Club Salvation | 38. Pitcher & Piano |
| 11. Corner Pin | 39. Plonkers Wine Bar |
| 12. Cornish Pasty Bakery | 40. Priors |
| 13. Dixie Chicken | 41. Punch Bowl Hotel |
| 14. Dusk | 42. Reflex |
| 15. Flares | 43. Revolution |
| 16. Gallery | 44. Rumours |
| 17. Golden Dragon | 45. Salt & Pepper |
| 18. Golden Grill | 46. Salt & Vinegar |
| 19. Ha Ha Bar & Canteen | 47. Slug & Lettuce, Riverside |
| 20. Hansom Cab | 48. Stone Roses Bar |
| 21. Harkers Cafe Bar | 49. Subway |
| 22. Judges Lodgings | 50. Tru |
| 23. Kings Arms | 51. Varsity |
| 24. Lendal Cellars | 52. Willow Restaurant |
| 25. Living Room | 53. Yates Wine Lodge |
| 26. Lowther Hotel | 54. Yorkshire Hussar |
| 27. Maltings | 55. Ziggy's Nightclub |
| 28. Micklegate Takeaway | |

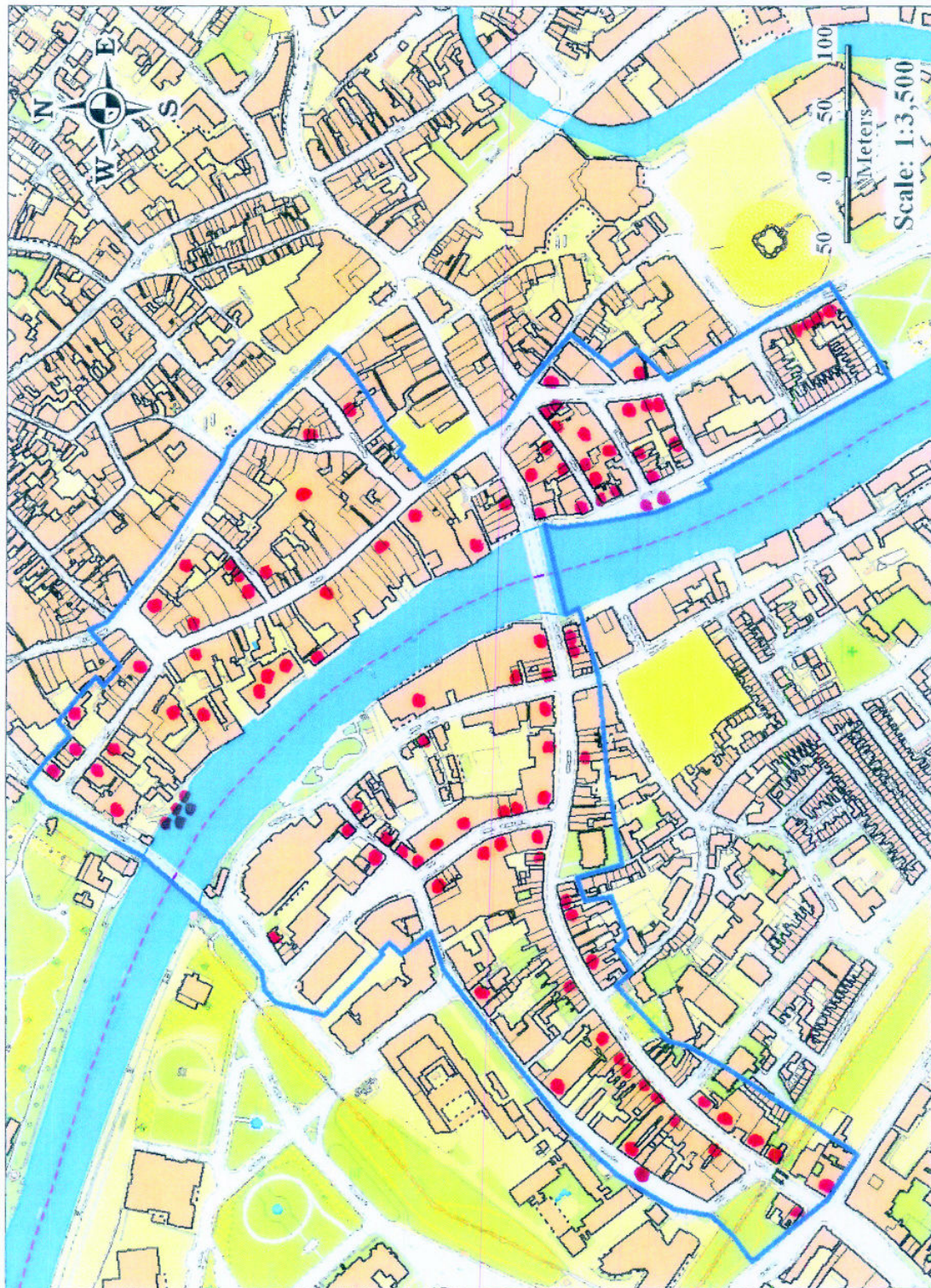
**Map of the 55 Licensed Premises covered by the Proposed CIZ that
operate in the “night-time” economy**



List of the 110 Licensed Premises inside the Proposed CIZ

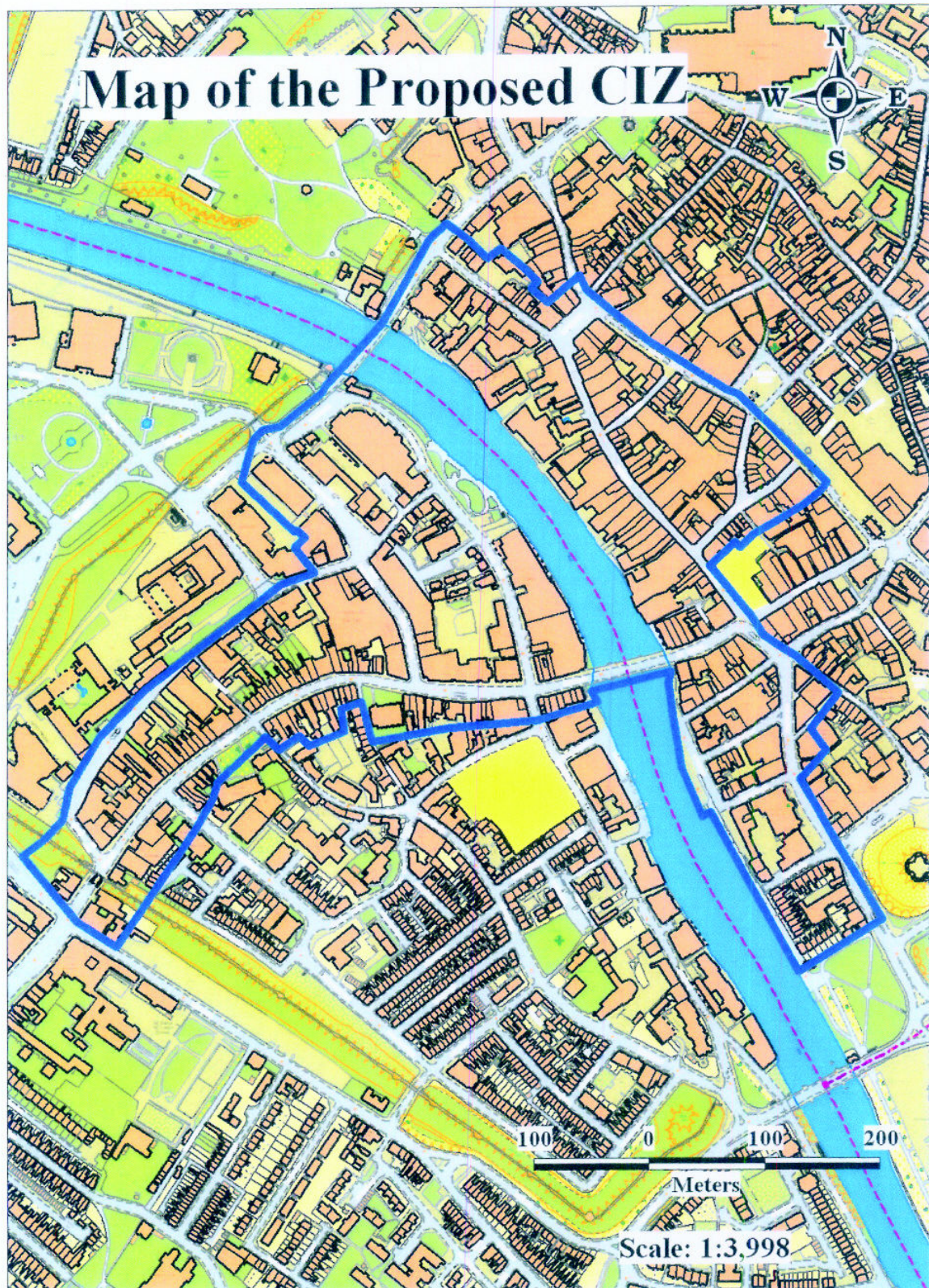
- | | |
|---------------------------------------|---------------------------------|
| 1. Ace Hotel | 56. Maltings |
| 2. Akash Tandoori Restaurant | 57. Micklegate Takeaway |
| 3. Akbar Balti Restaurant | 58. Midnight Fryer |
| 4. Ali G Pizza House | 59. Mogul Restaurant |
| 5. Artful Dodger | 60. Montey's |
| 6. Bettys Cafe & Tearooms | 61. Nags Head Inn |
| 7. BHS | 62. Next |
| 8. Blake Head Restaurant | 63. Old Orleans |
| 9. Blue Fly Bar Cafe | 64. Old Siam |
| 10. Blue Fly Lounge | 65. OliveTree |
| 11. Bohemia | 66. O'Neills |
| 12. Boots | 67. Orgasmic Cafe |
| 13. BPM | 68. Parish, The |
| 14. Brigantes Bar & Brasserie | 69. Park Inn |
| 15. Bugdens | 70. Piccolino |
| 16. Captain James Cook (York Boats) | 71. Pitcher & Piano |
| 17. Castle Snooker Club | 72. Pizza Express |
| 18. Chi Yip | 73. Pizza Hut |
| 19. City Screen Cinema Bar | 74. Plonkers Wine Bar |
| 20. Club Salvation | 75. Plonkers Riverside |
| 21. Corner Pin | 76. Priors |
| 22. Cornish Pasty Bakery | 77. Punch Bowl Hotel |
| 23. Danni Lea's Hair Salon | 78. Ramada Encore |
| 24. Debenhams | 79. Red Chilli Restaurant |
| 25. Delrios | 80. Reflex |
| 26. Dixie Chicken | 81. Revolution |
| 27. Dusk | 82. Riocco |
| 28. Ever New | 83. River Countess (York Boats) |
| 29. F.H. Ward Florists | 84. River Duchess (York Boats) |
| 30. Fiesta Mehicana | 85. River Palace (York Boats) |
| 31. Flares | 86. River Prince (York Boats) |
| 32. Friargate Theatre (Riding Lights) | 87. Rumours |
| 33. Gallery | 88. Saffron Desi |
| 34. GBK | 89. Salt & Pepper |
| 35. Go Down Restaurant | 90. Salt & Vinegar |
| 36. Golden Dragon | 91. Scene |
| 37. Golden Grill | 92. Sheesh Mahal |
| 38. Grand Opera House | 93. Silvano's |
| 39. Ha Ha Bar & Canteen | 94. Slug & Lettuce, Riverside |
| 40. Hansom Cab | 95. Stone Roses Bar |
| 41. Harkers Cafe Bar | 96. Subway |
| 42. Il Bertorelli | 97. Taj Mahal Restaurant |
| 43. Indochine | 98. The Guildhall |
| 44. Jade Garden | 99. Thida Thai Cuisine |
| 45. Judges Lodgings | 100. Threshers |
| 46. Jumbo Buffet | 101. Tru |
| 47. Kapadokya Turkish BBQ Restaurant | 102. Tuscany |
| 48. Karachi | 103. Varsity |
| 49. Kings Arms | 104. Waterfront Restaurant |
| 50. Kings Ransom | 105. Willow Restaurant |
| 51. Krumbs Cafe | 106. Yates Wine Lodge |
| 52. Lendal Cellars | 107. York Brewery Co Ltd |
| 53. Living Room | 108. Yorkshire Hussar |
| 54. Lowther Hotel | 109. Ziggy's Nightclub |
| 55. Lowther Riverside | 110. Zizzi |

Map of the 110 Licensed Premises inside the Proposed CIZ



List of the Roads/Streets Covered by the Proposed CIZ

Bar Lane
Barker Lane
Blossom Street (partial)
Bridge Street
Church Lane
Clifford Street
Coney Street
Cumberland Street
Davygate
Feasegate
George Hudson Street
King Street
Kings Staith
Lendal
Lendal Bridge
Low Ousegate
Lower Friargate
Market Street
Micklegate
Museum Street (partial)
Nessgate
New Street
North Street
Parliament St (partial)
Peckitt Street
Peter Lane (partial)
Rougier Street
Skeldergate (partial)
Spurriergate
St. Helens Square
Tanner Row
Tanners Moat
Toft Green
Tower Street (partial)
Wellington Row



Summary

The analysis so far indicates that the current CIZ not only contains areas with low concentrations of crime (Blossom Street/Tower Gardens) but it also omits some crime hotspot areas elsewhere in the city (e.g. Coney Street).

On the other hand, the proposed CIZ contains these identified hotspot areas and omits the low crime areas. It also only increases the CIZ by a small amount (3%) but contains far more crime (15%) than the current CIZ; this makes crime in the proposed CIZ 20% more concentrated than in the current CIZ. The proposed CIZ will also contain more licensed premises (a total of 107) than the current CIZ (see Pages 8-11 for lists and maps of the licensed premises inside the proposed CIZ).

In addition, as shown by the graphs on pages 8-11, in 2007, 2008 and 2009, the area which would be covered by the proposed CIZ has had a significant problem with crime and violent crime at night-time, and on Fridays, Saturdays and Sundays.

In summary, the proposed CIZ (shown in the map on Page 13) contains much more crime, more of the crime hotspots, has a greater concentration of crimes in 2007, 2008 and 2009*, and also more licensed premises as compared to the current CIZ.



Gambling and Licensing Acts Committee

5 February 2010

Report of the Director of Neighbourhood Services

Licensing Act 2003 – Proposal to amend the Licensing Act 2003 to simplify the procedures.

Summary

1. This report advises members of recent consultation from the Department of Culture, Media and Sport (DCMS), regarding proposals to amend the Licensing Act 2003 (the Act) to simplify the procedures for Licensing Statements; Interim Authority Notices and Reinstatements on Transfer; and Temporary Event Notices. It seeks members approval regarding the councils response to the consultation.

Background

2. The Licensing Act 2003 has been in operation since November 2005. During this period its operation has been reviewed and the Government are proposing measures to simplify procedures to reduce burden on businesses and licensing authorities. The consultation document is attached at Annex 1.

Statement of Licensing Policy

3. Under section 5(1) of the Act each licensing authority is required to determine and publish a 'statement of licensing policy' (licensing statement) for each three year period. The statement must be published before the licensing authority carries out any function in relation to applications or notifications under the Act. The licensing authority must consult the consultees set out in section 5(3) of the Act before determining licensing policies. It must also keep the licensing statement under review and make appropriate revisions in the interim between the 3 year periods. If revisions are intended it must consult the same stakeholders.
4. The DCMS have been told by licensing authorities that the current requirement to review statements every three years is unnecessary and burdensome, for example the licensing authority may have carried out a revision in the interim and there are no further changes needed; or the licensing authority may know that further amendments will be required in the next few months for changes in legislation. The DCMS believe the cost to licensing authorities of reviewing a statement is substantial, around £7550 for each review.
5. Consultees also incur costs in reading and responding to review consultations, some national trade associations may be asked to consider and comment on hundreds of licensing statements at the same time. DCMS research shows that some consultees are deterred from contributing to reviews at all because of the

time and costs involved and therefore lose the opportunity to influence licensing policy.

6. Proposal A – The DCMS has therefore proposed to remove the requirement to review licensing statements every three years, but there will still be a requirement for licensing authorities to keep licensing statements under review and carry out revisions as necessary. The proposal is also to allow licensing authorities to consult only those stakeholders groups likely to be affected by any change, rather than the full list of mandatory consultees, when conducting a revision of a licensing statement. For the determination of a completely new policy licensing authorities will still be required to consult all of the statutory consultees.

Interim Authority Notices and Reinstatement on Transfer

7. Under section 27 of the Act, a premise licence lapses following the death, incapacity or insolvency of the licence holder. Under section 47, the licence is reinstated if the licensing authority receives an 'interim authority notice' from someone connected with the business or the licence holder within 7 consecutive days of those events. The applicant must also copy the interim authority to the police, who can object within 48 hours of receiving it on crime prevention grounds. The licence is reinstated and is extant for 2 months. Alternatively, a person may apply for a reinstatement of the licence on transfer under section 50. Likewise, this type of application must be made within 7 consecutive days.
8. The DCMS has been advised that 7 consecutive days is not always a realistic timescale to apply for an interim authority notice or a transfer, for example it takes time to appoint an insolvency practitioner or put a licence holders affairs in order following death or incapacity, and the deadline can seem unjust, particularly after bereavement. If the deadline is missed relatives or business associates of the licence holder must apply for a new licence with associated fees and timescales, the applicant will incur loss of earnings during that period and, potentially, long term loss of business.
9. Proposal B – The DCMS has therefore proposed to extend the period during which an interim authority notice can be issued or a transfer applied for, to within 28 consecutive days.

Temporary Event Notices (TEN)

10. The Act provides for a light touch authorisation under which any person may submit a notification to the licensing authority to conduct a licensable activities on a temporary basis. The TEN must be given to the licensing authority and the police at least 10 working days in advance of the event. The licensing authority issues an acknowledgement to the event holder if it is satisfied that the TEN is within statutory limits and has been submitted with the 10 day notification period. Otherwise a counter notice must be issued. Only the police can object on crime prevention grounds. The police have 48 hours after receipt of the notice to object by giving an objection notice to the licensing authority and premises user. The licensing authority must hold a hearing to consider any objection and, if it decides

that the objection is valid, it must issue a counter notice to the applicant at least 24 hours before the beginning of the event to prevent it going ahead.

