

25 February 2010		ITEM 5
Licensing Committee		
CONSULTATION ON SMALL LIVE MUSIC EVENTS		
Portfolio Holder: Councillor Ben Maney, Public Protection		
Wards and communities affected: All	Key Decision: Non-Key	
Accountable Head of Service: Lucy Magill, Head of Public Protection		
Accountable Director: Bill Newman, Corporate Director Sustainable Communities		
This report is Public.		
Purpose of Report: To consider a consultation document from the Department of Culture, Media and Sport (DCMS) proposing exemption from the provisions of the Licensing Act 2003 for small, live music events.		

Comment [sj]: PLEASE CLICK THIS BOX ONCE and enter the date of the meeting (in font 16, not capitals)

Comment [sj]: Please leave this for completion by Democratic Services

Comment [sj]: PLEASE CLICK THIS BOX ONCE and enter the name of the Committee you are reporting to (in font 16, not capitals)

Comment [sj]: PLEASE CLICK THIS BOX ONCE and enter the title of your report (in font 16 and in capitals)

Comment [sj]: Please state the name of the Cabinet Member and the Portfolio to which the report refers

Comment [sj]: Please enter details of any Wards and Communities affected by the report. If this section is not applicable, please state 'None'.

Comment [sj]: Yes/No/Not Applicable – a 'Key Decision' is generally one affecting more than 2 wards or over 250,000 people.

Comment [sj]: Please state the Head of Service's name and job title

Comment [sj]: Please state Director's name and job title

Comment [sj]: State whether your report is Public or Exempt. If Exempt (i.e. not to be given to the public) discuss in detail.

Comment [sj]: Briefly set out the purpose of your report

Comment [sj]: Please provide a summary of the key points in your report

Comment [sj]: The recommendations should be set out in bold in the form of the following:

EXECUTIVE SUMMARY

The Department of Culture, Media and Sport (DCMS) have issued a consultation document (Appendix A) relating to a proposal to exempt small live music events from the requirements of the Licensing Act 2003. This will apply to events where the audience numbers are 100 people or less people.

1. RECOMMENDATIONS:

- 1. That the Committee considers the consultation document and:-**
- 21. That the report be noted.**
- 23. That the views of the Licensing Committee be sought in respect of the proposal to exempt small live music events from the Licensing Act 2003.**
- 34. That the Licensing Committee consider whether a response to the DCMS be submitted on behalf of the Licensing Authority.**

45. That any response to be submitted to the DCMS be prepared by the Head of Public Protection, in consultation with the Chair of the Licensing Committee.

2. **INTRODUCTION AND BACKGROUND:**

- 2.1 The Department for Culture, Media and Sport (DCMS) have issued a consultation document relating to a proposal to exempt small live music events for audiences of not more than 100 people from the provisions of the Licensing Act 2003 (the Act) relating to the licensing of live music as regulated entertainment.
- 2.2 Views are sought on the proposal and the draft Legislative Reform Order. Responses are required by 26 March 2010.

3. **ISSUES AND/OR OPTIONS:**

- 3.1 Activities regulated by the Act include 'the provision of regulated entertainment', defined 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 a consideration with a view to profit.
- 3.2 Entertainment includes a 'performance of live music where it takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.'
- 3.3 The Act requires anyone who wishes to carry on a licensable activity to obtain either a premises licence, a club premises certificate or a temporary event notice.
- 3.4 To add live music to an existing licence means an application must be made through the full or minor variation process. This will require advertising and it has been estimated that the cost to the applicant could be over £1,000 depending on the rateable value of the premises.
- 3.5 Should there be representations made against an application, the licensing authority is required to hold a hearing and, if necessary, impose conditions on the licence to mitigate risks to the licensing objectives. It may also reject the application.
- 3.6 The applicant may also incur further costs in meeting the requirements of any condition imposed, e.g. noise limiters.
- 3.7 The minor variation process, if appropriate, incurs less cost as no newspaper advertisement is required.

Comment [s]: You should briefly explain why the report is on the agenda - See para. 5.3 and 5.4 of the report writing guidelines.

Comment [s]: Other headings may be appropriate. The report should outline the reasoning that leads to its recommendations and **must** include:

1. a brief summary of options considered;
2. consultation outcomes
3. a risk assessment.
4. Whether the responsible cabinet members have been consulted/contributed to the report (NB professional and political advice must be clearly distinguished)

- See para.5.5 of the report writing guidelines.

