

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Assistant Director of Commissioning

To: Licensing Committee – 13 November 2012

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Subject: Live Music Act 2012

Purpose: To note the amendments to the Licensing Act 2003 via the Live Music Act 2012 in respect of live music entertainment and the provision of entertainment facilities.

Recommendation: This report is for information only.

1.0 BACKGROUND

1.1 The Live Music Act received Royal Assent on 8th March 2012 and came into effect on 1st October 2012.

1.2 The Live Music Act 2012 (the Act) amends the Licensing Act 2003 in several areas as follows:

- Conditions related to live music will not apply if the following are met – there is a premises licence or club premises certificate in place authorising on sales of alcohol; the premises are open for the supply of alcohol for consumption on the premises; live music takes place between 8am and 11pm and, if the live music is amplified, the audience is of no more than 200 people. Conditions will apply outside of these hours and criteria.
- If the above criteria are met live music ceases to be classed as regulated entertainment.
- Live unamplified music provided anywhere is not classed as regulated entertainment between 8am and 11pm regardless of the number of people in the audience.
- The Act wholly removes the requirement to licence entertainment facilities.
- To protect local residents the Act has additional provisions. At a review of the premises licence or club premises certificate the Licensing Authority can determine that conditions relating to live music will apply during the hours of 8am and 11pm.
- In addition if there is not authorisation for live music the Licensing Authority can attach conditions to the premises licence / club premises certificate which can also apply between 8am and 11pm.
- The Licensing Authority can also decide that live music is a licensable activity at the premises and that live music cannot be provided without authorisation on a premises licence / club premises certificate or Temporary Event Notice.

1.3 Consultation has been undertaken by the Department of Culture, Media and Sport (DCMS - the central government department with responsibility for this Act) with a view to producing updated Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

- 1.4 This Guidance is expected on 31st October 2012, when the Live Music and other amendments will be incorporated.
- 1.5 It is important to state that all other legislative requirements still apply. The Live Music Act 2012 does not permit premises to cause noise nuisance.
- 1.6 There is also a totally separate consideration underway by the DCMS following another consultation on proposals to deregulate some activities currently classed as regulated entertainment under the Licensing Act 2003. The outcome of this is not yet known.

2.0 **OPTIONS**

- 2.1 The Licensing Committee is requested to consider the contents of this report and amend existing protocols and / or decision making criteria as necessary.

3.0 **REASONS FOR RECOMMENDATION**

- 3.1 It is essential that members of the Licensing Committee and Sub-Committees are fully aware of the changes to the Licensing Act 2003 via the Live Music Act 2012 and expected amended Guidance so that any decisions will withstand legal scrutiny in the event of a subsequent appeal.

4.0 **EXPECTED BENEFITS**

- 4.1 The benefit is to provide members of the Committee of the Licensing Authority an update on significant legislative changes, which may be relevant in further policy work or sub committee hearings associated with the Licensing Act 2003.

5.0 **IMPLICATIONS**

5.1 **Legal**

- 5.1.1 Decisions made by or on behalf of the Licensing Authority may be subject to challenge in the courts.

5.2 **Risks**

- 5.2.1 If consideration and changes are not made with modification to legalisation the licensing team would not be complying with its statutory duties as a licensing authority.

5.3 **Financial**

- 5.3.1 None

5.4 **Timescales**

- 5.4.1 The legislation came into effect on the 1st October 2012

5.5 **Equality and Diversity**

- 5.5.1 None

5.6 **Stakeholders / Consultation**

5.6.1 To update the licensing trade an update has been provided on the Council's website.

5.7 Contracts

5.7.1 None

5.8 Section 17, Crime & Disorder Act 1998

5.8.1 None

5.9 Other

5.9.1 An amendment to South Holland District Council's Statement of Licensing Policy to reflect these changes will be necessary. The policy is to be updated to reflect several legislative changes that have occurred throughout 2012.

6.0 WARDS/COMMUNITIES AFFECTED

6.1 All

Background papers:-

Live Music Act 2012: www.legislation.gov.uk/ukpga/2012/2/enacted

Licensing Act 2003: www.legislation.gov.uk/ukpga/2003/17/introduction

Regulated Entertainment – Technical Consultation on the proposed new Chapter 15 of the Section 182 Guidance issued under the Licensing Act 2003:
www.culture.gov.uk/consultations/9291.aspx

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Director/Officer who will be attending the Meeting

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Appendices attached to this report:

None