11. The DCMS believes the 10 working day notification period is reasonable in most cases, but there are times when it may be too rigid. For example when premise users wish to arrange a low risk event at fewer than 10 working days notice, or when an event that was due to be held under a TEN is cancelled because of the weather and the premises user wishes to reschedule (a firework display affected by the weather). The DCMS also believes that there may be a cultural loss to the community, as well as a financial loss to the organiser, if events cannot proceed as planned.
12. The Association of Chief Police Officers (ACPO) has said that the police would like to have discretion to allow late notifications for TENs for this type of low risk event and the Local Authorities Coordinators of Regulatory Services (LACORS) agrees.
13. In each particular case, the police would signal their assent to a late TEN by issuing a “police confirmation” to the licensing authority. If a late TEN is given the premise user and licensing authority should be made aware as soon as possible that the police have decided to use their discretion, the DCMS recommends that the police confirmation should be issued within 2 working days of receipt of the TEN. The licensing authority would then check that the statutory limits have not been exceeded and issue acknowledgement or counter notice as appropriate, no later than 24 hours before the beginning of the event.
14. The police objection period is currently 48 hours, they propose to change this to 2 working days, as there is evidence to suggest that in some circumstances the current 48 hours period does not give the police the time intended, and that this may sometimes limit, or prevent, the police from making a proper assessment of the risk of crime and disorder. For example when a TEN is delivered to a police station, which may be unmanned, on a Friday night but not actually received by the chief officer until the following week, by which time the objection period has elapsed. Replacing 48 hours with 2 working days would be small change that should ensure the police have sufficient time to consider TENs properly, even when they are received outside working hours. This is unlikely to result in increased police objections, but will ensure that objections are properly targeted at high risk events.
15. Proposal C – The DCMS therefore proposes that the police are given discretion to allow TENs to be given without the current mandatory notice of 10 working days, however, it is proposed that there would be an absolute minimum notice period of 3 working days.
16. The DCMS is also seeking comments on giving the police a longer period to consider TENs to 3 working days. This is unlikely to result in increased police objections, but would allow the police more time to make a risk assessment of the event, and if necessary, have discussions with event organisers about matters of concern.
17. A 3 working day objection period may have two potential disadvantages: -

- (a) If a TEN that is subject to an objection is submitted to the police within the current minimum timescale of 10 working days notice, the timescale for holding a hearing is already tight and this would mean that there is one day fewer available for all involved in the process.
 - (b) All premises users, not just those subject to an objection, will have one extra day of uncertainty as to whether their event will be subject to police objection.
18. The Parliamentary committees which scrutinise legislative reform orders may consider that this extension does not serve the purpose of reducing a burden or and overall burden. If there is strong support for this proposal, the Government may have to seek a further legislative opportunity to implement this option.

Consultation

19. The DCMS has consulted a wide range of persons and organisations as listed in Annex A of the document. The council has not undertaken a local consultation on this document, discussion has however taken place with North Yorkshire Police.

Options

20. The questions in the consultation document are listed in Chapter 8. Officers responses are attached at Annex 2.
21. Option 1 - Agree with the officers responses.
22. Option 2 - Amend officers responses.

Analysis

23. Officers are in broad agreement with regards to licensing statements and interim authority notices, however there are reservations with regards to the proposals on TENs. These reservations are due to the lack of definition regarding low risk events and limited timeframes that will be given to both licensing and police authorities.

Corporate Strategy

24. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
25. The promotion of the licensing objectives will support the Council's strategy to make York a safer city with low crime rates and high opinions of the city's safety record.

Implications

26. **Financial:** None

Human Resources (HR): None

Equalities: None

Legal : None

Crime and Disorder: None

Information Technology (IT): None

Property: None

Other: None

Risk Management

27. There is no risk to the council in submitting this response.

Recommendations

28. Members are asked to approve option 1 and instruct officer to submit the response to the DCMS.

Author:
Lesley Cooke
Senior Licensing Officer

**Neighbourhoods and
Community Safety**

Tel No: 01904 551526

Chief Officer Responsible for the report:
Andy Hudson
**Assistant Director of Neighbourhoods and
Community Safety**

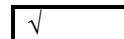
Report Approved



Date 14 January 2010

Specialist Implications Officer Legal - Martin Blythe
Tel No. 01904 551044

Wards Affected: All



For further information please contact the author of the report.

Annexes:

Annex 1 – Proposal to amend the Licensing Act 2003 to simplify the procedures for Licensing Statements; Interim Authority Notices and Reinstatements on Transfer; and Temporary Event Notices

Annex 2 – List of questions and officers responses

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department for
culture, media
and sport

Proposal to amend the Licensing Act 2003 to simplify the procedures for Licensing Statements; Interim Authority Notices and Reinstatements on Transfer; and Temporary Event Notices.

Licensing Act 2003

2

Department for Culture, Media and Sport

Legislative Reform Orders: Proposals to Amend the Licensing Act 2003 to Improve the Processes for Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

Contents

Chapter 1: Introduction	4
Chapter 2: How to Respond	7
Chapter 3: Legislative Reform Order Preconditions and General Questions	9
Chapter 4: Licensing Statements (Proposal A)	13
Chapter 5: Interim Authority Notices and Reinstatements on Transfer (Proposal B)	17
Chapter 6: Temporary Event Notices (Proposal C)	21
Chapter 7: Proposed amendments to Statutory Guidance	26
Chapter 8: List of Questions	30
Annex A: List of Consultees	34
Annex B: Impact Assessment Question	37
Annex C: Draft Order	38
Annex D: BRE Code of Practice on Consultations	42
Annex E: Legislative Reform Orders – Parliamentary Consideration	43

Chapter 1: Introduction

Summary

- 1.1** The consultation document seeks your views on three separate simplification proposals relating to the Licensing Act 2003 (the Act). The Government proposes to simplify the requirements for:
- the revision of licensing statements;
 - making an interim authority notice (IAN) or applying for reinstatement on transfer (RT) following the death, incapacity or insolvency of the licence holder; and
 - the notification of temporary event notices (TENs).
- 1.2** The consultation also seeks your views on the draft Order, Impact Assessment (published as a separate document and available alongside this consultation on the DCMS website at www.culture.gov.uk/reference_library/consultations/default.aspx) and draft amendments to the Statutory Guidance under s.182 of the Act.

The Legislative Burden

- 1.3** In general, the burdens imposed by the Act are justified by the need to prevent potential adverse impacts on the four licensing objectives: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. However, stakeholders have identified the detailed requirements of the Act with regard to these processes as being unduly restrictive and burdensome. The Government agrees that they can be simplified, as described below, without any adverse impact on the licensing objectives.

The Government's proposal

- 1.4** The Government proposes:

a) Licensing statements

- To remove the requirement that licensing authorities determine and publish a Licensing Statement every 3 years; and
- To allow licensing authorities to consult only those stakeholder groups likely to be affected, rather than the full list of mandatory consultees, when conducting a revision of a licensing statement.

b) Interim Authority Notices (IANs) and Reinstatements on Transfer (RTs)

- To extend the period during which specific persons may notify interim authority following the death, incapacity or insolvency of the licence holder from 7 to 28 consecutive days;
- to extend the period during which a person may apply for an RT following the death, incapacity or insolvency of the licence holder from 7 to 28 consecutive days;
- to extend the period during which the police may object to an interim authority notice from 48 hours to 2 working days; and
- to extend the period during which interim authority has effect from 2 months to 3 months.

c) Temporary Event Notices

- To extend the period during which the police may object to a TEN from 48 hours to two or three working days; and
- to give a new power to the police to allow a late notification (i.e. fewer than ten working days before the first day of the event) by notifying the licensing authority. This will be referred to as 'police confirmation'.

Administrative savings and other benefits

1.5 We estimate that these simplification measures could save the organisations and businesses involved between £9.2m and £24.1m per year. There will be a small additional cost to the police and licensing authorities, as they will make assessments of late TENs that were not previously necessary. The estimated annual cost to licensing authorities is £19K- £29K (divided amongst 378 LAs in England and Wales). The cost to the police is estimated at £25K to £99K. All of these estimates are described in detail in the Impact Assessment (published as a separate document and available alongside this consultation on the DCMS website at www.culture.gov.uk/reference_library/consultations/default.aspx), and comment is invited. The extension of the deadline for interim authority will also give the relatives and business associates of licence holders who have died, become incapable, or been made insolvent, more time to put the affairs of the premises licence holder in order before having to apply for interim authority.

Who will be affected by the proposals?

1.6 The proposals will affect:

- those wishing to notify interim authority or reinstatement on transfer of the licence (e.g. close family members and business associates);
- licensing authorities (who are responsible for reviewing licensing statements); organisations that are mandatory consultees for revisions of licensing statements; (such as licensed trade associations, club associations, victuallers associations; and other business representatives) and
- in relation to TENs, those who give TENs (including schools and parent teacher organisations; licensed premises and clubs; and third sector organisations); licensing authorities (who issue acknowledgements of TENs); and the police (who may object to a TEN).

Implementing the proposals

- 1.7 We propose to introduce these simplification measures by means of a **Legislative Reform Order (LRO)** under section 1 of the **Legislative and Regulatory Reform Act 2006 (LRRRA)**. See Chapter 3 and Annex E for more details of the LRO process.

Chapter 2: How to Respond

- 2.1** The closing date for responses to this consultation is 9 February 2010. If you would like to respond to this consultation, please email your response to licensingconsultation@culture.gov.uk

If you prefer, you may submit a hard copy by post to:

Shelley Mickleburgh

Licensing Team

Sport and Leisure Directorate

2-4, Cockspur Street

London SW1Y 5DH

- 2.2** If you have any queries about this consultation, or require additional copies, please contact the Licensing Team at the above address or by telephone on 020 7211 6322 or 020 7211 6380.
- 2.3** However, if you have any questions or complaints about the process of consultation on this paper, please contact the DCMS enquiries team at enquiries@culture.gov.uk or by post to Department for Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH.

Disclosure

- 2.4** Normal practice will be for responses to this consultation document to be disclosed, and for respondents to be identified. While the LRA provides for non-disclosure of representations, the Minister will include the names of all respondents in the list submitted to Parliament alongside the draft LROs. The Minister is also obliged to disclose any representations that are requested by, or made to, the relevant Parliamentary Scrutiny Committees. This is a safeguard against attempts to bring improper influence to bear on the Minister. We envisage that, in the normal course of events, this provision will be used rarely and only in exceptional circumstances. You should note that:
- If you request that your representation is not disclosed, the Minister will not be able to disclose the contents of your representation without your express consent and, if the representation concerns a third party, their consent too. Alternatively, the Minister may disclose the content of your representation but only in such a way as to anonymize it.

- In all cases where your representation concerns information on a third party, the Minister is not obliged to pass it on to Parliament if he considers that disclosure could adversely affect the interests of that third party and he is unable to obtain the consent of the third party.

2.5 Please identify any information that you or any other person involved do not wish to be disclosed. You should note that many facsimile and e-mail messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-inclusion in the post consultation review unless accompanied by an additional specific request for confidentiality.

Confidentiality and Freedom of Information

2.6 It is possible that requests for information contained in consultation responses may be made in accordance with access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you do not want your response to be disclosed in response to such requests for information, you should identify the information you wish to be withheld and explain why confidentiality is necessary. Your request will only be acceded to if it is appropriate in all the circumstances. *An automatic confidentiality disclaimer generated by your IT system will not of itself be regarded as binding on the Department.*

Chapter 3: Legislative Reform Order Preconditions and General Questions

Legislative Reform Orders

- 3.1** The Government proposes to introduce these simplification measures by means of a Legislative Reform Order under section 1 of the Legislative and Regulatory Reform Act 2006. The draft Order is at Annex C. This consultation is being conducted in accordance with the provisions of section 13 of the LRRRA and the terms of the Government's Code of Practice on Written Consultations. Views are invited on all aspects of the consultation paper, including the specific questions set out in this document and summarised in Chapter 8. All responses should be received by 9 February 2010. Subject to the outcome of consultation and Parliamentary scrutiny, we propose that the changes are implemented from Spring 2010.

Legislative Reform Order-making powers

- 3.2** The LRRRA confers powers on a Minister of the Crown, with the approval of Parliament, to make legislative reform orders for purposes which include (under section 1) the removal or reduction of burdens falling directly or indirectly on any person from any legislation.
- 3.3** Section 1(3) of the LRRRA defines a burden as a financial cost; an administrative inconvenience; an obstacle to efficiency, productivity or profitability; or a sanction, criminal or otherwise, which affects the carrying on of any lawful activity.
- 3.4** An order may not impose, abolish or vary any tax nor may it create a new criminal offence or increase the penalty for an existing offence so that it is punishable above certain limits. This proposal will not do so.
- 3.5** The 2006 Act specifies, under Section 3, that an Order must satisfy six preconditions. These are whether the Order has a non-legislative solution; is proportional to the policy objective; strikes a fair balance; does not remove necessary protections; does not prevent the exercise of rights and freedoms; and is not of constitutional significance. These are discussed in Chapter 3, and under each proposed measure in Chapters 4-6.
- 3.6** It should be noted that even where the preconditions of Section 3 of the LRRRA are met, an LRO cannot:
- deliver 'highly controversial' proposals;
 - remove burdens which fall solely on Ministers or Government departments, except where the burden affects the Minister or Government department in the exercise of regulatory functions;
 - confer or transfer any function of legislating on anyone other than a Minister; persons that have statutory functions conferred on or transferred to them by an enactment; a body or office which has been created by the LRO itself;

Legislative Reform Orders: Proposals to Amend the Licensing Act 2003 to Improve the Processes for Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

- impose, abolish or vary taxation;
- create a new criminal offence or increase the penalty for an existing offence so that it is punishable above certain limits;
- provide authorisation for forcible entry, search or seizure, or compel the giving of evidence;
- amend or repeal any provision of Part 1 of the LRA;
- amend or repeal any provision of the Human Rights Act 1998;
- remove burdens arising solely from common law.

Devolution

3.7 The LRA imposes certain restriction regarding LROs and the devolution agreements:

- Scotland – A Minister cannot make an LRO under Part 1 of the LRA which would be within the legislative competence of the Scottish Parliament. This does not affect the powers to make consequential, supplementary, incidental or transitional provisions.
- Northern Ireland – A Minister cannot make an LRO under Part 1 of the LRA that amends or repeals any Northern Ireland legislation, unless it is to make consequential, supplementary, incidental or transitional provisions.
- Wales – The agreement of the Welsh Ministers is required for any provision in an LRO which confers a function upon the Welsh Ministers, modifies or removes a function of the Welsh Ministers, or restates a provision conferring a function upon the Welsh Ministers. The agreement of the National Assembly for Wales is required for any provision in an LRO which is within the legislative competence of the Assembly.

3.8 The Minister can recommend one of three alternative procedures for Parliamentary scrutiny dependent on the size and importance of the LRO. The negative resolution is the least onerous and therefore may be suitable for LROs delivering small regulatory reform. The super-affirmative procedures is the most onerous involving the most in-depth Parliamentary scrutiny. Although the Minister can make the recommendation, Parliamentary Scrutiny Committees have the final say about which procedure will apply.

- Negative Resolution Procedure – This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if neither House of Parliament has resolved during that period that the LRO should not be made and the Committee has not vetoed the proposal.
- Affirmative Resolution Procedure – This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if it is approved by a resolution of each House of Parliament.
- Super-Affirmative Resolution Procedure – This is a two stage procedure during which there is opportunity for the draft LRO to be revised by the Minister:
 - Parliament is given 60 days of initial scrutiny, when the Parliamentary Committees may report on the draft LRO, or either House may make a resolution with regard to the draft LRO.
 - After the expiry of the 60 day period (during which evidence may be sought from stakeholders and the Minister or officials by the Committees of each

House), recommendations on the LRO are made by the Committees, and the Minister must lay a revised or unrevised LRO for further scrutiny (15 days for unrevised, 25 days for revised). After this second scrutiny period, the Minister may then make an LRO in the terms of the draft, but only if it is approved by a resolution of each House of Parliament and has not been vetoed by either or both Committees.

- 3.9 Under each procedure, the Parliamentary Scrutiny Committees have the power to recommend that the Minister not make the LRO. If one of the Parliamentary Committees makes such a recommendation, a Minister may only proceed with it if the recommendation is overturned by a resolution of the relevant House.
- 3.10 The Department for Culture, Media and Sport believes that the **affirmative resolution process** should apply to these LROs on the grounds that it amends the Act.
- 3.11 This consultation document contains a series of questions to which responses are invited. A list of all questions can be found at Chapter 8.
- 3.12 Comments are also invited on the Impact Assessment (published as a separate document, and available alongside this consultation on the DCMS website at www.culture.gov.uk/reference_library/consultations/default.aspx).
- 3.13 The consultation document follows the format recommended by the BRE for all such proposals. The criteria applicable to all UK consultations under the BRE Code of Practice on Consultation are at Annex D.
- 3.14 This consultation document is available from the DCMS website at http://www.culture.gov.uk/reference_library/consultations/6498.aspx and through the Business Link website at www.businesslink.gov.uk/consultations.
- 3.15 Under Section 3(2) of the LRRRA, the Minister of the Crown must be satisfied that certain preconditions have been met before presenting to Parliament a proposal to make a legislative reform order. For this reason, we would particularly welcome your views on whether and how each aspect of the proposed changes in this consultation meets the following preconditions:
 - (a) the policy objective intended to be secured by the order could not be satisfactorily secured by non-legislative means;
 - (b) the effect of the provision is proportionate to the policy objective;
 - (c) the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it;
 - (d) the provision does not remove any necessary protection;
 - (e) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise; and
 - (f) the provision is not of constitutional significance.
- 3.16 Preconditions (a) and (f) are addressed below, with accompanying questions. Preconditions (b), (c), (d) and (e) are addressed separately in the context of each proposed measure. There is a summary list of all questions in Chapter 8.