- 3.8 A temporary event notice costs ~~only~~ £21, but imposes limits on numbers, duration and frequency of events.
- 3.9 In general, the regulation of live music events is justifiable by the impact they might have on the promotion of the licensing objectives. Residents living in the vicinity or next door to public houses in a mainly residential area, may be disturbed by loud music late at night or by large numbers of people leaving the venue. Some events may also give rise to crime and disorder or endanger public safety.
- 3.10 The Government considers that small live music events for 100 or fewer people, are unlikely to give rise to these concerns and will rarely, if ever, have an adverse impact on the promotion of the licensing objectives.
- 3.11 The Government proposes to introduce a revocable exemption for small live music events performed for 100 or fewer people in licensed and unlicensed premises from the requirements of the Licensing Act 2003 relating to the licensing of live music as regulated entertainment.
- 3.12 They feel that the measure will benefit many small venues that wish to hold live music events, but are deterred by the requirements of the Act and the costs involved.
- 3.13 The Government proposes that the exemption ~~from~~ the Act will apply where –
- (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 (see [paragraph 3.9995.2- on page 15 of the DCMS document – Appendix A](#)).
- 3.14 It is also proposed that interested parties and responsible authorities ~~can~~ apply to the licensing authority for an exemption at a specific premises to be 'excluded' (i.e. have the exemption revoked).
- 3.15 These proposals will relate to both licensed and un-licensed premises. A licensed premises which has conditions on its licence relating to live music will be able to apply to vary their licence through the minor variations process to remove relevant conditions, in so far as they are inconsistent with the proposed new exemption.

Comment [j]: This should include any consultation with Ward Members and Shadow Portfolio Holders, as well as any public or statutory consultation

4. **CONSULTATION (including Overview and Scrutiny, if applicable)**

4.1 No consultation ~~is required on this matter~~ has been carried out. -



5. **IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT**

5.1 The DCMS document is a consultation on proposals for future changes to the Act. At this stage it has no impact on corporate policies, priorities or performance.

6. **IMPLICATIONS**

6.1 **Financial**

Implications verified by: [click this box once and type name of person](#) Michael Jones
 Telephone and email: [click this box once and type the telephone number](#) 01375 652772
[click this box once and type the e-mail address](#) mxjones@thurrock.gov.uk

The Consultation document estimates an average cost to councils (per year) of between £600 and £1200 arising from lost application income and administrative costs. (See paragraph 1.6 of the DCMS document – Appendix A).

6.2 **Legal**

Implications verified by: [click this box once and type name of person](#) Jamie Hollis
 Telephone and email: [click this box once and type the telephone number](#) 01375 652925
[jhollis@thurrock.gov.uk](#)
[jhollis@thurrock.gov.uk](#) [click this box once and type the e-mail address](#)

[Under the proposals, an interested person or responsible authority will be able to apply to the licensing authority for an exclusion should problems arise at a specific premises to which the new exemption applies. An exclusion decision will take effect as soon as it is made, and the outcome of such an application can be appealed in the Magistrates Court. This exclusion process will effectively replace the existing right to call for a review of a premises licence, if the premises in question is licensed.](#)

[Existing sanctions such as noise protection orders and the powers available to the police in relation to crime and disorder would continue to apply to premises benefiting from the exemption.](#)

[Section 177 of the Licensing Act 2003 already contains a limited exemption for certain premises to have unamplified live music, subject to a less than 200 capacity.](#)

Comment [a]: Please refer to Section 5.7 of the Report Writing Guidelines

Comment [sj]: This section should always be completed – if they are dealt with fully in another part of the report, they also need a brief cross reference here. The names and job titles of the officers providing the implications should be provided in full – see Guideline 6.1 and please note Democratic Services Deadlines and ensure that officers providing implications are given 5 clear working days to work on the report. Authors can write implications but they must be signed off by the appropriate officers

Comment [sj]: See Guideline 6.2

Comment [sj]: See Guideline 6.3

click this box once and type the legal implications

6.3 **Diversity and Equality**

Comment [sj]: See Guideline 6.4

Implications verified by: [click this box once and type name of person](#) **Samson DeAlyn**
Telephone and email: [click this box once and type the telephone number](#) **01375 652472**
[click this box once and type the e-mail address](#) **sdealyn@thurrock.gov.uk**

There are no direct diversity or equality implications in this report.

6.4 **Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

The implications of Section 17 Crime and Disorder Act 1998 have been considered at 5.1 above.

7. CONCLUSION

7.1 click this box once and type this section of your report The Committee should consider the Consultation Document and decide if it wants to make a formal response.

If it decides to do so, it should direct the Head of Public Protection to prepare the response in consultation with the Chairman of the Licensing Committee.

BACKGROUND PAPERS USED IN PREPARING THIS REPORT:

- click this box once and type details of any background papers used in the preparation of this report DCMS Consultation document.
- The Licensing Act 2003.
- The Secretary of State's Guidance issued under S.182 Licensing Act 2003.

APPENDICES TO THIS REPORT:

A DCMS consultation document 'Proposal to Exempt Small Live Music Events from the Licensing Act 2003'.

click this box once and type details of any appendices to this report ADCMS consultation document 'Proposal to Exempt Small Live Music

Events from the Licensing Act 2003'

Report Author Contact Details:

Name: click this box once and type name of person Ron Galliers, Senior Licensing Officer

Telephone: click this box once and type the telephone number 01375 652187

E-mail: click this box once and type the e-mail address rgalliers@thurrock.gov.uk

Comment [sj]: This should inform the recommendations in the report

Comment [sj]: See Guideline 8. If any Papers are to be placed in the Members room that relate to this report, you should also list them here

Comment [sj]: List the Appendices referred to in the Report

Comment [sj]: Insert the full contact details of the author of the report