

**To:** Licensing and Gambling Acts Committee

**Date:** 8 February 2010 **Item No:**

**Report of:** Head of Environmental Development

**Title of Report:** Proposal to exempt small live music events from the requirements of the Licensing Act 2003

### **Summary and Recommendations**

**Purpose of report:** To detail the proposals by DCMS to exempt small live music events from the Licensing Act 2003

**Report Approved by:**

**Finance:** Gillian Chandler

**Legal:** Daniel Smith

**Policy Framework:** Statement of Licensing Policy

**Recommendation(s):**

**To consider the information contained in this report and the appendix and delegate authority to the Head of Environmental Development to reply to the consultation as directed by the Committee.**

1. The purpose of this report is to detail the proposals by DCMS to make exempt from the requirements of the Licensing Act 2003 the provision of live music events for 100 or fewer people, with a power to review and revoke exemptions if specific problem premises.
2. **Introduction**
  - 2.1 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.

- 2.2 The Government's intention is to reduce costs for small venues that wish to hold live music events, but are deterred by the licensing requirements and costs; and premises users that currently use Temporary Event Notices to put on live music in small venues on an occasional basis. The Government also wishes to ensure that musicians and the audiences who wish to hear them do not have their opportunities limited unnecessarily by licensing restrictions.

### **3. Recent Developments**

- 3.1 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. 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, 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.
- 3.2 The Government takes these concerns seriously and, 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 is considering exempting events performed for audiences of no more than 100 people. It also proposes to include a power to revoke an exemption at a specific premises if there are problems arising from the live music events.

### **4. Conditions of Exemption**

- 4.1 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.
  - b) The audience does not exceed 100 people and is accommodated entirely inside the building where the performance is taking place.
  - c) The performance does not take place between 11pm and 8am.
  - d) The performance does not take place in a premises which is subject to an 'exclusion' decision

## **5. Exclusion/Revocation Process**

5.1 In view of the concerns of licensing authorities, the police and residents about the potential impact of an exemption on local residents, 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:

- (a) it will apply to licensed and unlicensed premises;
- (b) 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;
- (c) the Licensing Authority will be responsible for placing a notice on premises to advertise the application
- (d) licensing authorities will only have two options following a hearing: to allow the exemption to continue; or to exclude (revoke) it;
- (e) an exclusion decision will take effect immediately, even if there is an appeal;
- (f) 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.

## **6. Licence Conditions relating to the Performance Of Exempted Live Music**

6.1 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.

## **7. PROPOSED ACTION**

7.1 The committee is requested to review the above information and the DCMS proposal notes attached at **Appendix One** and determine whether it is appropriate to delegate the Head of Environmental Development the duty of replying to the consultation.

## **8. RECOMMENDATION**

8.1 To delegate authority to the Head of Environmental Development to reply to the consultation as directed by the Committee.

**Appendices:**

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

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**Background papers:**

**Version number:**