Precondition (a): non-legislative solutions

- 3.17 The legal requirements relating to interim authority notices and notification on transfer; licensing policy statements; and notification of temporary events are set out in the 2003

12

Department for Culture, Media and Sport

Legislative Reform Orders: Proposals to Amend the Licensing Act 2003 to Improve the Processes for Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

Act. The proposed changes to the Act summarised cannot be made through secondary legislation (other than legislative reform orders).

3.18 Although the Secretary of State is empowered to issue Guidance to licensing authorities under section 182 of the 2003 Act, licensing authorities only have to 'have regard to it' and it cannot effect changes to primary legislation or regulations made under the 2003 Act or seek to influence the decisions of prosecuting authorities. In addition, the police (and other RAs) need have no regard to it.

3.19 The Government is satisfied that these proposals cannot be achieved by means of:

- any voluntary agreements between central government, licensing authorities and the police;
- changes to the statutory Guidance that the Secretary of State issues under section 182 of the 2003 Act; or
- changes to the regulations made by the Secretary of State under their powers in the 2003 Act.

3.20 The Government is therefore satisfied that the measures proposed cannot be achieved by non-legislative means.

Question G1: Do you consider that any, or all, of the proposed simplification measures can be achieved by non-legislative means? Yes/No

If you consider that a proposed simplification measure can be achieved by non-legislative means, please provide your reasons.

Precondition (f): constitutional significance

3.21 We consider that the proposals have no constitutional significance, because they make minor changes to processes under the Licensing Act 2003 without changing the principles of the Act.

Question G2: Do you consider that any of the simplification measures is of constitutional significance? Yes/ No

If you consider that a measure would have constitutional significance, please provide your reasons.

Chapter 4: Licensing Statements (Proposal A)

Current arrangements

- 4.1** Under section 5(1) of the Licensing Act ('the Act'), each licensing authority (LA) is required to determine and publish a 'statement of licensing policy' (licensing statement) for each three-year period. This statement must be published before the LA carries out any function in relation to applications or notifications under the Act. The LA must consult the stakeholders set out in section 5(3) of the Act before determining licensing policies. Under section 5(4), the LA must also keep the licensing statement under review and make appropriate revisions in the interim between the 3-year periods. If it intends to make any revisions, it must consult the same consultees.
- 4.2** The stakeholders listed at 5(3) are:
- the chief officer of police for the licensing authority's area
 - the fire authority for that area;
 - such persons as the LA considers to be representative of holders of premises licences issued by that authority;
 - such persons as the LA considers to be representative representatives of holders of club premises certificates issued by that authority;
 - such persons as the LA considers to be representative representatives of holders of personal licences issued by that authority; and
 - such other persons as the LA considers to be representative of businesses and residents in its area.

Proposal to remove the requirement to review licensing statements every three years

- 4.3** LAs have told us that the current requirement to review licensing statements every three years, or indeed at the end of any set period, is unnecessary and burdensome. For example, the LA may have carried out a revision in the interim, and no further changes may be needed. Or the LA may know that a further amendment will be required in the next few months, for example, to take account of forthcoming changes in legislation. The cost to LAs of reviewing licensing statements is substantial – around £7,550 for each review (see Impact Assessment, which is published as a separate document, and available alongside this consultation on the DCMS website at www.culture.gov.uk/reference_library/consultations/default.aspx).
- 4.4** Consultees also incur costs in reading and responding to review consultations. Some national trade associations, such as the British Beer and Pub Association (BBPA), may be asked to consider and comment on hundreds of licensing statements at the same time at an average cost of £270k – £539k every 3 year cycle. Our research also shows

Legislative Reform Orders: Proposals to Amend the Licensing Act 2003 to Improve the Processes for Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

that some consultees are deterred from contributing to reviews at all because of the time and costs involved and therefore lose the opportunity to influence licensing policy.

- 4.5** In view of these arguments and the evidence gathered from LAs and consultees, the Government proposes to remove the current requirement for LAs to revise licensing policy statements every 3 years. There will still be a requirement for LAs to keep licensing statements under review and carry out revisions as necessary. For the determination of a completely new policy (for example, because of boundary changes), LAs will still be required to consult all of the statutory consultees).

Question A1: Do you agree that the existing requirement to review licensing statements every three years should be removed? Yes/ No.

If no, please state your reasons.

Proposal to remove the requirement to consult all statutory consultees for all revisions

- 4.6** LAs may make revisions to licensing statements following changes to, for example:

- local circumstances;
- the Licensing Act, associated Regulations or statutory Guidance;
- other national legislation; or
- the policies and practices of a Responsible Authority.

For some changes, such as the introduction of a cumulative impact policy, it may be appropriate to consult all statutory consultees. However, other changes may be of limited scope and may not be of interest to all stakeholders. For example, changes to contact details or a change made to reflect a minor change in the policy of a responsible authority. In these cases, it may be unduly burdensome, to both LAs and consultees, to require consultation with all statutory consultees. There is also some evidence that the requirement to consult all statutory consultees may act as a disincentive for LAs to carry out interim revisions to their licensing statements. This may result in licensing policy statements being out of date or incomplete. The Government therefore recommends that LAs should only be required to consult those statutory consultees that will be affected by the proposed revision.

Question A2: Do you agree that the existing requirement for LAs to consult all statutory consultees for all revisions should be replaced by a requirement for the LA to consult those statutory consultees that will be affected by the proposed revision. Yes/ No.

If no, please state your reasons.

Policy objectives

- 4.7** The policy objectives are:

- to remove unnecessary costs for LAs and consultees;
- to ensure an appropriate level of stakeholder involvement in the development of licensing policies; and
- to encourage LAs to keep licensing statements up to date.

Administrative cost savings

- 4.8** We estimate that there will be total savings of around £0.44m- £1.8m to LAs and consultees from this proposal. Detailed costs estimates can be found in the Impact Assessment, (published as a separate document, and available alongside this consultation on the DCMS website at www.culture.gov.uk/reference_library/consultations/default.aspx) and comment is invited.

Is the proposal proportionate to the policy objective?

- 4.9** The proposal will not impose new costs on LAs or on consultees. However, it will help ensure that licensing statements are kept up to date at a reduced administrative cost.

Question A3: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require LAs to consult only relevant statutory consultees is proportionate to the policy objective? Yes/ No.

If no, please state your reasons.

Does the proposal strike a fair balance between persons adversely affected and the public interest?

- 4.10** The Government does not consider that any person will be adversely affected by this proposal. There would be an adverse effect on licensing stakeholders if licensing authorities failed to keep their statements up to date, or failed to consult adequately. However, failure to do either would be a breach of section 5 of the Act (as revised). Although the requirement to revise statements every three years would be removed, the proposal will help ensure that licensing statements are up to date by reducing the administrative cost of small amendments. The public interest lies in ensuring that the Act is administered efficiently without unnecessary burdens on consultees, whilst ensuring the appropriate level of stakeholder involvement in the development of licensing policies.

Question A4: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require LAs to consult only relevant statutory consultees strikes a fair balance? Yes/ No.

If no, please state your reasons.

Does the proposal remove any necessary protection?

- 4.11** The Government does not consider that the proposal removes any necessary protections. The requirement for LAs to keep licensing statements under review and revise them as appropriate in consultation with consultees that will be affected will ensure that necessary protections for residents, the licensed trade and other licensing stakeholders are retained. If residents and local businesses are dissatisfied with aspects of their Licensing Authority's Licensing Policy Statement, they can ask their ward Councillor to consider referring the matter for consideration under the Councillor Call for Action (CCfA) process that came into force on 1 April 2009. While LA decisions on individual licence applications are excluded from the scope of the CCfA, licensing statements are not. Through the Local Democracy, Economic Development and Construction Bill, Government is also set to introduce a mechanism for local people to express their collective concerns through petitions to their local authority. Local

16

Department for Culture, Media and Sport

Legislative Reform Orders: Proposals to Amend the Licensing Act 2003 to Improve the Processes for Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

petitions may therefore be used to invite an authority to consider revisions to their licensing statement.

Question A5: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require LAs to consult only relevant statutory consultees does not remove any necessary protection? Yes/ No.

If no, please state your reasons.

Does the proposal prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise?

4.12 The proposal means that statutory consultees listed will not have the opportunity to contribute to the development of licensing statements every three years. However, they will continue to be consulted on revisions where they have an interest.

Question A6: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require LAs to consult only relevant statutory consultees does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise? Yes/ No.

If no, please state your reasons.

Chapter 5: Interim Authority Notices and Reinstatements on Transfer (Proposal B)

Current arrangements

- 5.1 Under section 27 of the Act, a licence lapses following the death, incapacity or insolvency of the licence holder. Under section 47, it is reinstated if the licensing authority receives an 'interim authority notice' (IAN) from someone connected with the business or the licence holder within seven consecutive days of those events. The applicant must also copy the IAN to the Chief of Officer of Police, who can object to an IAN within 48 hours of receiving it on crime prevention grounds. If the police object to an IAN, the LA must hold a hearing to consider it (unless all parties agree a hearing is unnecessary) and, if they agree with the police objection, cancel the notice. Otherwise, the licence is reinstated and is extant for 2 months (or earlier if it is terminated by the person who gave the IAN). Alternatively, a person may apply for a Reinstatement of the Licence on Transfer (RT) under section 50. Likewise, this type of application must be made within seven consecutive days.

Proposal to extend the period during which an IAN can be issued or a RT applied for to 28 consecutive days

- 5.2 Representatives of premises licence holders and licensing authorities have suggested that seven consecutive days is not always a realistic timescale to apply for an IAN or an RT. For example, it takes time to appoint an insolvency practitioner or to put a licence holder's affairs in order following their death or incapacity. Also, the deadline can seem unjust, particularly after bereavement. If the deadline is missed, the relative or business associate of the premises licence holder must apply for a new licence, with an average administrative cost of £385 - £950 (in addition to the fee). Applicants must then wait at least 28 days for a decision from the licensing authority, incurring loss of earnings during that period and, potentially, long-term loss of business as customers seek new venues. The Government therefore proposes to extend the period during which an IAN can be issued or RTs applied for to 28 consecutive days. It is unlikely that a longer period will be required, as the licence will remain lapsed during this period.

Question B1: Do you agree that the period during which an Interim Authority Notice can be issued should be extended to 28 consecutive days? Yes/ No

If no, please state your reasons.

Question B2: Do you agree that the period during which a Reinstatement of Licence on Transfer can be applied for should be extended to 28 consecutive days? Yes/ No

If no, please state your reasons

Proposal to change the deadline for the police to object to an IAN to two working days

5.3 Under section 48 of the Act, the police may cancel an IAN within 48 hours. The 48 hour objection period may be an obstacle to the efficiency of the IAN process, and potentially give rise to crime and disorder, because it does not always give the police sufficient time to consider the Notice. For example, if an IAN is delivered to an unmanned police station on a Friday night and is not actually received by the Chief Officer of Police until the following week, the 48 hour objection period will have elapsed. The Government therefore proposes to change the police objection period to two working days. In the vast majority of cases, this change will have no affect at all on the interim authority, but will ensure that any crime prevention issues are identified.

Question B3: Do you agree that the period during which the police may cancel an IAN should be changed to two working days? Yes/ No

If no, please state your reasons.

Extension of the period during which IAN has effect from two to three months

5.4 The Government also wishes to receive comments on whether there should be a consequent extension of the interim authority period from two months to three months. This would ensure that the interim authority holder has sufficient time to resolve their affairs and, for example, come to a decision about whether to apply for a transfer of the licence. For cases of insolvency, a maximum period of three months will also bring IANs into line with the Insolvency Service's proposal to extend the maximum time limit for court sanctioned moratoriums on creditor action.

Question B4: Do you think that the interim authority period should be extended to three months? Yes/ No

Please state your reasons.

Policy objectives

5.5 The policy objective is to ensure that anyone wishing to make an IAN or apply for a RT has time to do so, subject to police scrutiny on crime and disorder grounds. The advantages may include:

- licensed activities recommencing with reduced loss of earnings and long-term business;
- administrative savings to businesses through the removal of the need to submit a new licence application, whilst ensuring that the licensed activity continues to be conducted responsibly;
- the removal of the potential injustice of a relative having to issue an IAN or apply for a RT within a week of bereavement or the incapacity of the personal licence holder;
- ensuring that there is sufficient time after the issuing of an IAN to take decisions about the future of the business; and

- ensuring that there is sufficient time for the police to scrutinise IANs on crime and disorder grounds.

Administrative cost savings

5.6 We estimate that there will be total savings of around £5.52m- £10.52m to licence holders from this proposal. Detailed costs estimates can be found in the Impact Assessment (published as a separate document and available alongside this consultation on the DCMS website at www.culture.gov.uk/reference_library/consultations/default.aspx), and comment is invited.

Is the proposal proportionate to the policy objective?

5.7 We consider that the proposal will not impose any new costs on applicants or other stakeholders.

Question B5: Do you agree that the Government's proposal to amend the deadlines for IAN and RTs is proportionate to the policy objective? Yes/ No

If no, please state your reasons.

Does the proposal strike a fair balance between persons adversely affected and the public interest?

5.8 We do not consider that any person will be adversely affected. The public interest lies in businesses carrying out licensable activities being able to operate temporarily under an IAN, or to transfer a licence (subject to the appropriate police assessment) after the death, incapacity or insolvency of the licence holder.

Question B6: Do you agree that the proposal to amend the deadlines for IAN and RTs strikes a fair balance? Yes/ No.

If no, please state your reasons.

Does the proposal remove any necessary protection?

5.9 We do not consider that this proposal would remove any necessary protections. The restrictions on those people who may make IANs and apply for RT; and the appropriate police assessment (within the proposed extended timescale); should ensure that licensed activities continue to be run responsibly. Failure to comply with the licence conditions can be addressed through enforcement action, closure and/ or review of the licence.

Question B7: Do you agree that the proposal to amend the deadlines for IAN and RTs will not remove any necessary protections? Yes/ No.

If no, please state your reasons.

Does the proposal prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise?

5.10 We do not consider that this proposal would prevent any person from continuing to exercise any right.

20

Department for Culture, Media and Sport

Legislative Reform Orders: Proposals to Amend the Licensing Act 2003 to Improve the Processes for Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

Question B7: Do you agree that the proposal to amend the deadlines for IAN and RTs does not prevent any person from exercising a right that might reasonably expect to continue to exercise? Yes/ No.

If no, please state your reasons.

Chapter 6: Temporary Event Notices (Proposal C)

Current Arrangements

- 6.1 The Licensing Act 2003 provides for a light touch authorisation under which any person may submit a notification to the licensing authority (LA) to conduct licensable activities on a temporary basis (i.e., for a period not exceeding 96 hours). The Temporary Event Notice (TEN) must be given to the licensing authority and the police at least 10 working days in advance of the planned event. The licensing authority issues an acknowledgement to the event holder if it is satisfied that the TEN is within the statutory limits (e.g. for the number of events that can be held at one premises) and has been submitted within the 10 day notification period. Otherwise it must issue a counter notice. Only the police can object to a TEN, on crime prevention grounds. The police have 48 hours after receipt of the TEN to object to the event taking place by giving an objection notice to the LA and premises user. The LA must hold a hearing to consider any objection and, if it decides that the objection is valid, it must issue a counter notice to the applicant at least 24 hours before the beginning of the event to prevent it going ahead.

Proposal to allow the police to issue a 'confirmation' of a late TEN

- 6.2 The ten day notification period is reasonable in most cases, but there are times when it may be too rigid, for example:
- when a premises user wishes to arrange a low risk event at fewer than ten working days' notice, (e.g., due to another venue cancelling); or
 - when an event that was due to be held under a TEN is cancelled because of the weather and the premises user wishes to reschedule it (perhaps for the following weekend). A firework display or a circus might be affected by the weather in this way.
- 6.3 There may be a cultural loss to the community, as well as a financial loss to the organiser, if an event cannot proceed as planned. In particular, events held under TENs (such as those held by Parent-Teacher Associations) often raise money for good causes. The Association of Chief Police Officers (ACPO) has said that the police would like to have discretion to allow late notifications for TENs for this type of low risk event and the Local Authorities Coordinators of Regulatory Services (LACORS) agrees. The Government therefore proposes that the police are given discretion to allow TENs to be given without the current mandatory notice of ten working days. (However, the Government also proposes that there would be an absolute minimum notice period of three working days: see below).
- 6.4 In each particular case, the police would signal their assent to a late TEN by issuing a "police confirmation" to the licensing authority. The LA would then check that the statutory limits have not been exceeded and issue a section 102 acknowledgement or

Legislative Reform Orders: Proposals to Amend the Licensing Act 2003 to Improve the Processes for Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

a section 107 counter notice as appropriate. The s.102 acknowledgement would confirm that the TEN has been issued in accordance with the requirements, including payment of the fee, and has not exceeded the statutory limits. If it did not comply with the statutory limits (by, for example, exceeding the maximum 12 events per year at a particular premises) the LA would instead issue a counter notice (s.107), no later than 24 hours before the beginning of the event (as currently).

- 6.5 The Statutory Guidance issued under s.182 of the 2003 Act (see chapter 7), and the guidance to applicants, will emphasise that the deadline of 10 working days still applies and that premises users should make all efforts to give TENs within that deadline, as there is no guarantee that the police will exercise their discretion. In addition, the guidance to applicants will make it clear that the police are more likely to exercise their discretion if they are informed of a reason why the TEN could not have been given on time.

Question C1: Do you agree that the police should be able to decide (at their discretion) to permit licensed activities under a late TEN, by issuing a confirmation to the licensing authority? Yes/ No

If no, please state your reasons.

Absolute limit of three working days

- 6.6 If the police issue a confirmation to a licensing authority to authorise a late TEN, the authority will then have to check that the TEN complies with the statutory limits. To ensure that there is sufficient time to conduct these checks, and send a s.102 notice or s.107 notice as required, the Government proposes the police can only issue a confirmation of a late TEN up to three working days before the proposed event commences. TENs received after this point will not be able to benefit from police discretion to allow late TENs. Although it is unlikely in most cases that the police will consider that TENs issued close to this absolute limit will be suitable for confirmation, they will be able to do so if they consider it appropriate.

