

Shelley Mickleburgh
Licensing Team
Sport and Leisure Directorate
2-4, Cockspur Street
London SW1Y 5DH

26 March 2010

Dear Ms Mickleburgh

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

It is disappointing to note that neither the Association of Noise Consultants nor the Institute of Acoustics appear on your list of consultees for this proposal, and we would request that both be added to consultations on issues related to noise impact in the future. A email copy of this response has been sent and this hard copy follows by post.

The Association of Noise Consultants (ANC) has compiled this consultation response of behalf of its members, reflecting the consensus view of the Association in general, rather than specific views of individual member companies. In addressing areas in which there is no general consensus of opinion, the range of views expressed will be presented in the interests of balance and fair representation.

The ANC holds bi-monthly meetings of representatives from each member company, at which information on consultation responses such as this is disseminated and the content discussed. The current membership totals 108 member companies, within which over 700 acousticians engage in active consultancy. The ANC is the only body specifically representing the views of consultancy practices, and as such works closely with the Institute of Acoustics (IOA) the academic institution of which employees of member firms are required to be members.

This response, therefore, represents the views of a large number of practising acousticians whose involvement with the noise impact of live music from both licensed and unlicensed premises and is extremely relevant to this consultation.

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.

YES.

Note: it should not be assumed, however, that wholly enclosing the performance within a permanent building will preclude music noise emissions problems.

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.

NO.

Audience size does not correlate at all well with music noise level. Any exemption should relate to music type (ie unamplified) rather than an audience number. Even unamplified music can be problematic in some situations.

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.

YES.

Note: it should not be assumed that containing the audience within the building will preclude music noise emissions problems.

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

YES.

Although less likely to be utilised, allowing music noise impact in the early morning appears unnecessary. We would recommend extending the hours of restriction to 2300-1100.

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

YES

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.

YES

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.

YES

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

YES

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

NO

Noise levels within the venue are not dependant on audience number. Another parameter should be used to define the limit of this exemption (eg non-amplified music, or a restriction on amplification equipment)

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.

NO

Avoidable noise impact is likely to occur to residents close to some venues if these proposals are taken forward

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

NO

The proposals remove the 'vetting' process current in place

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.

No

The proposals restrict the rights of neighbours to prior protection from a known source of likely disturbance, and replace a retrospective exclusion process, by which time the disturbance, and in some cases actionable nuisance, will have already occurred.

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

YES

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.

NO

We do not have sufficient information to question the estimates and assumptions, but disagree with the conclusion that residents will not be disturbed by loud music from venues with audiences of 100 or fewer.

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

YES.

Yours sincerely

Ed Clarke
Immediate Past Chairman