Question C2: Do you agree that the latest a TEN may be confirmed by the police should be three working days before the proposed event commences? Yes/ No? If no, please state your reasons.

Police to issue a Confirmation within two working days

- 6.7 If a TEN is given late, the premises user and the local authority should be made aware as soon as possible that the police have decided to use their discretion to confirm the TEN. This will enable premises users to go ahead with their arrangements for the event. The Government therefore recommends that the police confirmation should be issued within two working days of receipt of the TEN.

Question C3: Do you think that a police confirmation should be issued within two working days of receiving the TEN? Yes/ No

Please state your reasons.

Proposal to change the police objection period from 48 hours to two working days

- 6.8 There is evidence to suggest that, in some circumstances, the current 48 hour objection period does not give the police the time intended, and that this may sometimes limit, or prevent, the police from making a proper assessment of the risk of crime and disorder. An extreme example is when a TEN is delivered to a police station (which may be unmanned) on a Friday night, but not actually received by the chief officer of police until the following week, by which time the objection period will have elapsed.
- 6.9 Replacing 48 hours with two working days would be a small change that should ensure the police have sufficient time to consider TENs properly, even when they are received outside working hours. This is unlikely to result in a significant increase in police objections, but will ensure that any objections made are properly targeted at high risk events.

Question C4: Do you agree that the period during which the police can issue an objection to a TEN should be changed to two working days? Yes/ No

If no, please state your reasons.

Extending the police objection period to three working days

- 6.10 Some police representatives consider that a longer period is desirable for the police to be able to give more full consideration to TENs. In particular, if an event goes ahead under a TEN and it emerges that there is a risk of crime and disorder (or actual crime and disorder), then the alternative mechanisms available to enforcement agencies to prevent or stop the event can be expensive and burdensome both to the enforcement agencies and to premises users. There may, for example, be a risk of diverting police resources from other priorities. As is the case with the proposal to move from 48 hours to two working days, this change is unlikely to result in a significant increase in police objections. However, it would allow the police more time to make a risk assessment of temporary events and, if necessary, have discussions with event organisers about matters of concern. It will therefore give further assurance that any police objections are properly targeted.
- 6.11 A deadline of three working days may have two potential disadvantages. Firstly, if a TEN that is subject to an objection is submitted to the police with the current minimum of 10 working days notice, the existing timescale available for the required hearing is already tight, and this would mean that there is one day fewer available for all involved in the process. Secondly, all premises users (not just those subject to an objection) will have one extra day of uncertainty as to whether their event will be subject to a police objection. It should be noted that the Parliamentary committees which scrutinise legislative reform orders may consider that this extension does not serve the purpose of reducing a burden or an overall burden. Therefore, if there is strong support for this proposal, the Government may have to seek a further legislative opportunity to implement this option (whilst seeking to bring forward a change to two working days in the interim). We would therefore welcome your views on whether the deadline for a police objection to a TEN should be extended to three working days.

Question C5: Do you consider that the period during which the police can issue an objection to a TEN should be extended to three working days? Yes/ No

Please state the reasons for your answer.

Policy Objectives

6.12 The policy objectives are to:

- ensure that the police have sufficient time to properly assess events, particularly when they receive notification out of hours;
- reduce the risk of crime and disorder at events.
- enable low-risk events to go ahead as often as possible, even if arranged or rearranged at late notice;

Administrative cost savings

6.13 We estimate that there will be total net savings of around £3.25m- £11.77m to premises users from this proposal. Detailed costs estimates can be found in the Impact Assessment (published as a separate document, and available alongside this consultation on the DCMS website at www.culture.gov.uk/reference_library/consultations/default.aspx), and comment is invited.

Is the proposal proportionate to the policy objectives?

6.14 We do not consider that this proposal will place substantial burdens on any stakeholder. The proposal to allow the police discretion to allow TENs issued without the mandatory minimum notice period of ten working days will complicate the TENs system slightly, as the police confirmation notice would represent an additional process. However, this will not be disproportionate to the policy aims as the TENs regime will remain light touch and relatively simple to administer. The police would only exercise their discretion when they have had the opportunity to assess the risk of crime and disorder. To ensure that there is no confusion amongst those wishing to hold events, guidance to premises users should continue to indicate firmly that the minimum notice period of ten working days still applies and should be adhered to, even if there is a mechanism for police to accept late notices at their discretion. The change to the period during which the police may give an objection notice will ensure that they have sufficient time to properly assess all TENs and will further reduce the risk of crime and disorder at events. As described above, we do not think that it will result in an increase in objection notices overall.

Question C6: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days is proportionate to the policy objectives? Yes/ No.

If no, please state your reasons.

Question C7: Do you consider that the extension of the deadline for the police to object to a TEN to three working days would be proportionate to the policy objectives? Yes/ No.

Please state your reasons.

Does the proposal strike a fair balance between persons adversely affected and the public interest?

6.15 We do not consider that any person will be significantly adversely affected. The public interest lies in enabling the police to exercise discretion in the case of late TENs, and in ensuring that the police have sufficient time to consider each TEN.

Question C8: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days strikes a fair balance? Yes/ No.

If no, please state your reasons.

Question C9: Do you consider that the extension of the deadline for the police to object to a TEN to three working days would strike a fair balance? Yes/ No.

Please state your reasons.

Does the proposal remove any necessary protections?

6.16 We do not consider that the proposal removes any necessary protection. The same oversight will apply to TENs that are issued late. If the police are unable to conduct the necessary assessment in time, then they will not exercise their discretion to issue a confirmation notice.

Question C10: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days or three working days does not remove any necessary protections? Yes/ No.

If no, please state your reasons.

Does the proposal prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise?

6.17 We do not consider the proposal prevents any person from continuing to exercise any right.

Question C11: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days does not prevent any person from continuing to exercise any right which that person might reasonably expect to continue to exercise? Yes/ No.

If no, please state your reasons.

Question C12: Do you consider that the extension of the deadline for the police to object to a TEN to three working days would not prevent any person from continuing to exercise any right which that person might reasonably expect to continue to exercise? Yes/ No.

Please state your reasons.

Chapter 7: Proposed amendments to Statutory Guidance

Guidance issued under s.182 of the Licensing Act 2003

This chapter contains amendments to the Statutory Guidance to reflect the changes proposed in this consultation document. Only the sections of the Guidance that we propose to amend are set out here. The full Guidance (last amended in July 2009) is available on the DCMS website at http://www.culture.gov.uk/reference_library/publications/6287.aspx

Licensing statements (Proposal A)

Paragraph 1.9 to be **amended** to read as follows: Section 5 of the Act requires a licensing authority to prepare and publish a statement of its licensing policy, *to keep it under review, and to make revisions to it as necessary*. The policy must be published before the authority carries out any licensing function in relation to applications made under the Act.

Paragraph 13.2 to be **amended** to read as follows: “13.2 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2003 Act. *Initially, the legislation demanded that licensing statements be revised at the end of every three year cycle. This is no longer the case.*”

Paragraph 13.3 to be **replaced** with: “Duty to keep under review” “13.3 However, the policy must be kept under review and the licensing authority must make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met. Where revisions to this section 182 Guidance are made by the Secretary of State, it will be for the licensing authority to determine whether revisions to its own licensing policy statement are appropriate.”

Paragraph 13.4 to be **replaced** with: “Consultation on Policies” “13.4 Before determining a new policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- the chief officer of police for the area;
- the fire and rescue authority for the area;
- persons/ bodies representative of local holders of premises licences;
- persons/ bodies representative of local holders of club premises certificates;
- persons/ bodies representative of local holders of personal licences; and
- persons/ bodies representative of businesses and residents in its area.

When making a revision to its policy, the licensing authority must consult such of the persons listed in s.5(3) as it considers may be affected by the revision.

Paragraph 13.5 to be **replaced** with: *“Full Revisions” “13.5 In some circumstances, the licensing authority may consider that the changes that are necessary are so substantial that a thorough revision of the licensing statement is required. This could be, for instance, because of feedback from the local community that the statutory objectives are not being met, or because the authority considers that the statement has become out of date. In this case, the Government would expect the licensing authority to consult with all of the listed consultees.*

Paragraph 13.6 to be **replaced** with: *“Other Revisions” “The licensing authority may, however, determine that a proposed change affects only some of the statutory consultees. This could be the case, for example, where it considers that changes to licensing legislation; to the policy of a Responsible Authority; or to revisions made by the Secretary of State to this section 182 Guidance necessitate changes to the statement that are of limited scope or effect. In these cases, the authority must only consult those bodies and persons that may be affected by the proposed revision. For some revisions, such as a purely factual change to an address, it may not be necessary to consult at all.”*

Paragraph 13.7 to be **amended** as follows: *“13.7 The views of all the persons or bodies consulted should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies that represent all parts of industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to do so.*

Paragraph 13.8 to be **amended** as follows: *“13.8: Licensing authorities should note that the terms of the 2003 Act do not prevent them consulting other bodies or persons before determining or revising their policies. For example, the Government recommends that Licensing Authorities consult Crime and Disorder Reduction Partnerships (CDRPs). Certain authorities may also consider it essential to consult, for example; the British Transport Police; local Primary Care Trusts; bodies representing consumers; local police consultative groups; or those charged locally with the promotion of tourism. They may also consider it valuable to consult local performers; performers’ unions (such as the Musicians’ Union and Equity); and entertainers involved in the cultural life of the local community. In London, boroughs should consider consulting the Mayor and the Greater London Authority.”*

Paragraph 13.9 to be **shortened** as follows: *“13.9 Beyond the statutory requirements, it is for each licensing authority to decide the full extent of its consultation and whether any particular person or body is representative of the group described in the statute. Whilst it is clearly good practice to consult widely and to follow the Consultation Guidance published by the Cabinet Office, this may not always be necessary or appropriate.”*

Paragraph 13.10 to be **deleted**: *[13.10 Similarly, where a licensing authority has recently revised its policy within a three year period following a full consultation exercise it may not consider that further changes are necessary when determining the policy for the next three year period. As such, it may decide on a simple consultation with those persons listed in section 5(3) of the 2003 Act.]*

Paragraph 13.11 to be **amended and renumbered as 13.10**: “13.10 However, licensing authorities should consider very carefully whether *a more widespread consultation is appropriate*, as a limited consultation may not allow all persons sufficient opportunity to comment on and influence local policy. For instance, where an earlier consultation was limited to a particular part of the policy.”

Paragraph 13.12 to be **renumbered as 13.11, and subsequent paragraphs to be renumbered in consequence**.

Paragraph 13.27 (now paragraph 13.26) to be **amended** as follows: “13.27 After considering the available evidence and consulting those individuals and organisations *it considers appropriate*, a licensing authority may be satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement. In this case, it should indicate in the statement that it is adopting a special policy of refusing new licences whenever it receives relevant representations about the cumulative impact on the licensing objectives which it concludes after hearing those representations should lead to refusal (see paragraphs 13.28 – 13.31 below).”

Box following Paragraph 13.28 (now paragraph 13.27): fourth bullet to be amended as follows: “Consult with those of the statutory consultees specified in section 5(3) of the 2003 Act *as it considers may be affected by the proposal*, and, subject to the outcome of the consultation

Interim Authorities and Reinstatements on Transfer (Proposal B)

Paragraph 8.97: Amend reference to ‘seven days’ to ‘28 consecutive days’; amend reference to ‘seven day period’ to ‘period of 28 consecutive days’.

Paragraph 8.99: Amend reference to ‘two months’ to ‘three months’.

Paragraph 100: Amend reference to ‘7 day period’ to ‘period of 28 consecutive days’. Amend reference to ‘48 hours’ to ‘two working days’.

Paragraph 8.102: Amend reference to ‘7 days’ to ‘28 consecutive days’.

Temporary Event Notices (Proposal C)

Paragraph 7.3: To be **amended** as follows: In general, only the police may intervene to prevent such an event taking place, to agree a modification of the arrangements; *or to exercise their discretion in relation to late notices for low risk events*. The system is characterised by an exceptionally light touch bureaucracy. The licensing authority may only ever intervene of its own volition if the statutory limits on the number of temporary event notices that may be given in various circumstances would be exceeded. Otherwise, the licensing authority is only required to issue a timely acknowledgement.

Paragraph 7.17: To be **amended** as follows: Although 10 working days is the minimum notice period that may be given (*unless the police choose to exercise their discretion in*

relation to late events), licensing authorities should publicise locally their preferences in terms of forward notice and encourage notice givers to provide the earliest possible notice of events likely to take place. Licensing authorities should also consider publicising a preferred maximum time in advance of an event that applications should be made. For example, if an application is made too far in advance of an event, it may be difficult for the police to make a sensible assessment and could lead to objections that could be otherwise avoided. *Licensing authorities may also wish to remind notice givers that they should not rely on the police exercising their discretion in relation to late events, as there is no guarantee that they will do so. In particular, the police are more likely to exercise their discretion in relation to events where there is an explanation for the late notice.*

New paragraph 7.19 (subsequent paragraphs are renumbered): LATE NOTIFICATIONS

When a TEN is given without the mandatory notice of ten working days, the police have discretion to issue a 'police confirmation' to the licensing authority. This authorises permitted temporary activities that would otherwise not be authorised because of inadequate notice. The police will only do this if they are satisfied that the proposed event does not undermine the crime and disorder objective. This discretion may be used, for example:

- *when a premises user wishes to arrange a low risk event at fewer than ten working days' notice, (e.g., due to another venue cancelling); or*
- *when an event that was due to be held under a TEN is cancelled because of the weather and the premises user wishes to reschedule it (perhaps for the following weekend).*

The police may choose to exercise their discretion in relation to a late TEN up to a minimum of three working days before the event is due to commence. On receipt of the police confirmation, the licensing authority should conduct the checks described in paragraph 7.20 below, as for any other TEN, and issues an acknowledgment or counter notice as appropriate.

Paragraph 7.22 (formerly paragraph 7.21): Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice (*under s.107*) to the person giving the notice – the premises user. Where the temporary event notice is in order, the fee prescribed by the Secretary of State paid, the event falls within the limitations in the Act, and there has been no police intervention on crime prevention grounds, the licensing authority will record the notice in its register and send an acknowledgement to the premises user. *In the case of a late TEN, the licensing authority will conduct these checks and issue an acknowledgement or counter notice (as appropriate) only if it receives a police confirmation in relation to that TEN.*

Paragraph 7.28 (formerly paragraph 7.27): – Change both references to 48 hours to *two working days* and remove sentence following first reference. ("This 48 hour period includes..").

Question SG1: Does this draft Guidance provide sufficient advice to assist licensing authorities in their administration of the Licensing Act? Yes/ No

If no, please provide reasons.

Chapter 8: List of Questions

General Questions:

Question G1: Do you consider that any, or all, of the proposed simplification measures can be achieved by non-legislative means? Yes/No

If you consider that a proposed simplification measure can be achieved by non-legislative means, please provide your reasons.

Question G2: Do you consider that any of the simplification measures is of constitutional significance? Yes/ No

If you consider that a measure would have constitutional significance, please provide your reasons.

Proposal A: Licensing Statements:

Question A1: Do you agree that the existing requirement to review licensing statements every three years should be removed? Yes/ No.

If no, please state your reasons.

Question A2: Do you agree that the existing requirement for LAs to consult all statutory consultees for all revisions should be replaced by a requirement for the LA to consult those statutory consultees that will be affected by the proposed revision. Yes/ No.

If no, please state your reasons.

Question A3: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require LAs to consult only relevant statutory consultees is proportionate to the policy objective? Yes/ No.

Yes/ No.

If no, please state your reasons.

Question A4: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require LAs to consult only relevant statutory consultees strikes a fair balance? Yes/ No.

If no, please state your reasons.

Question A5: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require LAs to consult only relevant statutory consultees does not remove any necessary protection? Yes/ No.

If no, please state your reasons.

Question A6: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require LAs to consult only relevant statutory consultees does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise Yes/ No.

If no, please state your reasons.

Proposal B: Interim Authority Notices and Reinstatements on Transfer:

Question B1: Do you agree that the period during which an Interim Authority Notice can be issued should be extended to 28 consecutive days? Yes/ No

If no, please state your reasons.

Question B2: Do you agree that the period during which a Reinstatement of Licence on Transfer can be applied for should be extended to 28 consecutive days? Yes/ No

If no, please state your reasons

Question B3: Do you agree that the period during which the police may cancel an IAN should be changed to two working days? Yes/ No

If no, please state your reasons.

Question B4: Do you think that the interim authority period should be extended to three months? Yes/ No

Please state your reasons.

Question B5: Do you agree that the Government's proposal to amend the deadlines for IAN and RTs is proportionate to the policy objective? Yes/ No

If no, please state your reasons.

Question B6: Do you agree that the proposal to amend the deadlines for IAN and RTs strikes a fair balance? Yes/ No.

If no, please state your reasons.

Question B7: Do you agree that the proposal to amend the deadlines for IAN and RTs does not prevent any person from exercising a right that might reasonably expect to continue to exercise? Yes/ No.

If no, please state your reasons.

Proposal C: Temporary Event Notices:

Question C1: Do you agree that the police should be able to decide (at their discretion) to permit licensed activities under a late TEN, by issuing a confirmation to the licensing authority? Yes/ No

If no, please state your reasons.

Question C2: Do you agree that the latest a TEN may be confirmed the police should be three working days before the proposed event commences? Yes/ No? If no, please state your reasons.

If no, please state your reasons

Question C3: Do you think that a police confirmation should be issued within two working days of receiving the TEN? Yes/ No

Please state your reasons.

Question C4: Do you agree that the period during which the police can issue an objection to a TEN should be changed to two working days? Yes/ No

If no, please state your reasons.

Question C5: Do you consider that the period during which the police can issue an objection to a TEN should be extended to three working days? Yes/ No

Please state the reasons for your answer.

Question C6: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days is proportionate to the policy objectives? Yes/ No.

If no, please state your reasons.

Question C7: Do you consider that the extension of the deadline for the police to object to a TEN to three working days would be proportionate to the policy objectives? Yes/ No.

Please state your reasons.

Question C8: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days strikes a fair balance? Yes/ No.

If no, please state your reasons.

Question C9: Do you consider that the extension of the deadline for the police to object to a TEN to three working days would strike a fair balance? Yes/ No.

Please state your reasons.

Question C10: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days or three working days does not remove any necessary protections? Yes/ No.

If no, please state your reasons.

Question C11: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days does not prevent any person from continuing

to exercise any right which that person might reasonably expect to continue to exercise? Yes/ No.

If no, please state your reasons.

Question C12: Do you consider that the extension of the deadline for the police to object to a TEN to **three** working days would not prevent any person from continuing to exercise any right which that person might reasonably expect to continue to exercise? Yes/ No.

Please state your reasons.

Draft Statutory Guidance

Question SG1: Does this draft Guidance provide sufficient advice to assist licensing authorities in their administration of the Licensing Act? Yes/ No

If no, please provide reasons.

Impact Assessment

Question IA1: Do you broadly agree with estimates, assumptions and conclusions of the Impact Assessment (published as a separate document, and available alongside this consultation on the DCMS website at www.culture.gov.uk/reference_library/consultations/default.aspx)? Yes/ No

If not, please say which estimate you disagree with, and provide any evidence that supports an alternative estimate.

Draft Legislative Reform Order

Question LRO1: Do you think this draft Order accurately reflects the changes proposed in chapters 4-6?

Annex A: List of Consultees

Respondents are invited to contact us with the names of any other stakeholders groups not on this list who they feel might be able to contribute.

Action in Rural Sussex
Action with Communities in Rural England
Alcohol Concern
Arts Council in England
Arts Council of Wales
Association of Chief Police Officers
Association of Circus Proprietors of Great Britain
Association of Convenience Stores
Association of Directors of Social Services
Association of Inland Navigation Authorities
Association of Licensed Multiple Retailers
Association of Show and Agricultural Organisations
Bar Entertainment and Dance Association
BII
British Beer & Pub Association
British Board of Film Classification
British Holiday and Home Parks Association
British Hospitality and Restaurant Association
British Marine Federation
British Retail Consortium
Business in Sport and Leisure
Campaign for Real Ale
Central Council for Physical Recreation
Charity Commission
Chartered Institute of Environmental Health
Chief Fire Officers' Association
Children's Society

Chinese Takeaway Association UK
Cinema Exhibitors Association
Circus Arts Forum
Civic Trust
Commission for Rural Communities
Committee of Registered Clubs Associations
Community Matters
(DEFRA) Rural Communities Buildings Network
English Heritage
Enterprise Directorate, Department for Business, Enterprise and Regulatory Reform
Federation of Licensed Victuallers
Federation of Licensed Victuallers (Wales)
Federation of Private Residents' Association
Federation of Small Businesses
Federation of Wholesale Distributors
Fire and Rescue Authorities in England
Fire and Rescue Services in Wales
Greater London Authority
Guild of Bangladeshi Restaurateurs
Guild of Master Victuallers
Historic Houses Association
Independent Street Arts Network
Insolvency Service
Institute of Licensing
Interfaith Network
Justices Clerk Society
Licensing Act Active Residents Network
Licensing Authorities in England and Wales
Local Authorities Co-ordinators of Regulatory Services
Local Government Association
London Councils
Magistrates Association
Maritime and Coastguard Agency
Musicians Union
National Association of Kebab Shops
National Association of Local Councils
National Campaign for the Arts
National Farmers' Retail & Markets Association

Legislative Reform Orders: Proposals to Amend the Licensing Act 2003 to Improve the Processes for Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

National Federation of Fish Friers
National Federation of Retail Newsagents
National Neighbourhood Watch Association
National Operatic and Dramatic Association
National Organisation of Residents Associations
National Village Halls Forum
One Voice Wales
Open all Hours
Passenger Boat Association
Patersons Licensing Acts
Police Federation
Police Superintendents' Association
Rural Shops Alliance
Society of Local Council Clerks
Society of London Theatre and Theatrical Management Association
Tourism for All
Trading Standards Institute
United Kingdom Film Council
United Kingdom Warehousing Association
Voluntary Arts Network
Welsh Assembly
Welsh Council for Voluntary Action
Welsh Local Government Association
Welsh Music Foundation
Wine Spirits Trade Association

Annex B: Impact Assessment Question

Question IA1: Do you broadly agree with estimates, assumptions and conclusions of the Impact Assessment (published as a separate document, and available alongside this consultation on the DCMS website at www.culture.gov.uk/reference_library/consultations/default.aspx)? Yes/ No

If not, please say which estimate you disagree with, and provide any evidence that supports an alternative estimate.

Annex C: Draft Order

STATUTORY INSTRUMENTS

2010 No. 0000

REGULATORY REFORM

LICENCES AND LICENSING

The Legislative Reform (Licensing) (Miscellaneous Amendments) Order 2010

<i>Made</i>	----	2011
<i>Laid before Parliament</i>	----	2011
<i>Coming into force</i>	----	2011

The Secretary of State for Culture, Media and Sport makes the following Order in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006(a).

He considers that the conditions referred to in section 3(2) of that Act are, where relevant, satisfied in relation to each provision made in the Order.

He has consulted in accordance with section 13(1) of that Act.

He has laid a draft of the Order and an explanatory document before Parliament in accordance with section 14(1) of that Act.

Pursuant to section 15 of that Act, the affirmative resolution procedure (within the meaning of Part 1 of that Act) applies in relation to the Order.

Citation, commencement and extent

1.—(1) This Order may be cited as the Legislative Reform (Licensing) (Miscellaneous Amendments) Order 2010 and comes into force on the day after the day on which it is made.

(2) This Order extends to England and Wales only.

Statements of licensing policy

2. The Licensing Act 2003(b) is amended as set out in articles 3 to 6 of this Order.

3. For section 5, substitute—

“5 Statement of licensing policy

(1) Each licensing authority must have a published statement of its policy with respect to the exercise of its licensing functions (a “licensing statement”).

(2) Where a licensing authority does not, or ceases to have a licensing statement it must as soon as practicable determine its policy and publish such a statement.

(3) Before determining its policy pursuant to subsection (2), a licensing authority must consult each of the persons referred to in subsection (6).

(4) A licensing authority must keep its policy under review and make such revisions to its licensing statement, at such times, as it considers appropriate.

(5) Before making any revision to its policy a licensing authority must consult such of the persons referred to in subsection (6) as it considers may be affected by the revision.

(6) The persons are—

- (a) the chief officer of police for the licensing authority's area,
- (b) the fire and rescue authority for that area,
- (c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- (d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- (e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- (f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

(7) Where revisions are made, the licensing authority must publish a statement of the revisions or the revised licensing statement.

(8) Regulations may make provision about the determination and revision of policies, and the preparation and publication of licensing statements, under this section.”.

Reinstatement of premises licence following death etc. of licence holder

4.—(1) In section 47—

- (a) in subsections (2) and (7)(a) for “seven day” substitute “28 day”;
- (b) in subsection (10)—
 - (i) for the definition of “initial seven day period” substitute—

““initial 28 day period”, in relation to a licence which lapses as mentioned in subsection (1), means the period of 28 days beginning with the day after the day the licence lapses;”;
 - (ii) in paragraph (a) of the definition of “interim authority period” for “two months” substitute “three months”.

(2) In section 48 of the Act—

- (a) in subsection (1)(b) for “seven day” substitute “28 day”;
- (b) for subsection (2) substitute—
- (c) “(2) The chief officer of police must, before the end of the second working day following the day on which he receives the copy of the interim authority notice, give the relevant licensing authority a notice stating why he is so satisfied.”.

(3) In section 50(3)(a) of the Act, for “seven days” substitute “28 days”.

Temporary event notices

5.—(1) For section 98, substitute—

Legislative Reform Orders: Proposals to Amend the Licensing Act 2003 to Improve the Processes for Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

“98 Meaning of “permitted temporary activity”

(1) A licensable activity is a permitted temporary activity by virtue of this Part if paragraph (2) or (3) applies in relation to the activity.

(2) This paragraph applies if—

- (a) the activity is carried on in accordance with a notice given in accordance with section 100;
- (b) the requirements of section 102 (acknowledgement of notice) and 104(1) (notification of police) are met in relation to the notice;
- (c) the notice has not been withdrawn under this Part; and
- (d) no counter notice has been given under this Part in respect of the notice.

(3) This paragraph applies if—

- (a) the activity is carried on in accordance with a notice given in accordance with section 100(1) to (6) and (7)(b);
- (b) the premises user has given a copy of the notice to the relevant chief officer of police;
- (c) the requirements of section 102A (acknowledgement where confirmation notice received) are met in relation to the notice;
- (d) the notice has not been withdrawn under this Part;
- (e) no counter notice has been given under this Part in respect of the notice; and
- (f) a confirmation notice given pursuant to section 104A(2) has effect in respect of the notice.”

(2) After section 102, insert—

“102A Acknowledgement where confirmation notice received

(1) This section applies where—

- (a) a licensing authority receives a confirmation notice from a chief officer of police pursuant to section 104A(2), and
- (b) the authority has not sent or delivered a notice under section 102(1) in respect of the temporary event notice to which the confirmation notice relates.

(2) If the authority are satisfied that the temporary event notice was given in accordance with this Part (disregarding, for this purpose, the time limit in section 100(7)), they must acknowledge receipt of the notice by sending or delivering one notice, together with a copy of the confirmation notice, to the premises user—

- (a) before the end of the first working day following the day on which the confirmation notice was received, or
- (b) if the day on which the confirmation notice was received was not a working day, before the end of the second working day following that day.

(3) The authority must mark on the notice to be returned under subsection (1) an acknowledgement of the receipt of the notice in the prescribed form.

(4) Subsection (2) does not apply in relation to a temporary event notice in respect of which the authority are required to give a counter notice under section 107.”

(3) For section 104(3), substitute—

“(3) The objection notice must be given before the end of the second working day following the day on which the chief officer of police is given a copy of the temporary event notice under subsection (1).”.

(4) After section 104, insert—

“104A Confirmation by the police

(1) This section applies where a chief officer of police receives a copy of a temporary event notice pursuant to section 104(1) fewer than ten working days before the day on which the event period specified in the notice begins, but no later than three working days before the day on which that period begins.

(2) Where the chief officer of police is satisfied that—

(a) the notice does not appear on its face to contravene 100(1) to (6) or (7)(b), or section 101, and

(b) allowing the premises to be used in accordance with the notice would not undermine the crime prevention objective,

he may give a notice to that effect (“a confirmation notice”) to the relevant licensing authority.

(3) A confirmation notice given pursuant to subsection (2) must be given no later than two working days after the day on which the copy of the notice was received as mentioned in subsection (1).”

Other amendments

6. In section 197(3), omit paragraph (a).

7. In Schedule 1 to the Fire and Rescue Services Act 2004(a), omit paragraph 98(3)(a).

Transitional provision

8.—(1) A licensing policy that has effect immediately before the commencement of this Order is to be regarded as a policy of the kind referred to in section 5 of the 2003 Act as substituted by article 3 of this Order.

(2) A licensing statement that has effect under section 5 of the 2003 Act immediately before the commencement of this Order is to be regarded as a licensing statement of the kind referred to in section 5 of that Act as substituted by article 3 of this Order.

(3) In this article—

“the 2003 Act” means the Licensing Act 2003(b);

“licensing policy” means a policy of the kind referred to in section 5(1)(a) of the 2003 Act;

“licensing statement” has the same meaning as in section 5(1)(b) of that Act.

(*) 2004 c. 21.

(b) 2003 c. 17.

Question LRO1: Do you think this draft Order accurately reflects the changes proposed in chapters 4-6?

Annex D: BRE Code of Practice on Consultations

The consultation is being conducted in line with the BRE Code of Practice on Written Consultation. The consultation criteria are listed below. More information can be found at:

<http://www.berr.gov.uk/files/file47158.pdf>

The Consultation Criteria

1) When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

2) Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

3) Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4) Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

5) The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

6) Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7) Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any questions or complaints about the process of consultation on this paper, please contact Tony Dyer, Consultation Co-ordinator, Strategy Division, Department for Culture, Media and Sport, 2-4 Cockspur Street, London, SW1Y 5DH tony.dyer@culture.gsi.gov.uk

Annex E: Legislative Reform Orders – Parliamentary Consideration

Introduction

1. These simplification proposals will require changes to primary legislation in order to give effect to them. The Minister could achieve these changes by making a Legislative Reform Order (LRO) under the Legislative and Regulatory Reform Act 2006 (LRRRA). LROs are subject to preliminary consultation and to rigorous Parliamentary scrutiny by Committees in each House of Parliament. On that basis, the Minister invites comments on these reform proposals in relation to simplification as measures that might be carried forward by a LRO.

Legislative Reform Proposals

2. The starting point for LRO proposals is thorough and effective consultation with interested parties, as reflected by this consultation and previous discussion with stakeholders. In undertaking this preliminary consultation, the Minister is expected to seek out actively the views of those concerned, including those who may be adversely affected, and then to demonstrate to the Scrutiny Committees that he or she has addressed those concerns.

3. Following the consultation exercise, when the Minister lays proposals before Parliament under the section 14 Legislative and Regulatory Reform Act 2006, he or she must lay before Parliament an Explanatory Document which must:

- i) explain under which power or powers in the LRRRA the provisions contained in the order are being made;
- ii) introduce and give reasons for the provisions in the Order;
- iii) explain why the Minister considers that:
 - there is no non-legislative solutions which will satisfactorily remedy the difficulty which the provisions of the LRO are intended to address;
 - the effect of the provisions are proportionate to the policy objective;
 - the provisions made in the order strikes a fair balance between the public interest and the interests of any person adversely affected by it;
 - the provisions do not remove any necessary protection;
 - the provisions do not prevent anyone from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise;
 - the provisions in the proposal are not constitutionally significant; and
 - where the proposals will restate an enactment, it makes the law more accessible or more easily understood.
- iv) include, so far as appropriate, an assessment of the extent to which the provision made by the order would remove or reduce any burden or burdens;

Legislative Reform Orders: Proposals to Amend the Licensing Act 2003 to Improve the Processes for Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

v) identify and give reasons for any functions of legislating conferred by the order and the procedural requirements attaching to the exercise of those functions; and

vi) give details of any consultation undertaken, any representations received as a result of the consultation and the changes (if any) made as a result of those representations.

4. On the day the Minister lays the proposals and explanatory document, the period for Parliamentary consideration begins. This lasts 40 days under negative and affirmative resolution procedure and 60 days under super-affirmative resolution procedure. If you want a copy of the proposals and the Minister's explanatory document laid before Parliament, you will be able to get them either from the Government department concerned or by visiting the BRE's website at:

<http://www.berr.gov.uk/whatwedo/bre/>

Parliamentary Scrutiny

5. Both Houses of Parliament scrutinise legislative reform proposals and draft LROs. This is done by the Regulatory Reform Committee in the House of Commons and the Delegated Powers and Regulatory Reform Committee in the House of Lords.

6. Standing Orders for the Regulatory Reform Committee in the Commons stipulate that the Committee considers whether proposals:

(a) appear to make an inappropriate use of delegated legislation;

(b) serve the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft Order under section 1 of the Act);

(c) serve the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft Order under section 2 of the Act);

(d) secure a policy objective which could not be satisfactorily secured by non-legislative means;

(e) have an effect which is proportionate to the policy objective;

(f) strike a fair balance between the public interest and the interests of any person adversely affected by it;

(g) do not remove any necessary protection;

(h) do not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;

(i) are not of constitutional significance;

(j) make the law more accessible or more easily understood (in the case of provisions restating enactments);

(k) have been the subject of, and takes appropriate account of, adequate consultation;

(l) give rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No 151 (Statutory Instruments (Joint Committee)) as are relevant, such as defective drafting or failure of the department to provide information where it was required for elucidation;

(m) appear to be incompatible with any obligation resulting from membership of the European Union;

7. The Committee in the House of Lords will consider each proposal in terms of similar criteria, although these are not laid down in Standing Orders.

8. Each Committee might take oral or written evidence to help it decide these matters, and each Committee would then be expected to report.

9. Copies of Committee Reports, as Parliamentary papers, can be obtained through HMSO. They are also made available on the Parliament website at:

Regulatory Reform Committee (in the Commons):

http://www.parliament.uk/parliamentary_committees/regulatory_reform_committee.cfm

Delegated Powers and Regulatory Reform Committee (in the Lords):

http://www.parliament.uk/parliamentary_committees/dprc.cfm

10. Under negative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise an LRO, after which the Minister can make the order if neither House of Parliament has resolved during that period that the order should not be made or to veto the LRO.

11. Under affirmative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise an LRO, after which the Minister can make the order if it is not vetoed by either or both of the Committees and it is approved by a resolution of each House of Parliament.

12. Under super-affirmative procedure each of the Scrutiny Committees is given 60 days to scrutinise the LRO. If, after the 60 day period, the Minister wishes to make the order with no changes, he may do so only after he has laid a statement in Parliament giving details of any representations made and the LRO is approved by a resolution of each House of Parliament. If the Minister wishes to make changes to the draft LRO he must lay the revised LRO and as well as a statement giving details of any representations made during the scrutiny period and of the proposed revisions to the order, before Parliament. The Minister may only make the order if it is approved by a resolution of each House of Parliament and has not been vetoed by either or both relevant Committees.

How to Make Your Views Known

13. Responding to this consultation document is your first and main opportunity to make your views known to the relevant department as part of the consultation process. You should send your views to the address set out in the consultation document. When the Minister lays proposals before Parliament you are welcome to put your views before either or both of the Scrutiny Committees.

14. In the first instance, this should be in writing. The Committees will normally decide on the basis of written submissions whether to take oral evidence.

15. Your submission should be as concise as possible, and should focus on one or more of the criteria listed in paragraph 6 above.

46

Department for Culture, Media and Sport
Statements of Licensing Policy; Interim Authority and Reinstatements on Transfer; and Temporary Event Notices

16. The Scrutiny Committees appointed to scrutinise Legislative Reform Orders can be contacted at:

Delegated Powers and
 Regulatory Reform Committee
 House of Lords
 London
 SW1A 0PW
 Tel: 0207 219 3103
 Fax: 0207 219 2571
DPDC@parliament.uk

Regulatory Reform Committee
 House of Commons
 7 Millbank
 London
 SW1P 3JA
 Tel: 020 7219 2830/2833/2837
 Fax: 020 7219 2509
regrefcom@parliament.uk

Non-disclosure of responses

17. Section 14(3) of the LRRRA provides what should happen when someone responding to the consultation exercise on a proposed LRO requests that their response should not be disclosed.

18. The name of the person who has made representations will always be disclosed to Parliament. If you ask for your representation not to be disclosed, the Minister should not disclose the content of that representation without your express consent and, if the representation relates to a third party, their consent too. Alternatively, the Minister may disclose the content of the representation in such a way as to preserve your anonymity and that of any third party involved.

Information about Third Parties

19. If you give information about a third party which the Minister believes may be damaging to the interests of that third party, the Minister does not have to pass on such information to Parliament if he does not believe it is true or he is unable to obtain the consent of the third party to disclosure. This applies whether or not you ask for your representation not to be disclosed.

20. The Scrutiny Committees may, however, be given access on request to all representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of legislative reform orders.

Better Regulation Executive
Department for Business, Innovation and Skills

List of questions and officer answers.

Question G1: Do you consider that any, or all, of the proposed simplification measures can be achieved by non-legislative means?

No

Question G2: Do you consider that any of the simplifications measures is of constitutional significance?

No

Question A1: Do you agree that the existing requirement to review licensing statements every three years should be removed?

Yes

Question A2: Do you agree that the existing requirement for licensing authorities to consult all statutory consultees for all revisions should be replaced by a requirement to the licensing authority to consult those statutory consultees that will be affected by the proposed revision?

Yes

Question A3: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require licensing authorities to consult only relevant statutory consultees is proportionate to the policy objective?

Yes

Question A4: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require licensing authorities to consult only relevant statutory consultees strikes a fair balance?

Yes

Question A5: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require licensing authorities to consult only relevant statutory consultees does not remove any necessary protection?

Yes

Question A6: Do you agree that the proposal to remove the requirement to review licensing statements every three years and require licensing authorities to consult only relevant statutory consultees does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise?

Yes

Question B1: Do you agree that the period during which an Interim Authority Notice (IAN) can be issued should be extended to 28 consecutive days?

Yes

Question B2: Do you agree that the period during which a Reinstatement of Licence on Transfer (RT) can be applied for should be extended to 28 consecutive days?

Yes

Question B3: Do you agree that the period during which the police may cancel an IAN should be extended to two working days?

Yes

Question B4: Do you think that the interim authority period should be extended to three months?

Yes

Question B5: Do you agree that the Government's proposal to amend the deadlines for IAN and RTs is proportionate to the policy objectives?

Yes

Question B6: Do you agree that the proposal to amend the deadlines for IAN and RTs strikes a fair balance?

Yes

Question B7: Do you agree that the proposal to amend the deadlines for IAN and RT's will not remove any necessary protections?

Yes

Question B8: Do you agree that the proposal to amend the deadlines for IAN and RTs does not prevent any person from exercising a right that might reasonably expect to continue to exercise?

Yes

Question C1: Do you agree that the police should be able to decide (at their discretion) to permit licensed activities under a late TEN, by issuing a confirmation to the licensing authority?

No – how are low risk events going to be defined, each police officer/authority could give a different definition.

For example, an event organiser could apply for a late TEN to West Yorkshire Police for an event in Leeds and be giving permission as they believe the event is low risk. The same event organiser could apply for a late TEN to

North Yorkshire Police for a similar event in York and be refused as they do not believe the event is low risk.

A working agreement would be required between the police and licensing authority, defining low risk events.

TEN applicants could also start pressing the police to get permission to apply for a late TEN.

Question C2: Do you agree that the latest a TEN may be confirmed by the police should be three working days before the proposed event commences?

No – this is a very tight timeframe giving licensing authorities little time to send acknowledgements, and making sure that the applicant has the acknowledged notice prior to the event.

It puts extra pressure on licensing authorities who produce registers that are published on their websites and circulated around other agencies.

Question C3: Do you think that a police confirmation should be issued within two working days of receiving the TEN?

No

This would be satisfactory giving the current application timeframe of 10 working days notice. If this timeframe is reduced for late TENs this will be a very tight timeframe for both the police and licensing authority. If a TEN is received 3 days before the event, this would leave one day for the licensing authority to send the acknowledgement, the event organisers needs the acknowledge notice for the event as this is their 'licence'.

Question C4: Do you agree that the period during which the police can issue an objection to a TEN should be changed to two working days?

Yes

Question C5: Do you consider that the period during which the police can issue an objection to a TEN should be extended to three working days?

Yes – however we also believe that licensing authorities should be given 3 working days to acknowledge notices. It could confuse applicants if licensing authorities acknowledge receipt of the TEN within 2 working days (the current timeframe), on receipt of the acknowledgement they could believe everything is ok with the notice, to then receive a counter notice a few days later.

Question C6: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days is proportionate to the policy objectives?

Yes

Question C7: Do you consider that the extension of the deadline for the police to object to a TEN to three working days would be proportionate to the policy?

Yes

Question C8: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days strikes a fair balance?

Yes – however agreement between police and licensing authorities may be required with regards to what type of events will be classed as low risk.

Question C9: Do you consider that the extension of the deadline for the police to object to a TEN to three working days would strike a fair balance?

Yes – however, if licensing authorities are not given 3 days to acknowledge a notice guidance notes will need to be amended to advise applicant that they could receive a counter notice after the receipt of the acknowledge TEN.

Question C10: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days or three working days does not remove any necessary protection?

No – This will put more pressure on licensing authorities:

- **If a counter notice is served by the police there will be less time to arrange hearings to determine the TEN.**
- **Registers will not be up to date on websites prior to events taking place.**
- **Other bodies, such as fire authority and noise control authorities, may not be notified prior to events taking place.**

Question C11: Do you agree that the proposal to allow the police to issue a 'confirmation' of a TEN issued out of time and to change the deadline for the police to object to a TEN to two working days does not prevent any person from continuing to exercise any right which that person might reasonably expect to continue to exercise?

Yes

Question C12: Do you consider that the extension of the deadline for the police to object to a TEN to three working days would not prevent any person from continuing to exercise any right which that person might reasonably expect to continue to exercise?

Yes



Licensing and Gambling Acts Committee5th 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:

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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.



department for
**culture, media
and sport**

Proposal to exempt small live music events from the Licensing Act 2003

Licensing Act 2003

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

Contents

Chapter 1: Introduction.....	4
Chapter 2: How to Respond	7
Chapter 3: Legislative Reform Orders: process.....	9
Chapter 4: Background	12
Chapter 5: Detailed Proposals	14
Chapter 6: Legislative Reform Order: Pre-conditions	17
Chapter 7: List of Questions	20
Annex A: List of Consultees.....	22
Annex B: Impact Assessment Question	25
Annex C: Draft Order	26
Annex D: BRE Code of Practice on Consultations	29
Annex E: Legislative Reform Orders – Parliamentary Consideration.....	30

Chapter 1: Introduction

Summary

The consultation document seeks your 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 (the Act) relating to the licensing of live music as regulated entertainment under the Act. It also seeks views on the Legislative Reform Order that will deliver the proposal (Annex C), and the Impact Assessment (published as a separate document and available with this consultation document at http://www.culture.gov.uk/reference_library/consultations/6499.aspx).

The Legislative Burden

- 1.1 The activities regulated by the Licensing Act 2003 include ‘the provision of regulated entertainment’, defined in Schedule 1 of the Act as ‘entertainment’ or ‘entertainment facilities’ provided either for the public; exclusively for members of a club which is a ‘qualifying club’ under the Act; or for consideration and with a view to profit. ‘Entertainment’ includes a ‘performance of live music’ (Schedule 1(2)(1)(e) ‘where it takes place in the presence of an audience and is provided for the purpose, or for purposes which includes the purpose, of entertaining that audience’.
- 1.2 Section 2 of the Act requires anyone who wishes to carry on a licensable activity to obtain an appropriate authorisation in the form of a premises licence, a club premises certificate or a temporary event notice. Any changes to a licence or club premises certificate, for example, to add live music provision, must be authorised through the full or minor variation process.
- 1.3 Section 17(5) of the Act stipulates that an application for a premises licence or a full variation must be advertised in a local newspaper and outside the premises for a certain period to give local residents and responsible authorities (the police, environmental health, etc) the opportunity to make representations against, or in favour of, the application to the licensing authority. The minimum administrative cost of making these applications is £385 plus a fee payable to the licensing authority which can vary typically from between £100 - £635 depending on the rateable value of the premises. If representations are made, section 18 of the Act requires the licensing authority to hold a hearing to consider the evidence and, if necessary, impose conditions on the licence to remove or mitigate any risks to the licensing objectives, refuse authorisation for a specific licensable activity or, in extreme cases, reject the application outright. In the case of live music, licence conditions might include, for example: closing doors and windows when music is being performed: the installation of sound-proofing measures such as rubber seals around doorways: noise limiters on amplification equipment; and restrictions on what time and how frequently live music events may be held on the premises. The licence holder may incur a cost in meeting some of these conditions; for example, at the top end, a noise limiter can cost around £3000. The minor variation process is intended only for changes that will not impact adversely on the licensing objectives, such as the addition of low risk, live music

provision. The process is quicker and cheaper than the full variation process, but there is still a minimum, administrative cost to applicants of £50-£100 and a flat rate fee of £89. People who wish to hold live music events on an occasional basis can do so by sending a Temporary Event Notice to the licensing authority at a flat rate fee of £21.

- 1.4** In general, the regulation of live music under the Act is justified by the potential impact of some live music event on the promotion of the licensing objectives¹. 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

The Government's proposal

- 1.5** The Government proposes 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.

Administrative savings and other benefits

- 1.6** We think that this measure will primarily benefit many small venues that wish to hold live music events, but are deterred by the licensing requirements and costs. It will also benefit musicians who may find more opportunities to perform. However, we have not estimated the administrative savings for these categories as they are not currently subject to an administrative burden. People and organisations that currently use Temporary Event Notices to put on live music on an occasional basis; and licensed venues that put on small live music events for no more than 100 people are subject to a burden that the proposal will lift. We have tentatively estimated that this administrative saving could be around £406K - £881k per year. This does not take into account some costs of putting on live music that are difficult to quantify, such as the cost of new conditions applied when new applications or variations are granted. We also estimate that there will be fee savings of around £379K - £503K. There will also be a small additional cost to and burden on licensing authorities in administering the process for excluding specific premises from the exemption. However, we anticipate that this is likely to happen in only a very small number of cases, perhaps 0.3% - 1.5% per year (averaged over ten year period). Costs on licensing authorities would therefore be minimal, around £224K- £1,211K per year across all 378 authorities. A small number of licensed premises with licence conditions relating to the exempt live music that involve ongoing costs (for example a restriction on the number of live music events per week) may wish to apply to the licensing authority to remove these conditions from the licence. However, we can assume a net saving to these premises as they will not apply if the cost of a Minor Variation is likely to be greater than the cost saving from removing the condition. Estimated cost savings are set out in full in the Impact Assessment (published as a separate document and available with this consultation document at

¹ The prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

http://www.culture.gov.uk/reference_library/consultations/6499.aspx and comment is welcome (see question 14).

Who will be affected by the proposals?

1.7 The proposals will affect:

- Licensed premises such as clubs and pubs, unlicensed premises such as cafes, restaurants, scout huts, record shops, etc. and individuals that wish to stage small, live music events;
- Musicians – particularly those starting out in the business - who will benefit from the greater availability of venues;
- Licensing authorities, who will have to administer the new process.
- Responsible authorities, who will need to be aware of the new process and their right to call for the revocation of an exemption;
- The wider public and communities who will benefit from the increased opportunity to hear live music, but will also need to be aware of how they can take action if an exempt live music event leads to problems at a premises near them.

Implementing the proposals

- 1.8** We propose to introduce these exemptions by means of a Legislative Reform Order (LRO) under section 1 of the Legislative and Regulatory Reform Act 2006 (LRA). See Chapter 3 for more details of the LRO process. Your views are invited on the Order which is set out at Annex C.

Chapter 2: How to Respond

- 2.1 The closing date for making responses to this consultation is 26th March 2010 2009. If you would like to respond to this consultation, please email your response to licensingconsultation@culture.gov.uk

If you prefer, you may submit a hard copy by post to:

Shelley Mickleburgh

Licensing Team

Sport and Leisure Directorate

2-4, Cockspur Street

London SW1Y 5DH

- 2.2 If you have any queries about this consultation, or require additional copies, please contact the Licensing Team at the above address or by telephone on 020 7211 6322 or 020 7211 6380.
- 2.3 However, if you have any questions or complaints about the process of consultation on this paper, please contact the DCMS enquiries team at enquiries@culture.gov.uk or by post to Department for Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH.

Disclosure

- 2.4 Normal practice will be for responses to this consultation document to be disclosed, and for respondents to be identified. While the LRA provides for non-disclosure of representations, the Minister will include the names of all respondents in the list submitted to Parliament alongside the draft LROs. The Minister is also obliged to disclose any representations that are requested by, or made to, the relevant Parliamentary Scrutiny Committees. This is a safeguard against attempts to bring improper influence to bear on the Minister. We envisage that, in the normal course of events, this provision will be used rarely and only in exceptional circumstances. You should note that:
- If you request that your representation is not disclosed, the Minister will not be able to disclose the contents of your representation without your express consent and, if the representation concerns a third party, their consent too. Alternatively, the Minister may disclose the content of your representation but only in such a way as to anonymize it.

- In all cases where your representation concerns information on a third party, the Minister is not obliged to pass it on to Parliament if he considers that disclosure could adversely affect the interests of that third party and he is unable to obtain the consent of the third party.

2.5 Please identify any information that you or any other person involved do not wish to be disclosed. You should note that many facsimile and e-mail messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-inclusion in the post consultation review unless accompanied by an additional specific request for confidentiality.

Confidentiality and Freedom of Information

2.6 It is possible that requests for information contained in consultation responses may be made in accordance with access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you do not want your response to be disclosed in response to such requests for information, you should identify the information you wish to be withheld and explain why confidentiality is necessary. Your request will only be acceded to if it is appropriate in all the circumstances. *An automatic confidentiality disclaimer generated by your IT system will not of itself be regarded as binding on the Department.*

Chapter 3: Legislative Reform Orders: process

Legislative Reform Orders

- 3.1** The Government proposes to introduce these simplification measures by means of a Legislative Reform Order under section 1 of the Legislative and Regulatory Reform Act 2006. The proposed text for amendments to be made by the draft Order is at Annex C. This consultation is being conducted in accordance with the provisions of section 13 of the LRRRA and the terms of the Government's Code of Practice on Written Consultations. Views are invited on all aspects of the consultation paper, including the specific questions set out in this document and summarised in Chapter 7. All responses should be received by 26th March 2010.

Legislative Reform Order-making powers

- 3.2** The LRRRA confers powers on a Minister of the Crown, with the approval of Parliament, to make legislative reform orders for purposes which include (under section 1) the removal or reduction of burdens falling directly or indirectly on any person from any legislation.
- 3.3** Section 1(3) of the LRRRA defines a burden as a financial cost; an administrative inconvenience; an obstacle to efficiency, productivity or profitability; or a sanction, criminal or otherwise, which affects the carrying on of any lawful activity.
- 3.4** An order may not impose, abolish or vary any tax nor may it create a new criminal offence or increase the penalty for an existing offence so that it is punishable above certain limits. This proposal will not do so.
- 3.5** The 2006 Act specifies, under Section 3, that an Order must satisfy six preconditions. These are whether the Order has a non-legislative solution; is proportional to the policy objective; strikes a fair balance; does not remove necessary protections; does not prevent the exercise of rights and freedoms; and is not of constitutional significance. These are discussed in Chapter 6.
- 3.6** It should be noted that even where the preconditions of Section 3 of the LRRRA are met, an LRO cannot:
- deliver 'highly controversial' proposals;
 - remove burdens which fall solely on Ministers or Government departments, except where the burden affects the Minister or Government department in the exercise of regulatory functions;
 - confer or transfer any function of legislating on anyone other than a Minister; persons that have statutory functions conferred on or transferred to them by an enactment; a body or office which has been created by the LRO itself;
 - impose, abolish or vary taxation;

- create a new criminal offence or increase the penalty for an existing offence so that it is punishable above certain limits;
- provide authorisation for forcible entry, search or seizure, or compel the giving of evidence;
- amend or repeal any provision of Part 1 of the LRA;
- amend or repeal any provision of the Human Rights Act 1998;
- remove burdens arising solely from common law.

Devolution

3.7 The LRA imposes certain restriction regarding LROs and the devolution agreements:

- Scotland – A Minister cannot make an LRO under Part 1 of the LRA which would be within the legislative competence of the Scottish Parliament. This does not affect the powers to make consequential, supplementary, incidental or transitional provisions.
- Northern Ireland – A Minister cannot make an LRO under Part 1 of the LRA that amends or repeals any Northern Ireland legislation, unless it is to make consequential, supplementary, incidental or transitional provisions.
- Wales – The agreement of the Welsh Ministers is required for any provision in an LRO which confers a function upon the Welsh Ministers, modifies or removes a function of the Welsh Ministers, or restates a provision conferring a function upon the Welsh Ministers. The agreement of the National Assembly for Wales is required for any provision in an LRO which is within the legislative competence of the Assembly.

3.8 The Minister can recommend one of three alternative procedures for Parliamentary scrutiny dependent on the size and importance of the LRO. The negative resolution is the least onerous and therefore may be suitable for LROs delivering small regulatory reform. The super-affirmative procedures is the most onerous involving the most in-depth Parliamentary scrutiny. Although the Minister can make the recommendation, Parliamentary Scrutiny Committees have the final say about which procedure will apply.

- Negative Resolution Procedure – This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if neither House of Parliament has resolved during that period that the LRO should not be made and the Committee has not vetoed the proposal.
- Affirmative Resolution Procedure – This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if it is approved by a resolution of each House of Parliament.
- Super-Affirmative Resolution Procedure – This is a two stage procedure during which there is opportunity for the draft LRO to be revised by the Minister:
 - Parliament is given 60 days of initial scrutiny, when the Parliamentary Committees may report on the draft LRO, or either House may make a resolution with regard to the draft LRO.
 - After the expiry of the 60 day period (during which evidence may be sought from stakeholders and the Minister or officials by the Committees of each House), recommendations on the LRO are made by the Committees, and the Minister must lay a revised or unrevised LRO for further scrutiny (15 days for unrevised, 25 days for revised). After this second scrutiny period, the Minister

may then make an LRO in the terms of the draft, but only if it is approved by a resolution of each House of Parliament and has not been vetoed by either or both Committees.

- 3.9 Under each procedure, the Parliamentary Scrutiny Committees have the power to recommend that the Minister not make the LRO. If one of the Parliamentary Committees makes such a recommendation, a Minister may only proceed with it if the recommendation is overturned by a resolution of the relevant House.
- 3.10 The Department for Culture, Media and Sport believes that the **affirmative resolution process** should apply to this LRO on the grounds that it amends the Act, and expands the scope of activities that are excluded from the ambit of the Act.
- 3.11 This consultation document contains a series of questions to which responses are invited. A list of all questions can be found at Chapter 7.
- 3.12 Comments are also invited on the draft LRO at Annex C and the Impact Assessment (published as a separate document and available with this consultation document at http://www.culture.gov.uk/reference_library/consultations/6499.aspx)
- 3.13 The consultation document follows the format recommended by the BRE for all such proposals. The criteria applicable to all UK consultations under the BRE Code of Practice on Consultation are at Annex D.
- 3.14 Under Section 3(2) of the LRRA, the Minister of the Crown must be satisfied that certain preconditions have been met before presenting to Parliament a proposal to make a legislative reform order. For this reason, we would particularly welcome your views on whether and how the proposal in this consultation meets the following preconditions:
- (a) the policy objective intended to be secured by the order could not be satisfactorily secured by non-legislative means;
 - (b) the effect of the provision is proportionate to the policy objective;
 - (c) the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it;
 - (d) the provision does not remove any necessary protection;
 - (e) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise; and
 - (f) the provision is not of constitutional significance.
- 3.15 These preconditions are addressed in Chapter 6.

Chapter 4: Background

Impact of the Act on live music

- 4.1 The Licensing Act 2003 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 ('2 in a bar') which were exempt. In many ways, the Act 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. However, there were concerns about the impact of the Act on live music and in 2005, shortly after the Act came into force, the Government set up an independent Panel - the Live Music Forum - to monitor and evaluate the impact of the Act on the performance of live music. The Forum was chaired by Feargal Sharkey and included members from key bodies across the music industry and non-commercial sectors, together with local and national government, the Arts Council England and the hospitality trade. 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 (see http://www.culture.gov.uk/reference_library/publications/3650.aspx) . 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. The Forum recommended, amongst other things, that musical activity attracting less than 100 people should be exempt from the Act.

Pre-consultation on exemptions

- 4.2 In 2008, the Government had early discussions with stakeholders on proposals to exempt live music performances for 100 people or fewer in unlicensed premises and 200 people or fewer in licensed premises. Both exemptions were to be restricted to performances inside a building between the hours of 11pm and 11 am and would not be revocable. It was proposed that any problems arising from the exempt live music could be dealt with through penalties available under other legislation, such as on the spot fines for noise under environmental health legislation.
- 4.3 These proposals were well received by the Musician's Union and other live music representatives, but were strongly opposed by licensing authorities and the police on the grounds that:
- there was no statistical evidence that the Act was restricting live music. The Local Authority Coordinators of Regulatory Services (LACORs) believed that very few

applications for live music provision were refused. The Government's Licensing Statistics Bulletin 2008 showed that the number of authorisations for live music had

- risen by 7% during 2007/8 and although this did not reflect the number of live music events staged in practice, it was nevertheless an indicator that live music was thriving.
- the proposed exemptions would remove essential rights and protections from local residents and businesses, exposing them to an increased risk of noise nuisance, crime and disorder, etc. Licensing authorities' powers under the Act to impose licence conditions such as closing doors and windows, sound insulation, etc. helped to prevent these problems occurring.
- penalties available under other legislation were largely reactive and other enforcement agencies were not resourced to deal with the problems that were likely to arise if these events were exempted from the Act.

- 4.4 In view of these very serious objections, the Government decided to defer consideration of live music exemptions for one year and to pursue other measures to assist live music including the new Minor Variations process which would allow applicants to add low risk, live music provision more cheaply and quickly than the full variation procedure. The Musicians Union, LACORs, the BBPA and DCMS formed a working party to consider ways of promoting and encouraging take up of the Minor Variations process and the existing exemption for incidental live music. It was agreed that these measures should be given time to bed down – and their impact on live music assessed – before returning to the issue of exemptions.

Recent developments

- 4.5 The Minor Variations process came into force in August 2009 and there is early evidence to suggest that it is increasingly being used to add or vary low risk live music provision. The Live Music Working Party has met several times and will be publishing a new leaflet on incidental live music and other material encouraging the use of Minor Variations to add/vary live music provision in December. However, live music groups and campaigners have continued to express concerns about the impact of the Act on small live music venues. The House of Commons Culture, Media and Sport Committee, in its 6th report of sessions, also found some anecdotal evidence that live music in smaller venues was decreasing and recommended an exemption for venues with a capacity of 200 or fewer from the Act.
- 4.6 The Government takes these concerns seriously and, with this in mind, has returned again to the subject of exemptions. However, it also takes seriously the concerns of local authorities, residents and the police and for this reason has amended its earlier proposal as described in the following chapter to exempt only events performed for audiences of no more than 100 people and to include a power to revoke an exemption at a specific premises if there are problems arising from the live music events.

Chapter 5: Detailed Proposals

Conditions of exemption

5.1 The Government proposes to exempt from the Act small live music events in licensed and unlicensed premises subject to the following conditions:

a) The performance takes place wholly inside a building. There is evidence that live music events held outdoors, in temporary structures such as tents or on boats, vehicles, etc are more likely to generate noise nuisance than indoor events. The Government therefore recommends that the exemption should be restricted to performances that take place wholly inside a permanent building.

Question 1: Do you agree that the exemption should be limited to performances held wholly inside a permanent building? Yes/No. If No, please explain why.

b) The audience does not exceed 100 people and is accommodated entirely inside the building where the performance is taking place. It was clear from the Government's earlier pre-consultation on exemptions for live music for 200 or fewer people, that licensing authorities, residents and the police had serious concerns about exempting this size of venue. Some LAs, for example, considered that an audience limit of 200 would capture all live music venues in their area. The Government is aware that there are different views on this issue, and that the CMS Committee recommended an exemption for events for audiences of no more than 200, however on balance it considers that restricting the exemption to audiences of no more 100 is less likely to give rise to issues which may affect the promotion of the licensing objectives.

It also recommends that the audience should be accommodated entirely inside the building where the performance is taking place to prevent a situation whereby, for example, patio doors might be opened to allow people on a pub terrace to see the performance, allowing noise to escape.

Question 2: Do you agree that the exemption should be limited to performances of live music for not more than 100 people? Yes/No. If No, please explain why.

Question 3: Do you agree that audiences for exempt performances should be accommodated entirely within the building where the performance is taking place? Yes/No. If No, please explain why.

c) **The performance does not take place between 11pm and 8am.** Noise from live music events is much more likely to disturb nearby residents etc. late at night and in the early hours of the morning, particularly (but not exclusively) on weekdays. The Government therefore recommends that exempt performances should not take place between 11pm and 8am.

Question 4: Do you agree that exempt performances should not take place between 11pm and 8am? Yes/No. If No, please explain why.

d) **The performance does not take place in a premises which is subject to an 'exclusion' decision** (see paragraph 5.2 below). The Government's proposal includes a revocation process to exclude specific premises from the exemption if problems arise in connection with exempt live music performances.

Exclusion/revocation process

5.2 In view of the concerns of LAs, the police and residents about the potential impact of an exemption on local residents, etc, the Government proposes to allow residents and local businesses (interested parties) and responsible authorities such as the police to apply to the licensing authority for an exemption at a specific premises to be 'excluded' from the exemption (i.e. revoked). This process will be similar to the current process for reviewing premises licences and club premises certificates, except that:

- it will apply to licensed and unlicensed premises;
- the evidence submitted in support of the application must focus on the impact of the live music event (s) on the promotion of the licensing objectives;
- the licensing authority will be responsible for placing a notice on premises to advertise the application
- licensing authorities will only have two options following a hearing: to allow the exemption to continue; or to exclude (revoke) it;
- an exclusion decision will take effect immediately, even if there is an appeal;
- Exclusions in licensed premises will be noted on the licence or club premises certificate; exclusions in unlicensed premises will be entered in a new section in the Licensing Register.

Question 5: Do you agree that there should be an exclusion process as set out above? Yes/No. If No, please explain why.

Question 6: Do you agree that the exclusion process should be similar to the current review process, with the modifications proposed? Yes/No. If No, please explain why.

Licence conditions relating to the performance of exempted live music

- 5.3 Unlicensed premises that wish to stage live music events that qualify for the exemption will not need to make any kind of application to the licensing authority; the exemption will automatically apply. However, licensed premises that already stage live music and qualify for the exemption may still have conditions attached to their licence in connection with their live music provision. For example, they may be restricted to a certain number of performances per week, or be required to install and maintain sound proofing equipment. These premises will be able to apply to vary their licences to remove relevant conditions through the Minor Variations process, in so far as those conditions are inconsistent with the new exemption. The Government recognises that this will involve a one off cost to licensees, but considers that some level of scrutiny by the licensing authority is necessary to ensure that conditions that relate to other licensable activities at the premises are not removed. It is not always clear why a certain condition has been applied to the licence and licensing authorities will wish to satisfy themselves that necessary conditions relating to other licensable activities remain in place. It may also be the case that a premises with a number of rooms may stage live music events for an audience of no more than 100 in one room and for a bigger audience in another room. In these circumstances, the licensing authority is likely to consider that the licence conditions relating to live music should still apply, unless they relate specifically to the smaller room. In practice licensees are unlikely to apply to remove a licence condition unless the likely saving outweighs the cost of the application.

Question 7: Do you agree that licensed premises that qualify for the proposed exemption should have to apply through the Minor Variations process to remove licence conditions that apply to the exempt live music performance? Yes/No. If No, please explain why.

Chapter 6: Legislative Reform Order: Pre-conditions

Precondition (a): non-legislative solutions

- 6.1 The legal requirements relating to regulated entertainment are set out in the 2003 Act. The proposed changes to the Act cannot be made through secondary legislation (other than legislative reform orders).
- 6.2 Although the Secretary of State is empowered to issue Guidance to licensing authorities under section 182 of the 2003 Act, licensing authorities only have to 'have regard to it' and it cannot effect changes to primary legislation or regulations made under the 2003 Act or seek to influence the decisions of prosecuting authorities. In addition, the police (and other RAs) need have no regard to it.
- 6.3 The Government is satisfied that this proposal cannot be achieved by means of:
- any voluntary agreements between central government, licensing authorities and the police;
 - changes to the statutory Guidance that the Secretary of State issues under section 182 of the 2003 Act; or
 - changes to the regulations made by the Secretary of State under their powers in the 2003 Act.
- 6.4 The Government is therefore satisfied that this proposal cannot be achieved by non-legislative means.

Question 8: Do you agree that this proposal cannot be achieved by non-legislative means? Yes/No. If No, please explain why

Precondition (b): the effect of the provision is proportionate to the policy objective

- 6.5 The policy objective is to remove unnecessary burdens on small live music events. The proposal exemption will deliver this and no more by restricting the exemption to performances of live music for audiences of no more than 100 people. Anecdotal evidence suggests that these venues are unlikely to give rise to problems which may affect the promotion of the licensing objectives and therefore suffer a disproportionate burden from the requirements of the licensing regime.

Question 9: Do you agree that the effect of the proposal is proportionate to the policy objective? Yes/No. If No, please explain why.

Precondition (c): the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it

6.6 The public interest lies in: ensuring that live music can flourish, to the benefit of the wider community; providing more small venues where musicians, particularly young musicians who need to hone their skills in front of smaller audiences, can perform; and in ensuring that small venues can diversify their offer and generate income by putting on low risk live music. Any person who is adversely affected by an exempt live music performance will be able to apply to the licensing authority to have the exemption reviewed and if necessary, excluded. An exclusion decision will take effect as soon as it is made (even if there is an appeal), ensuring that residents and others are not exposed to further noise nuisance or other problems. The Government therefore considers that this proposal strikes a fair balance.

Question 10: Do you agree that the proposal, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it? Yes/No. If No, please explain why.

Precondition (d) the provision does not remove any necessary protection

6.7 The requirements of the Act in relation to live music are intended to ensure that local residents, businesses etc are protected from potential noise nuisance, crime and disorder, etc. that may arise from live music events. The restrictions on size of audience/venue, and the timing of events should ensure that these issues do not arise, but if, exceptionally, there are problems at a specific premises, any interested person or responsible authority may apply for an exclusion. Existing sanctions available under other enforcement regimes, such as noise protection orders and the powers available to the police in relation to crime and disorder would continue to apply to the exempt premises. The Government does not therefore consider that this proposal would remove any unnecessary protections.

Question 11: Do you agree that the proposal does not remove any necessary protection? Yes/No. If No, please explain why

Precondition (e) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise

6.8 Residents and responsible authorities currently have the right to call for a review of any premises licence or club premises certificate if there are problems at a specific premises which affect the licensing objectives. They will continue to exercise this right in relation to exempt live music through the exclusion process. The restrictions on the exemption and existing sanctions under other enforcement regime will preserve

freedoms from noise nuisance, crime and disorder, etc that any person might reasonably expect to continue to exercise.

Question 12: Do you agree that the proposal does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise? Yes/No. If No, please explain why.

Precondition (f): constitutional significance

6.9 The proposal is considered to have no constitutional significance.

Question 13: Do you agree that the proposal has no constitutional significance? Yes/No. If No, please explain why.

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Chapter 7: List of Questions

Question 1: Do you agree that the exemption should be limited to performances held wholly inside a permanent building? Yes/No. If No, please explain why.

Question 2: Do you agree that the exemption should be limited to performances of live music for not more than 100 people? Yes/No. If No, please explain why.

Question 3: Do you agree that audiences for exempt performances should be accommodated entirely within the building where the performance is taking place? Yes/No. If No, please explain why.

Question 4: Do you agree that exempt performances should not take place between 11pm and 8am? Yes/No. If No, please explain why.

Question 5: Do you agree that there should be an exclusion process as set out above? Yes/No. If No, please explain why.

Question 6: Do you agree that the exclusion process should be similar to the current review process, with the modifications proposed? Yes/No. If No, please explain why.

Question 7: Do you agree that licensed premises that qualify for the proposed exemption should have to apply through the Minor Variations process to remove licence conditions that apply to the exempt live music performance? Yes/No. If No, please explain why.

Question 8: Do you agree that this proposal cannot be achieved by non-legislative means? Yes/No. If No, please explain why.

Question 9: Do you agree that the effect of the proposal is proportionate to the policy objective? Yes/No? If No, please explain why.

Question 10: Do you agree that the proposal, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it? Yes/No. If No, please explain why.

Question 11: Do you agree that the proposal does not remove any necessary protection? Yes/No. If No, please explain why.

Question 12: Do you agree that the proposal does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise? Yes/No. If No, please explain why.

Question 13: Do you agree that the proposal has no constitutional significance? Yes/No. If No, please explain why.

Question 14: Do you broadly agree with the estimates, assumptions and conclusions of the Impact Assessment (published as a separate document, and available alongside this consultation on the DCMS website at http://www.culture.gov.uk/reference_library/consultations/6499.aspx.)? Yes/ No. If not, please say which estimate you disagree with, and provide any evidence that supports an alternate estimate.

Question 15: Do you think that this draft Order accurately reflects the proposed change?

Annex A: List of Consultees

Respondents are invited to contact us with the names of any other stakeholders groups not on this list who they feel might be able to contribute.

Action in Rural Sussex
Action with Communities in Rural England
Alcohol Concern
Arts Council in England
Arts Council of Wales
Association of Chief Police Officers
Association of Circus Proprietors of Great Britain
Association of Convenience Stores
Association of Directors of Social Services
Association of Inland Navigation Authorities
Association of Licensed Multiple Retailers
Association of Show and Agricultural Organisations
Bar Entertainment and Dance Association
BII
British Beer & Pub Association
British Board of Film Classification
British Holiday and Home Parks Association
British Hospitality and Restaurant Association
British Marine Federation
British Retail Consortium
Business in Sport and Leisure
Campaign for Real Ale
Central Council for Physical Recreation
Charity Commission
Chartered Institute of Environmental Health
Chief Fire Officers' Association
Children's Society

Chinese Takeaway Association UK
Cinema Exhibitors Association
Circus Arts Forum
Civic Trust
Commission for Rural Communities
Committee of Registered Clubs Associations
Community Matters
(DEFRA) Rural Communities Buildings Network
English Heritage
Enterprise Directorate, Department for Business, Enterprise and Regulatory Reform
Federation of Licensed Victuallers
Federation of Licensed Victuallers (Wales)
Federation of Private Residents' Association
Federation of Small Businesses
Federation of Wholesale Distributors
Fire and Rescue Authorities in England
Fire and Rescue Services in Wales
Greater London Authority
Guild of Bangladeshi Restaurateurs
Guild of Master Victuallers
Historic Houses Association
Independent Street Arts Network
Insolvency Service
Institute of Licensing
Interfaith Network
Justices Clerk Society
Licensing Act Active Residents Network
Licensing Authorities in England and Wales
Local Authorities Co-ordinators of Regulatory Services
Local Government Association
London Councils
Magistrates Association
Maritime and Coastguard Agency
Musicians Union
National Association of Kebab Shops
National Association of Local Councils
National Campaign for the Arts
National Farmers' Retail & Markets Association
National Federation of Fish Friers

National Federation of Retail Newsagents

National Neighbourhood Watch Association

National Operatic and Dramatic Association

National Organisation of Residents Associations

National Village Halls Forum

One Voice Wales

Open all Hours

Passenger Boat Association

Patersons Licensing Acts

Police Federation

Police Superintendents' Association

Rural Shops Alliance

Society of Local Council Clerks

Society of London Theatre and Theatrical Management Association

Tourism for All

Trading Standards Institute

United Kingdom Film Council

United Kingdom Warehousing Association

Voluntary Arts Network

Welsh Assembly

Welsh Council for Voluntary Action

Welsh Local Government Association

Welsh Music Foundation

Wine Spirits Trade Association

Annex B: Impact Assessment Question

Question 14: Do you broadly agree with the estimates, assumptions and conclusions of the Impact Assessment (published as a separate document, and available alongside this consultation on the DCMS website at

http://www.culture.gov.uk/reference_library/consultations/6499.aspx)? Yes/ No.

If not, please say which estimate you disagree with, and provide any evidence that supports an alternate estimate.

Annex C: Draft Order

Question 15: Do you think that this draft Order accurately reflects the proposed change?

In Schedule 1: (a) After paragraph 7 insert-

“Live music in certain small venues

7A (1) The provision of entertainment consisting of a performance of live music is not to be regarded as the provision of regulated entertainment for the purposes of this Act if the conditions in sub-paragraph (2) are satisfied in respect of the performance.

(2) The conditions are that-

(a) the performance takes place wholly inside a building;

(b) the performance takes place in the presence of an audience of not more than 100 persons, all of whom are accommodated wholly inside the building where the performance takes place;

(c) no part of the performance takes place between 11pm and 8am;

(d) the performance does not take place on premises in respect of which an exclusion decision under Part 2A of this Schedule has effect.”

(b) After Part 2 add-

“PART 2A

Live music in small venues: exclusion decisions

12A (1) The relevant licensing authority in relation to any premises must make an exclusion decision in respect of those premises, if the conditions in sub-paragraph (2) are satisfied.

(2) The conditions are that-

(a) an interested party or responsible authority has applied to the authority in accordance with this Part for an exclusion decision to be made in respect of the premises;

(b) the authority has held a hearing to consider the application; and

(c) the licensing authority are satisfied that the making of such a decision is necessary for the promotion of the licensing objectives.

(3) An exclusion decision made pursuant to sub-paragraph (1) has effect as soon as it is made.

(4) The Secretary of State may, by regulations under this paragraph-

(a) prescribe the form and manner in which an application under sub-paragraph (2)(a) is to be made, and the information and documents (if any) that must accompany it;

(b) require the applicant to give a notice containing details of the application to such persons as may be prescribed within such period as may be prescribed;

(c) require [the applicant][the authority] to advertise the application within such period as may be prescribed, and to invite representations about it to be made to the authority by interested parties, responsible authorities and such other persons as may be prescribed;

(d) prescribe the period during which such representations may be made;

(e) require any notice under sub-paragraph (b) or advertisement under sub-paragraph (c) to specify that period;

(f) require that a record of each premises in respect of which an exclusion decision has effect be included in the relevant licensing authority's register kept under section 8.

(5) In this paragraph-

(a) "interested party" in relation to any premises means-

- (i) a person living in the vicinity of the premises,
- (ii) a body representing persons who live in that vicinity,
- (iii) a person involved in a business in that vicinity,
- (iv) a body representing persons involved in such businesses.

(b) "responsible authority" means-

- (i) any of the authorities referred to in section 13(4)(a) to (e) or (g), or
- (ii) a person prescribed for the purposes of this sub-paragraph."

(c) After paragraph 18 add-

"Live music in certain small venues: "building"

18A In paragraph 7A, a "building" does not include-

- (a) a temporary structure,
- (b) a structure without a roof, or without walls that form an enclosed space,
- (c) a vehicle, vessel or movable structure."

In Schedule 5, after paragraph 18 insert-

"Live music in certain small venues: exclusion decisions"

18A (1) This paragraph applies where an application for an exclusion decision in respect of premises is decided under paragraph 12A of Schedule 1.

(2) An appeal may be made against that decision by-

- (a) the applicant for the decision,
- (b) a responsible authority within the meaning of paragraph 12A(5)(b),
- (b) if a premises licence has effect in respect of the premises, the holder of that licence;
- (c) if a club premises certificate has effect in respect of the premises, the club which holds that certificate;
- (d) if neither a premises licence nor a club premises certificate has effect in respect of the premises, the owner or occupier of the premises or such other persons as may be prescribed;
- (e) an interested party within the meaning of paragraph 12A(5)(a) who made relevant representations in relation to the application.

(3) In sub-paragraph (2) "relevant representations" means representations which are relevant to one or more of the licensing objectives.

- (4) An appeal under this paragraph must be made to the magistrates' court for the petty sessions area (or any such area) in which the premises concerned are situated.
- (5) An appeal under this paragraph must be commenced by a notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.
- (6) On an appeal under sub-paragraph (2)(a), (b) or (e) the premises licence holder, club premises certificate holder, owner, occupier or other prescribed person (as the case may be) is to be the respondent in addition to the licensing authority."

Annex D: BRE Code of Practice on Consultations

The consultation is being conducted in line with the BRE Code of Practice on Written Consultation. The consultation criteria are listed below. More information can be found at:

<http://www.berr.gov.uk/files/file47158.pdf>

The Consultation Criteria

1) When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

2) Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

3) Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4) Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

5) The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

6) Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7) Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any questions or complaints about the process of consultation on this paper, please contact Tony Dyer, Consultation Co-ordinator, Strategy Division, Department for Culture, Media and Sport, 2-4 Cockspur Street, London, SW1Y 5DH tony.dyer@culture.gsi.gov.uk

Annex E: Legislative Reform Orders – Parliamentary Consideration

Introduction

1. This proposed exemption will require changes to primary legislation in order to give effect to it. The Minister could achieve these changes by making a Legislative Reform Order (LRO) under the Legislative and Regulatory Reform Act 2006 (LRRRA). LROs are subject to preliminary consultation and to rigorous Parliamentary scrutiny by Committees in each House of Parliament. On that basis, the Minister invites comments on this proposal as a measure that might be carried forward by a LRO.

Legislative Reform Proposals

2. The starting point for LRO proposals is thorough and effective consultation with interested parties, as reflected by this consultation and previous discussion with stakeholders. In undertaking this consultation, the Minister is expected to seek out actively the views of those concerned, including those who may be adversely affected, and then to demonstrate to the Scrutiny Committees that he or she has addressed those concerns.

3. Following the consultation exercise, when the Minister lays proposals before Parliament under the section 14 Legislative and Regulatory Reform Act 2006, he or she must lay before Parliament an Explanatory Document which must:

i) explain under which power or powers in the LRRRA the provisions contained in the order are being made;

ii) introduce and give reasons for the provisions in the Order;

iii) explain why the Minister considers that:

- there is no non-legislative solutions which will satisfactorily remedy the difficulty which the provisions of the LRO are intended to address;
- the effect of the provisions are proportionate to the policy objective;
- the provisions made in the order strikes a fair balance between the public interest and the interests of any person adversely affected by it;
- the provisions do not remove any necessary protection;
- the provisions do not prevent anyone from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise;
- the provisions in the proposal are not constitutionally significant; and
- where the proposals will restate an enactment, it makes the law more accessible or more easily understood.

iv) include, so far as appropriate, an assessment of the extent to which the provision made by the order would remove or reduce any burden or burdens;

v) identify and give reasons for any functions of legislating conferred by the order and the procedural requirements attaching to the exercise of those functions; and

vi) give details of any consultation undertaken, any representations received as a result of the consultation and the changes (if any) made as a result of those representations.

4. On the day the Minister lays the proposals and explanatory document, the period for Parliamentary consideration begins. This lasts 40 days under negative and affirmative resolution procedure and 60 days under super-affirmative resolution procedure. If you want a copy of the proposals and the Minister's explanatory document laid before Parliament, you will be able to get them either from the Government department concerned or by visiting the BRE's website at:

<http://www.berr.gov.uk/whatwedo/bre/>

Parliamentary Scrutiny

5. Both Houses of Parliament scrutinise legislative reform proposals and draft LROs. This is done by the Regulatory Reform Committee in the House of Commons and the Delegated Powers and Regulatory Reform Committee in the House of Lords.

6. Standing Orders for the Regulatory Reform Committee in the Commons stipulate that the Committee considers whether proposals:

(a) appear to make an inappropriate use of delegated legislation;

(b) serve the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft Order under section 1 of the Act);

(c) serve the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft Order under section 2 of the Act);

(d) secure a policy objective which could not be satisfactorily secured by non-legislative means;

(e) have an effect which is proportionate to the policy objective;

(f) strike a fair balance between the public interest and the interests of any person adversely affected by it;

(g) do not remove any necessary protection;

(h) do not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;

(i) are not of constitutional significance;

(j) make the law more accessible or more easily understood (in the case of provisions restating enactments);

(k) have been the subject of, and takes appropriate account of, adequate consultation;

(l) give rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No 151 (Statutory Instruments (Joint Committee)) as are

relevant, such as defective drafting or failure of the department to provide information where it was required for elucidation;

(m) appear to be incompatible with any obligation resulting from membership of the European Union;

7. The Committee in the House of Lords will consider each proposal in terms of similar criteria, although these are not laid down in Standing Orders.

8. Each Committee might take oral or written evidence to help it decide these matters, and each Committee would then be expected to report.

9. Copies of Committee Reports, as Parliamentary papers, can be obtained through HMSO. They are also made available on the Parliament website at:

Regulatory Reform Committee (in the Commons):

http://www.parliament.uk/parliamentary_committees/regulatory_reform_committee.cfm

Delegated Powers and Regulatory Reform Committee (in the Lords):

http://www.parliament.uk/parliamentary_committees/dpr.cfm

10. Under negative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise an LRO, after which the Minister can make the order if neither House of Parliament has resolved during that period that the order should not be made or to veto the LRO.

11. Under affirmative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise an LRO, after which the Minister can make the order if it is not vetoed by either or both of the Committees and it is approved by a resolution of each House of Parliament.

12. Under super-affirmative procedure each of the Scrutiny Committees is given 60 days to scrutinise the LRO. If, after the 60 day period, the Minister wishes to make the order with no changes, he may do so only after he has laid a statement in Parliament giving details of any representations made and the LRO is approved by a resolution of each House of Parliament. If the Minister wishes to make changes to the draft LRO he must lay the revised LRO and as well as a statement giving details of any representations made during the scrutiny period and of the proposed revisions to the order, before Parliament. The Minister may only make the order if it is approved by a resolution of each House of Parliament and has not been vetoed by either or both relevant Committees.

How to Make Your Views Known

13. Responding to this consultation document is your first and main opportunity to make your views known to the relevant department as part of the consultation process. You should send your views to the address set out in the consultation document. When the Minister lays proposals before Parliament you are welcome to put your views before either or both of the Scrutiny Committees.

14. In the first instance, this should be in writing. The Committees will normally decide on the basis of written submissions whether to take oral evidence.

15. Your submission should be as concise as possible, and should focus on one or more of the criteria listed in paragraph 6 above.

16. The Scrutiny Committees appointed to scrutinise Legislative Reform Orders can be contacted at:

Delegated Powers and
Regulatory Reform Committee
House of Lords
London
SW1A 0PW
Tel: 0207 219 3103
Fax: 0207 219 2571
DPDC@parliament.uk

Regulatory Reform Committee
House of Commons
7 Millbank
London
SW1P 3JA
Tel: 020 7219 2830/2833/2837
Fax: 020 7219 2509
regrefcom@parliament.uk

Non-disclosure of responses

17. Section 14(3) of the LRRRA provides what should happen when someone responding to the consultation exercise on a proposed LRO requests that their response should not be disclosed.

18. The name of the person who has made representations will always be disclosed to Parliament. If you ask for your representation not to be disclosed, the Minister should not disclose the content of that representation without your express consent and, if the representation relates to a third party, their consent too. Alternatively, the Minister may disclose the content of the representation in such a way as to preserve your anonymity and that of any third party involved.

Information about Third Parties

19. If you give information about a third party which the Minister believes may be damaging to the interests of that third party, the Minister does not have to pass on such information to Parliament if he does not believe it is true or he is unable to obtain the consent of the third party to disclosure. This applies whether or not you ask for your representation not to be disclosed.

20. The Scrutiny Committees may, however, be given access on request to all representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of legislative reform orders.

Better Regulation Executive
Department for Business, Innovation and Skills

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Proposal to exempt small live music events from the Licensing Act 2003

<u>Questions</u>		<u>Answers</u> - Yes/No, If No please explain why.
1	Do you agree that the exemption should be limited to performances held wholly inside a permanent building?	yes
2	Do you agree that the exemption should be limited to performance of live music for not more than 100 people?	yes
3	Do you agree that audiences for exempt performances should be accommodated entirely within the building where the performance is taking place?	yes
4	Do you agree that exempt performances should not take place between 11pm and 8am?	yes
5	Do you agree that there should be an exclusion process as set out above?	yes
6	Do you agree that the exclusion process should be similar to the current review process, with the modifications proposed?	yes
7	Do you agree that licensed premises that qualify for the proposed exemption should have to apply through the Minor Variations process to remove licence conditions that apply to the exempt live music performances?	yes
8	Do you agree that this proposal cannot be achieved by non-legislative means?	yes
9	Do you agree that the effect of the proposal is proportionate to the policy objective?	yes
10	Do you agree that the proposal, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it?	yes
11	Do you agree that the proposal does not remove any necessary protection?	yes
12	Do you agree that the proposal does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise?	yes
13	Do you agree that the proposal has no constitutional significance?	yes
14	Do you broadly agree with the estimates, assumptions and conclusions of the Impact Assessment (published as a separate document, and available alongside this consultation on the DCMS website at http://www.culture.gov.uk/reference_library/consultations/6499.aspx)?	YES
15	Do you think that this draft order accurately reflects the proposed change?	YES

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Proposal to exempt small live music events from the Licensing Act 2003

<u>Questions</u>		<u>Answers</u> - Yes/No, If No please explain why.
1	Do you agree that the exemption should be limited to performances held wholly inside a permanent building?	Yes. If there is to be exemptions, any exemptions granted should only be allowed inside a building and only on the basis that doors and windows must be kept closed during the entertainment, except during access and egress.
2	Do you agree that the exemption should be limited to performance of live music for not more than 100 people?	No, 100 people or less, if they are at say, a live rock or dance music event, can cause a lot of noise. Any exemptions should be based upon the type of event, the suitability of the venue and the way it is managed.
3	Do you agree that audiences for exempt performances should be accommodated entirely within the building where the performance is taking place?	Yes, the events should only be permitted inside an effective sound insulated building with the doors and windows closed.
4	Do you agree that exempt performances should not take place between 11pm and 8am?	Yes, but even 11 pm is too late. Many people will go to bed before 11 pm, including the elderly, those who have to work the next day, children who have school and those who are ill. An exemption until 11 pm is not appropriate in a residential area.
5	Do you agree that there should be an exclusion process as set out above?	Yes.
6	Do you agree that the exclusion process should be similar to the current review process, with the modifications proposed?	Yes.
7	Do you agree that licensed premises that qualify for the proposed exemption should have to apply through the Minor Variations process to remove licence conditions that apply to the exempt live music performances?	Yes.
8	Do you agree that this proposal cannot be achieved by non-legislative means?	No, the current system seems to strike the right balance between licensed premises, their customers and local residents. Considering the licensed premises in York that cause noise problems, most have capacities under 100. The licence enables us to better protect the quality of life for local residents and business.
9	Do you agree that the effect of the proposal is proportionate to the policy objective?	No, the proposals are most definitely in favour of the licensees and against the interests of local residents. The proposals would allow an effective free for all up until 11pm. Most licensed premises were not designed for live music and have insufficient sound attenuation. Exemptions could be made for those premises that are well insulated and managed.

10	Do you agree that the proposal, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it?	No, most definitely not. Since the Licensing Act 2003 there has been a considerable increase in the number of noise complaints about licensed premises, further exacerbated by the smoking ban. Though the increased noise levels generated between 8 a.m. and 11 p.m. might not always constitute a statutory noise nuisance or even a public nuisance, they may be sufficient to reduce the amenity and quality of life of local residents and reduce their sleep and impact their health. School aged children may be deprived of sleep in some cases and this could affect their performance at school.
11	Do you agree that the proposal does not remove any necessary protection?	No, local residents could be potentially exposed to live music for 15 hours per day, 7 days per week, with no licensing controls. The only protection for local residents will be via the environmental protection unit (EPU) that operate Mon-Fri from 8.30 to 5 pm and the EPU Noise Patrol operates Friday and Saturday nights from 9 p.m. to 3 a.m. At other times local residents will have to endure the additional noise up until 11 p.m., unless EPU are provided with additional resources.
12	Do you agree that the proposal does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise?	No, the quality of life of local residents, their amenity at their property, their sleep and potentially, their health may all be adversely affected.
13	Do you agree that the proposal has no constitutional significance?	Yes.
14	Do you broadly agree with the estimates, assumptions and conclusions of the Impact Assessment (published as a separate document, and available alongside this consultation on the DCMS website at http://www.culture.gov.uk/reference_library/consultations/6499.aspx)?	<u>Yes/No. If not, please say which estimate you disagree with, and provide any evidence that supports an alternate estimate.</u> No, I cannot give an accurate estimate. The financial burden of regulating licensed premises would move from a pro-active approach by the licensing team, assisted by EPU and others, to protect local residents, to one where the main burden would be met by EPU in a reactive service. There are currently insufficient resources within EPU to effectively regulate the licensed premises if the proposals were to be agreed. It is difficult to cost the impact upon the health and wellbeing of local residents.
15	Do you think that this draft order accurately reflects the proposed change?	Don't know.